

**DEVELOPMENT RIGHTS AND
CONSERVATION CONSTRAINTS**

**URBAN CONSERVATION-ORIENTED CONTROLS
IN THE CITY CENTRE OF CAPE TOWN**

Thesis submitted for the degree of Doctor of Philosophy

by

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"The thirty-oared galley in which Theseus sailed with the youths and returned safely was preserved by the Athenians down to the time of Demetrius of Phalerum. At intervals they removed the old timbers and replaced them with sound ones, so that the ship became a classic illustration for the philosophers of the disputed question of growth and change, some of them arguing that it remained the same, and others that it became a different vessel."

Plutarch, writing in circa 100 AD.

From *The Rise and Fall of Athens*, 1960, p28-29.

ABSTRACT

The primary intention of this study is to analyse the imposition of urban conservation-oriented controls in the city centre of Cape Town during the period 1986-2000 and to evaluate their efficacy; the secondary, but directly related endeavour, is to explore the effect of these mechanisms on development rights. In brief, the study set out to explore the themes "conservation constraints" and "development rights" and their relationship so that, ultimately, conclusions regarding the efficacy of the conservation-oriented controls can be drawn. In order to do this the following questions were examined: one, whether the approach to or theory of conservation adopted or demanded by the authorities and/or other key role-players was appropriate or not; two, whether the development rights in the city centre are appropriate or not; three, what the impact of the demands of the authorities on the development rights had been; four, whether the conservation-worthiness of the buildings, sites and environments being affected by each proposed project had been adequately identified in advance or not; five, whether the authorities were capable or efficient; and, ultimately, whether or not the controls were effective in conserving conservation-worthy buildings, sites and the townscape.

The study fits into a tried and tested, and largely British, development control case study research tradition. In this method a particular environment, town or city (in this case, the city centre of Cape Town) is suggested to be an appropriate "laboratory" for the study of a particular aspect of planning or development control practice (the efficacy of urban conservation-oriented controls), and a limited number (ten) and limited range of development projects (commercial) that had been scrutinized and approved within a limited period (fifteen years) are examined. The research method devised for this study combines the multiple-case methodology of the conventional development control case study with that of a qualitative survey, a survey of attitudes. This survey of the attitudes of the 56 key actors who had been involved in the development project cases was conducted at the same time as these individuals were interviewed about their roles in each of the development projects. This survey is incomplete by itself and is not intended to stand on its own: it is an exploration of the attitudes of the key actors in these particular cases regarding general questions that are germane and pertinent to the understanding or explanation of their expectations and actions during each of the processes analysed in the case studies.

Ultimately, three evaluations of the controls were made: first, the efficacy of the controls with respect to each of the development projects was evaluated 'by referendum', that is, each case study includes the general consensual view of the key actors interviewed regarding the benefits (or otherwise) derived from the exercising of the controls *in that case*; second, the central research questions were applied to the case studies both individually and as a group and the efficacy of the controls in each case was measured against a 'distilled criterion' for evaluation argued and established early in the thesis; third, the central research questions and the distilled criterion for evaluation were applied to the system of controls and administrative measures as a whole. The conclusion of these evaluations is that the imposition of the controls by the authorities, sustained by the continued participation of Cape Town's conservation-oriented urban governance regime, has been singularly effective in conserving and enabling an authentic and vital environment.

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The people to whom I owe thanks are, in large part, too many to be named individually:

First, are the nearly sixty people who agreed to be interviewed, many of them more than once, and several of whom read sections of the thesis in draft form. Without their challenges, their time, interest and engagement, the study would have been a shallow and personal view. I hope that it is rather more than that. Indeed, in many senses, the study is an exploration of them, their attitudes and actions. While many will disagree with many of my findings and conclusions about their own work and some may feel that I have not represented their positions adequately, I hope that none of them will feel that they have been mis-represented.

Second, I must thank my academic guides, supervisors and givers of inspiration: Renato Bonelli who, as head of the *Scuola di Specializzazione* at the University of Rome, taught the value of detailed, wide-ranging and unending research that sought ever deeper insight; Jukka Jokilehto, then at ICCROM, who had agreed to be my supervisor in the early 1990s but, because of the distance and the infrequency of our meetings, had to be substituted; the late Ivor Prinsloo, then head of the School of Architecture and Planning, who helped to give direction to my early ideas in the formulation of the study; and my formal supervisors, Derek Japha, who has throughout the past four or five years demanded greater rigour and clearer focus, and Vanessa Watson who, in Derek's absence in America, has been a steadying hand during this past year and who introduced me to planning research literatures new to me.

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Finally, my grateful thanks to my wife and son and daughter who have, I hope, forgiven me for my neglect of them; and to my many colleagues in the Cape Town City Council who have given advice and assistance, and my superiors who have tolerated my frequent and erratic leave-taking, hoping but not believing, I am sure, that I would one day complete the thesis.

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ACRONYMS USED IN THE TEXT

<i>ABE</i>	<i>Architect, Builder and Engineer</i>
AG, E, M	Cape Archives collections: Attorney General's photographic collection, the Elliott collection, the Morrison collection, etc
ANC	African National Congress
<i>AR</i>	<i>Architectural Review</i>
BCE	Before the Common Era
CA	Cape Archives
CBA	Council for British Archaeology
CCC	Cape Town City Council
CE	Common Era
CIA	Cape Institute of Architects
CPIA	Cape Provincial Institute of Architects
CTFJTC	Cape Town Foreshore Joint Technical Committee
DoE	Department of the Environment (British)
HMC	Historical Monuments Commission
HMSO	Her Majesty's Stationery Office
HRH	His Royal Highness
IAAS	Institute of Advanced Architectural Studies, University of York
ICCROM	International Centre of Conservation in Rome
ICOMOS	International Council on Monuments and Sites
NMC	National Monuments Council
RIBA	Royal Institute of British Architects
SAHRA	South African Heritage Resources Agency
SAIA	South African Institute of Architects
SAITRP	South African Institute of Town and Regional Planners
SANS	South African National Society
SAPOA	South African Property Owners' Association
SPAB	Society for the Protection of Ancient Buildings
UCT	University of Cape Town
UCU	Urban Conservation Unit; of the Cape Town City Council
VASSA	Vernacular Architecture Society of South Africa
VOC	Vereenigde Oost-Indische Compagnie (Dutch East Indies Company)
WCAA	West City Action Area
ZAS	Zoning Administration Section; of the Cape Town City Council
<i>Projects:</i>	
Fed-Life	Federated Life Assurance (now known as Federated Employers Mutual Assurance Co Ltd)
KPMG	Accountants and business advisers
NBS	Natal Building Society

SOUTH AFRICAN STATUTES REFERRED TO IN THE TEXT

National Legislation

Bushman-Relics Protection Act 22 of 1911

Constitution of the Republic of South Africa Act 108 of 1996

Constitution (interim) of the Republic of South Africa Act 200 of 1993

Development Facilitation Act 67 of 1995 (DFA)

Environment Conservation Act 73 of 1989 (EC Act)

Expropriation Act 63 of 1975

Finance Act 21 of 1980

Monuments Amendment Act 13 of 1967

National Building Regulations and Building Standards Act 103 of 1977 (NBR and BS Act)

National Environmental Management Act 107 of 1998 (NEMA)

National Heritage Resources Act 25 of 1999 (NHR Act)

National Monuments Act 28 of 1969 (NM Act)

National Monuments Amendment Act 22 of 1970

National Monuments Amendment Act 30 of 1971

National Monuments Amendment Act 35 of 1979

National Monuments Amendment Act 13 of 1981

Natural and Historical Monuments Act 6 of 1923

Natural and Historical Monuments, Relics and Antiques Act 4 of 1934

Natural Monuments Amendment Act 9 of 1937

Removal of Restrictions Act 84 of 1967

Removal of Restrictions in Townships Act 48 of 1946

War Graves Act 34 of 1967

War Graves Amendment Act 35 of 1968

War Graves Amendment Act 8 of 1969

War Graves Amendment Act 38 of 1970

War Graves Amendment Act 53 of 1977

War Graves and National Monuments Amendment Act 11 of 1986

Provincial Legislation

Transvaal

Townships Act 33 of 1907

Townships Amendment Act 34 of 1908

Townships and Town-planning Ordinance 11 of 1931

Cape

Land Use Planning Ordinance 15 of 1985 (LUPO)

Townships Ordinance 13 of 1927

Townships Ordinance 33 of 1934

Western Cape Planning and Development Act 7 of 1999 (PDA)

Local Authority Legislation

City of Cape Town

Final Statement of the Proposed Town Planning Scheme, adopted in 1941

Revised Final Statement of the Proposed Town Planning Scheme, adopted 1964

Zoning Scheme, 1990

Although numerous British statutes have been referred to in the text, they are not listed here.

Preface

The Insider Position of the Researcher

Every study, of course, has its origins in personal curiosity and interest. In this case, these derive in part from my employment in the Cape Town City Council's planning department from 1985 to the present and in part from my passion for cities and city life.

I had first become interested in architectural and urban conservation while still a student, and soon realised that these, *urban* conservation in particular, were fields that were conspicuously void of theory, principle and ethic: or so it seemed in South Africa in the 1960s and 70s. As a consequence, after working for some years as an architect, often on conservation-related projects, with my wife (also an architect) and two small children, I travelled to Italy in 1982 to study *restauro*. However, at the University of Rome's *Scuola di Specializzazione per lo Studio ed il Restauro dei Monumenti* under Professor Renato Bonelli I soon discovered that although the literature in English included relatively little discussion of conservation *theory*, the Italian, French and German literatures were replete with polemic and the historical development of conservation ideas and theories.

Once I had completed the *specializzazione* in mid-1985, we returned to Cape Town and I began working in the Town Planning Branch of the City Council's City Engineer's Department. The Council had already in 1984 employed a first conservation specialist (Chris Schoeman, an historian) trained in the USA, and in late 1986 we were joined by a third (Graham Jacobs, an architect) who had just completed conservation training at the IAAS in York, and shortly afterwards by two more, one of whom (Melanie Attwell, another historian), had trained at ICCROM. As a consequence, the Urban Conservation Unit (UCU) was formally established under my leadership at the beginning of 1987. The number and the members of the UCU did change periodically, but it numbered between five and eight throughout the focal period of the study, that is, from 1986 to 2000.

The early responsibilities of the UCU included the creation of a provision in the then town planning scheme that would enable the designation of conservation areas, the analysis of the townscape in order to designate conservation areas, the development of guidelines to inform and guide development in conservation areas, on-going research contributing to the programme of inventorisation of conservation-worthy buildings and sites, *ad hoc* research underpinning the control of individual development projects involving conservation-worthy buildings and sites, and the scrutiny and guidance of these conservation-related development projects.

In mid-1995 I became head of the branch (now called the Land Use Management Branch) responsible for the scrutiny and assessment of all planning applications and for confirming compliance with the town planning scheme of all applications for building plan approval. In essence, this is the administration of statutory planning and it includes the co-ordination of conservation and environmental management.

This insider position within the local authority bureaucracy has been compounded by

my activities within the body in civil society most influential in development control matters in Cape Town, that is, the Cape Institute of Architects. I was elected to the Institute's Main Committee in 1988 and I chaired its Planning and Environment Committee and then its Heritage Committee for ten years from 1989 until 1999. I have, therefore, been deeply immersed within the urban governance regime that has played a significant role in the making and implementation of conservation policy in Cape Town during the period being studied, that is, from c1975 to 2000, focussing on the period 1986 to 2000. ('Urban governance regimes' are formed through "the informal arrangements by which public bodies and private interests function together in order to be able to make and carry out governing decisions": Stone, 1989, p6; quoted in DiGaetano and Klemenski, 1999, p14).

It is self-evident that the insider position of the researcher will be both an advantage and a disadvantage. In this case, the advantages include personal knowledge of many of the events being analysed, easy access to all documentation, full knowledge and understanding of the internal bureaucratic processes and procedures followed in the scrutinising of proposals by the authorities, easy co-operation from officials in both the Cape Town City Council and the National Monuments Council, full knowledge of and easy access to all records, documentation, minutes of the City Council's bureaucracy and committees, of the National Monuments Council and of the Cape Institute of Architects and, perhaps most importantly, a position of influence within the City Council's bureaucracy dealing with plan approvals. Indeed, it may well be that this position of influence has encouraged many of the parties, who may otherwise not have bothered to respond, to co-operate in the development project case studies and the survey of the key actors' attitudes which form the empirical core of the study.

The potential disadvantages are contained within the author-subject relationship. With regard to the interviews which form a central component of both the survey of attitudes and of the development project case studies, the position of influence of the interviewer/ researcher may have discouraged the participants from disagreeing too directly with the interviewer or from contradicting the assessments. It is suggested that this can be discounted because the interviewees are all, without exception, fully empowered professionals, none of whom are likely to have been threatened by the relationships between the parties and, indeed, many did contradict the interviewer. A second danger emanates from the researcher having been an active role-player in most of the case studies and being a significant contributing or co-author, even, of the object of the study, that is, the workings of conservation-oriented control of development in Cape Town. But it is contended that the risk of being too close to the material, too involved in the interpersonal and other dynamics, is also mitigated by the expertise and professionalism of the nearly sixty interviewees who each read and validated the final case study accounts which included their contributions and opinions.

A third related danger is rather more difficult to dismiss: this is the issue of trust that is embedded within the interviewer/interviewee relationship. Many, even most, of the interviewees, all key actors in the dramas of these development control confrontations, clearly participated because they had an opinion on the subject matter of the study and because they expected *their* story to be told. But, if I may paraphrase Janet Malcolm, every interviewer of any insight at all knows that the story he/she intends to

tell, and will tell, will be his/her story and not the interviewee's: there is an essential deceit in every interview relationship (Malcolm, 1991, p3):

"The disparity between what seems to be the intention of the interview as it is taking place and what it actually turns out to have been in aid of always comes as a shock to the subject" (Malcolm, 1991, pp3-4).

Malcolm's critique, centred on the interviewer/interviewee or biographer/subject (and living friends and family) relationship, exposes the inevitable betrayal as the researcher initially engages the subject but, having uncovered the subject's truth, then turns to the real object of attention: the writer's truth as it is to be told to the reader. For the biographer or professional researcher, writing always from the outside, this betrayal is 'just' an inevitable and habitual fact of his/her endeavour; although it has been argued that:

"Any biography ... written during the life times of ... friends and family must take their vulnerability into consideration, even if completeness suffers from it" (Anne Stevenson, 1989; quoted in Malcolm, 1994, p11).

For the insider, the long-time and deeply immersed 'participant-observer', writing what is a form of autobiography, this inevitable betrayal, this transformation of others' stories into his/her own, must inhibit criticism that is too direct; and, when it cannot be fudged, cannot but put dread in the heart. It is all very well to agree to disagree with a colleague of long standing and regarded with affection and respect; it is another thing altogether to analyse his work, his life, in great detail and with his complicity, and then to conclude in public that his work, his legacy, or parts of those endeavours, are flawed. However, it is true, too, that an account in which criticism that is veiled or half-said can imply criticism that is even more damaging than direct accusations.

It has, therefore, been my personal involvement one way or another, some times peripheral, sometimes central, in the innumerable confrontations between private and public interests, supposedly mediated by the authorities, and my daily experience of the conflict between the parties involved in such matters that has provoked this study: these parties include, most importantly, the developers and their architects, the authorities, and a variety of other interested and affected parties, the Cape Institute of Architects' Heritage Committee in particular. It is, perhaps, the distance and even tension between the mundaneness of my experience as an administrator and the rawness of the conflict on the one hand, and the intellectual and theoretical flavour of academic work in this field on the other, that has most driven this research and my endeavours to describe and make sense of the experience at the coal-face of conservation-oriented development control. Indeed, most of the commentators on development control and on conservation practice write from a position outside the hurly-burly of statutory control. These writers are, for the most part, academics and theoreticians, and their work has most often explanatory and/or didactic intent, but seldom the ring of experience honed in combat: the combat between parties who have mutually exclusive goals. In other words, this study has been conceived deep within the confrontational interactions of conservation-oriented development control and, apart from my desire to describe and make sense of these endeavours, I hope, too, to put these experiences into perspective and to evaluate the success (or otherwise) of urban conservation-oriented development control in Cape Town.

Conservation-Oriented Development Control in the New South Africa

It is impossible to write about any subject in South Africa without referring to the extraordinary circumstances of our recent political life: the rapid but peaceful transition from militarised police state to true democracy within five years, from 1989 to 1994, and the transformation of South African society during this past decade. These have been circumstances in which the struggle for hegemony in all spheres of life has become increasingly intense. Prior to the unbanning of the liberation movements in December of 1989 and the release of Nelson Mandela in February 1990, this struggle was rather less fraught, even if as polarised. With black groups effectively excluded from the contest, the tension and competition for authority and influence between conservative (largely Afrikaner) and less conservative (largely English-speaking) whites was reflected most revealingly, in this context, in the choices of buildings proclaimed as national monuments and in the membership of the National Monuments Council (Frescura, 1991 and 1992; Khan, 1992). The values of indigenous cultures and of subordinate minority settler groups (for example, Indian settlers) were, in effect, ignored (see Tunbridge and Ashworth, 1996, p224; Townsend, 1993).

From 1990 this state of affairs changed rapidly, and from 1992 the struggle for a voice and for ascendancy became the most significant issue in all cultural circles and arenas. In the field of cultural heritage during 1992 two important workshops took place in Bloemfontein (the ANC conference on *Museums, Monuments and Heraldry* in March) and in Johannesburg (the University of Witwatersrand workshop on *Myths, Monuments, Museums* in July), and the national Department of the Environment held a series of public workshops on cultural resources in several centres throughout the country. This agitation reflected both the need to re-define (new) establishment values and to identify and hear previously subordinated views. It also reflected the struggle for hegemony both *between* cultural elites and *within* each group of 'cultural workers'. With the first truly democratic national elections approaching, the struggle for influence both between political parties and within the several bureaucracies increased. Once the elections were over in May 1994, the new state proceeded to appoint a new *leadership* of the bureaucracies and institutions. The *management teams* of these bureaucracies and institutions have, however, proved rather more difficult to assemble, but by 2000 transformation of the management of the organs of state responsible for most fields appeared to be complete.

The emancipation, uncovering and articulation of opposing views of subaltern cultures and their associated sets of values has, however, been rather less clear and, to date, rather less successful (Baumann, 1997; Tunbridge and Ashworth, 1996). While this struggle to emerge and to find formal places of influence in society and its structures is a vital and, indeed, burning subject, it is not dealt with in this study. The primary reason for this is simply that the struggle between value systems and for hegemony did not effect or play a significant role in the development industry or within development control practice in the city centre of Cape Town during the period covered by the study. This is in large part because both the literal ownership of private property in the city centre of Cape Town and the metaphorical ownership of the public realm had been appropriated and controlled by white interests and the white establishment. It is also true that, with very little exception, the transition in political power during the 1990s is not yet reflected in the practice of development control

generally or of conservation-oriented control specifically.

The Organisation of the Thesis

Chapter 1 introduces the scope and objectives of the study; it discusses its method, the development control multiple-case study; and it describes the approach to the enquiry. It also situates the study within its disciplines: *urban conservation* and *development control*; it describes the research questions; and it establishes criteria for the evaluation of the outcomes of the individual development project cases.

Chapter 2 discusses the origins of the ideas, theories and approaches of *architectural* conservation and the extension of these ideas to *urban* conservation; and, because Britain has had a particularly significant historical influence on ideas, practices and law in South Africa, it also discusses the related ideas and practices of urban conservation and design control in Britain and, in particular, the practice of facadism.

Chapter 3 outlines the legal basis of development rights in South Africa and the laws enabling the control of development: these include the National Building Regulations and Building Standards Act; the planning ordinances which establish the *right* to development; the town planning or zoning schemes and Cape Town's town planning scheme, first published in 1940 and formalised across the city over the following twenty years; and the National Monuments Act and its final 1986 amendment which incorporated far reaching provisions requiring unprecedented (in South Africa) interaction between the state conservation body, the National Monuments Council, and the local authorities.

Chapter 4 describes the key institutions and the principle actors in conservation-oriented development control in Cape Town and their relationships, focussing, first, on the establishment of a conservation-oriented urban governance regime which became increasingly effective after c1975; and, second, on the attitudes of the key actors regarding development rights, urban conservation-oriented controls, the efficiencies of the authorities, and the effectiveness of the controls.

Chapter 5 describes the origins of the physical form of the city centre, early preservation and restoration endeavours in the city centre at the beginning of the 20th century, the planning of land reclamation between the city and the sea thus creating the Foreshore in the 1930s and 40s, the effects of transportation planning immediately after WWII and the construction of motorways from the 1950s, the development of tower buildings from the 1960s, the response to these destructive impacts on the city, the creation of an inventory of conservation-worthy buildings, a pedestrianisation plan in 1975 and its implementation from 1986, several public controversies regarding over-scaled and insensitive proposals in the city centre during the 1980s, the relationship between transportation planning and conservation in the West City from the late 1970s and the creation of the Cape Town Heritage Trust, the 15 year process of designating conservation areas in the city centre from 1979 to 1994, and the final approval of the entire historic city centre as a conservation area in 1997. This is not so much a history of planning in the city centre as a background to the conservation-oriented development control endeavours carried out between 1986 and 2000. This chapter *describes* the most significant of these events, and *interprets* the values and ideas

about the townscape, about the city itself, and about its conservation.

Chapter 6 describes and analyses the nine development project case studies which form the core of the study: it is in the playing out of the dramas described in each of the case studies that the values of the key actors and of the conservation-oriented urban governance regime are most clearly revealed; and, of course, the capabilities and the efficiencies of the authorities are exposed.

Chapter 7 takes the key questions posed in Chapter 1 as a starting point, and analyses and assesses the outcomes of the nine development projects, the contributions of the attitudinal survey, and the information provided by the contextual or background material. It also evaluates the success or otherwise of each of the case study development projects in terms of the evaluative criteria established in Chapter 1.

Chapter 8 evaluates these findings and presents the conclusions to be drawn from the study as a whole. These pertain to the impact of the disputes arising from the *approaches to conservation* adopted in each of the case studies, to the effectiveness of the conservation-oriented endeavours themselves, to the regulatory *system* (with particular regard to the development rights, the system of identifying, grading and guiding development, and the authorities' efficiencies), and to the successes of Cape Town's conservation-oriented *urban governance regime*.

An Appendix describes the method followed in conducting the study as a whole, the attitudinal survey and the development project case studies in some detail; and it gives further argument for the use of the multiple-case study method.

The Contributions of the Study

The study will both draw on and contribute to several separate, though related, fields and their literatures:

The planning of urban conservation, of townscape management, and of development control have rich and extensive literatures. However, the actual administration of development control practices, generally, and of *urban* conservation, in particular, are under-researched fields. It is intended that the study add to the work of researchers like Punter (1985 and 1990a) and Booth (1989 and 1996) in the field of development control and, in particular, that it contribute to the *lacuna* in urban conservation planning and its administration. This study is an account of urban conservation practice and control in Cape Town during the period 1975-2000, focussing on the period 1986-2000, the life of the final form of the National Monuments Act. It describes the context and history of the development of the system of controls in Cape Town in detail; it analyses the roles of the most significant factors in the system, that is, the development rights, the system for the identification of conservation-worthiness, the impact of the conservation-oriented requirements, the conservation approach or theory favoured and the efficiencies of the authorities; and it evaluates the efficacy of the controls. It does also add a new tool or adjunct to the development control case study methodology of researchers like Punter, Booth and Loew in that it stresses the significance of the opinions and attitudes of the key actors in the development project

cases and integrates the methods and findings of the conventional multiple-case method with that of a qualitative survey.

Discussion of the ideas and theories of architectural conservation in English has recently been significantly added to by the important works of Jokilehto (1999) and Choay (2001; translated from the 1992 work in French), and by the compendium, *Readings in Conservation* edited by Price *et al* (1996), which includes many readings available for the first time in English. But the application of these ideas and theories in practical circumstances and, in particular, their application and transformation in urban conservation contexts and the relationship between architectural and urban conservation is under-researched. By virtue of the detailed account and analysis of the workings of conservation-oriented controls and the focus on the impact of conservation theory and the approaches derived from such theory on the success or otherwise of the controls in practice, the study is intended to contribute to the understanding and theory of both architectural and urban conservation. Indeed, this is, as far as I am aware, the first study to adopt the methodology of the development control multiple-case study in the examination of conservation-oriented projects, and it is certainly the first study of conservation-related development control in South Africa that examines the cultural, legal, historical and developmental contexts of conservation-oriented controls and their effectiveness. The adoption of this methodological tool is intended to give new insight into the dynamics affecting both architectural and urban conservation endeavours.

The unique contribution of this study is, therefore, two-fold: first, it describes and analyses the praxis of urban conservation controls in a particular place and time, linking the theoretical with the empirical by describing the transformations from theoretical approach to actual events; and, second, it evaluates such practice and the actual outcomes (the completed projects and the layered palimpsest that is the city), coming to conclusions regarding the effectiveness of urban conservation controls (in this time and place). In other words, it sets out to both produce new knowledge and to create a new assemblage of knowledge.

This study does not, however, set out to recommend or suggest policy in regard to either the planning or administration of any of these fields. However, I do hope that this study, a case study that examines just one aspect, albeit of some significance and in some depth, of the planning and management of a city, is sufficiently "empirically deep and richly detailed" (Flyvbjerg, 1998, p10) to earn a place in the reader's "usable repertoire of unique cases" (Watson, 2002, p8) as suggested by 'practice movement' planning theorists and so "to bridge the gap between planning theory and practice, and ... to give better insight into the nature and possibilities of planning practice than previous planning theories were able to do" (Watson, 2002, p7).

Chapter 1

Introduction

1.1 The Scope and Objectives of the Study

While conservation-oriented control has been a particularly controversial arena in the planning, making and management of the environment in much of the western world during the past three or four decades, there has been relatively little empirical study of the effect of the controls on the environment and even less of their efficacy. Indeed, the exercising of conservation-oriented control has been characterised by both a high degree of controversy and conflict, and by a singular and surprising dearth of empirical research, in particular, on the effect of the ideas and theories of conservation on the outcomes of conservation-oriented controls. This applies both in advanced developed countries with mature physical planning and administrative systems and in developing countries where the implementation of public policy is often pursued with less determination and fewer resources. Discussion about conservation and development in South Africa is particularly interesting because South Africa is both developed and developing, with first- and third-world characteristics; and, given that the national and regional economic imperatives call for growth and development, the tension between development and conservation has an additional edge. As we shall see, however, it appears that a conservation-oriented urban governance regime (“an informal yet relatively stable group *with access to institutional resources* that enable it to have a sustained role in making governing decisions” (Stone, 1989, p3, emphasis in the original; quoted in Stoker, 1995, pp58-9) gradually came to dominate both the creation and implementation of policy in the specific location of the study.

The study has been conceived as the detailed description, analysis and evaluation of the ideas, practice and effects of conservation-oriented control through the in-depth study of these activities in one particular locality during a specific period, that is, in the city centre of Cape Town during the period from c1975 to 2000, focussing on the years 1986 to 2000 (the life of an influential piece of legislation).

The study will examine the complete set of activities carried out by the various key actors and the dynamics between these actors in the regulation of conservation-oriented development control. This requires detailed description and analysis of the legal system providing for such control and of the administrative mechanisms devised for the scrutiny and decision-making regarding such development; it also requires a detailed analysis of the values under-pinning the expectations and behaviours of each of the groups of key actors. In other words, the scope of the study is the structural framework enabling and constraining these activities and the value-systems of the principle actors in these interactions.

The primary objective of the study is to assess the *effectiveness* (or otherwise) of the conservation-oriented controls: are the controls effective in the implementation of public policy, of this particular public policy? Do the controls make a meaningful contribution to the protection of the conservation-worthy environment? There are also several secondary objectives, the realisation of which will contribute to or assist in making the judgement(s) about effectiveness. These secondary objectives include the following: to identify the precise significance and impact of the most influential factors in the

execution of the controls; to assess the *efficiencies* of the authorities in the administration of the controls, particularly because the efficiencies of the authorities will have an impact on the effectiveness of the system as a whole; and to understand and explain the values/opinions of the key actors in these endeavours regarding two primary factors, that is, development rights and conservation constraints: expectation and opinion have a direct effect on behaviour.

The origins of the study are to be found in the innumerable disputes regarding the tensions between financial viability and development rights (or legitimate expectations) on the one hand, and the need to preserve conservation-worthy buildings or to protect the character of the environs on the other; as Whitehand puts it : “conflict is endemic to the process of development” (Whitehand, 1992, p198). These disputes take place in the first instance between property owners or developers and their architects for the first part, and the officials responsible for the management and protection of the environment for the other. But the conflict or difference of opinion about the impact of development reverberates throughout civic life. At the heart of each dispute is the conflict between private and public interest and, while the framework for these disputes may vary from country to country, the dynamic and the principal issues within the conflicts are repeated time and again. The underlying reasons for the study are, therefore, twofold: first, given the particularly conflictual and adversarial nature of conservation-oriented control practice, the mechanics and the dynamics demand some exploration, explanation and evaluation; secondly, while it is clear that the discourses in conservation theory have a considerable impact on the day-to-day practice of conservation-oriented control, this is incompletely addressed in the literature and, consequently, demands attention and analysis.

1.2 The Classical Development Control Case Study

Given these intentions, the study has been designed to both adopt and to complement the work and methods of researchers like Punter (1985 and 1990), Booth (1989) and Loew (1995) within the English development control case study research tradition, specifically the technique of multiple-case development project research (both Booth’s and Loew’s studies referred to here analyse aspects of the French planning system in order to give insight into British and other planning and development control).

The development control case study methodology combines a reading of the local authority’s case files of a relatively small number of projects, with an intimate and detailed study of the applicable law and policy, and interviews with a limited selection of the key actors. This method has been used to examine the implementation of policy in practice, as in Booth’s work on certainty and discretion in decision-making (1987, 1989 and 1996), and Punter’s on design control in Reading and Bristol (1985 and 1990 respectively), and by urban morphologists to measure change in the English townscape (Conzen, 1966; Whitehand, 1984 and 1992; Freeman, 1986; Larkham, 1986b, 1991a and 1991b).

The classical case study method, as it pertains to studies that examine a limited number of individual development project case studies, has several limitations which have been pointed out by these same researchers (Punter, 1985, pp6-8; Booth, 1989, p37-40). A *first set of limitations* pertains to the number of very complex cases (as are development

projects) that can be examined in sufficient detail to enable the examination to be meaningful and to still derive general conclusions therefrom. Indeed, can we draw general conclusions from isolated and individual cases? Or, how many cases must be examined in order to draw general conclusions? The danger in drawing general conclusions from an examination, however deep, of a few cases is great. Punter's 1985 examination of design control practice in Reading relies primarily on 15 development case studies, but also includes 29 major office development appeals ("ready-made case studies") and all post-1981 development was monitored through committee reports (Punter, 1985, p6), but he argues:

"To attempt to generalise with even the wealth of knowledge that these researches have generated is a dangerous activity, for the clearest impression to emerge from these studies is that each development has a unique set of actors, with a wide range of motivations and constraints, set in a specific, but varied, technical, political and developmental context" (1985, p8).

However, an analysis of the records alone of any number of conservation-related development proposals would not have given any insight into the dynamic of the relationships between the most significant factors and the impact of variations within each factor; and Whitehand points out:

"Most individual cases are far more complex than might appear from compilations of more readily available information. There is a need to complement existing studies by laying bare some of the attitudes and behaviour underlying specific developments and by tracing the contributions of the various decision-makers" (Whitehand, 1989, p1).

This study intends to contribute precisely to this *lacuna* in research methodology and in the literature by exposing, placing in context and analysing the attitudes and opinions of the key actors in conservation-oriented development.

A second set of limitations associated with case studies is created by the problems of the *choices* made in the design of the case study method. In the context of this study, the choices referred to are the choices of the questions considered to best interrogate the issues identified as being central to the dynamics and interactions illustrative of the play between development rights and conservation constraints, choices of the development projects, choices of the key actors to interview, choices of the questions put to the key actors/interviewees, the choice of the place, the choice of the period, and so on (which are described in some detail in Appendix 1: Research Methods). There is, however, no objective test of the correctness of the choices. The ultimate test is rather the completeness and coherence of the picture painted: in other words, the correctness of these choices (or otherwise) is demonstrated (or not) by the fullness and richness of the picture painted and the conviction (or otherwise) of the conclusions.

Yin (1994) and other ethnographers have argued that case study research is the appropriate research strategy in those circumstances where the researcher has little or no control over events and the central questions are "how" and "why" questions. The central questions in this study are, indeed, "how" and "why" questions: How does the conservation-oriented development control regulatory system work? Why is this activity quite so fraught with controversy? And why do the key actors engaged in these activities

think and behave in the way they do? Punter has made many of the same points about case studies:

“(F)irstly, the ability to retain a holistic and meaningful view of real-life events ... secondly, the possibility of in-depth analysis looking at a multiplicity of causal links. Thirdly, they are particularly relevant to ‘how’ and ‘why’ questions, explanatory investigations and research into operation(al) links which need to be traced over time. Fourthly, ... a more sympathetic approach (is offered), getting inside the process, or the minds of actors or individuals, as ‘discovering’ explanations” (Punter, 1989, quoted in Larkham, 1996, p167).

It is also true that an emerging approach in planning theory known as the “practice movement”, which focuses on practice rather than theory and most often through case studies, suggests:

“(S)pecific context-bound accounts of planning activity are better able to bridge the gap between planning theory and practice, and are able to give better insight into the nature and possibilities of planning practice than previous planning theories were able to do” (Watson, 2002, p7).

Increasingly, theorists and researchers alike are focussing on detailed and fully contextualised case studies which describe planning practice (see, for example, Flyvbjerg, 1998; Watson, 2002). Indeed, Flyvbjerg describes his Aalborg study as “an empirically deep and richly detailed case study” (Flyvbjerg, 1998, p10). Such studies usually describe the development of a planning policy and the success of its implementation (or its failure, as in the case of both Flyvbjerg’s examination of the attempt to re-plan Aalborg’s centre between 1977 and 1991, and in Watson’s description of the endeavours between 1989 and 2000 to re-integrate the divided city that Cape Town had become during the apartheid years), although both studies’ primary, if underlying, intention is to interpret the ebb and flow of political power.

This approach to case study research, rather than apologising for its weakness in enabling generalisations, revels in the particular.

“Case studies are about particularisation, not generalisation: generalisation happens in the mind of the reader to the extent that it is useful in understanding a new situation” (Watson, 2002, p9).

Indeed, in the practice movement, the idea of learning from (particular) practice in order to inform and improve (other) practice or the creation of a “usable repertoire of unique cases” is a clear under-pinning notion (Watson, 2002, p8). Flyvbjerg goes even further:

“Thus, in addition to the voice of the actors and of myself, there is space for the voice of the reader in deciding the meaning of the case and in answering that categorical question of any case study: ‘What is this case a case of?’ I encourage the reader to occupy that space” (1998, p8).

Watson also argues that accounts of practice that include considerable contextual detail enable or assist the reader to add to their repertoire of unique cases and to evaluate the applicability or otherwise in their own current circumstances, and that only depth and extent of contextualising detail will enable such leaps of understanding (2002, p9). Indeed, in the study of the particular, uniqueness extends to the nature of the case or object being studied, the historical background, the physical setting, the political and legal contexts, and the informant(s) through whom the case is known (Stake, 1998, p90).

While both Punter and Booth have discussed the methodological difficulties in deriving general conclusions from research in development control case studies, they also emphasise the “great depth of insight (and perhaps more importantly a means of establishing the relationship between opinion and action)” derived from such research (Punter, 1985, p6). Quoting the anthropologist Geertz, Booth has pointed out (1989, p37) that the place of the study is not the object of the study, and that the significance of an interpretation is not so much its source as its direction, coherence and richness. There can be no proof of the correctness of an interpretation. Interpretations and explanations are convincing or not, as the case may be, by virtue of their relative completeness or integration with other interpretations or explanations that are or can be accepted as truth, and whose completeness and richness enables the reader to add to his/her repertoire of unique cases. Indeed, the practice movement suggests that case studies are not, or should not, be used as a basis for generalisation, but rather, as already argued, as rich and coherent accounts that enable their inclusion in the reader’s “usable repertoire of unique cases” (Watson, 2002, p8).

1.3 Situating the Study within the Disciplines of Development Control, of Urban Conservation and of Architectural Conservation

The study fits into three quite distinct disciplines: those of physical planning and development control, that of urban conservation planning and that of architectural conservation.

Many of the issues central to urban conservation are common to development control generally and have been given considerable attention within the disciplines and literatures of physical planning, land management and development control. For example, Booth’s work on the workings of development control within planning systems has focussed on the relationship between certainty and discretion in decision-making and on the significance of the locus and division of decision-making power (1989 and 1996); and, despite distinct national differences, he has also demonstrated the universality of the fundamental underlying issues (1996, pp1-10).

Conzen (1966 and 1975 in Whitehand, 1981), Whitehand (1984), Larkham (1986 and 1996) and other researchers in the urban morphology tradition have concentrated on the urban form, the reasons for change, on the agents of change and the contextual frameworks of decision-making, be they historical, physical, or market needs and trends; and they have described and explained aspects of change in the urban landscape. Many of these researchers have also adopted case study methodologies, but relying on surveys (usually postal questionnaires to large numbers of local planning authorities) and the analysis of very large volumes of information found in the Planning Registers of local authorities (as, for example, Larkham’s and Whitfield’s doctoral dissertations of 1986 and 1995 respectively; see also Larkham, 1996, pp166-9). Some of these researchers have given attention to monitoring and measuring change in conservation areas, and they have emphasised the necessity of explicit “character appraisals”. Such appraisals are necessary for several reasons: for example, in order to substantiate designations, for the formulation of policy, in order to guide proponents of development, and so that change can be measured (Larkham and Jones, 1993, p399); but as they, Larkham and Jones, point out:

“The nature of ‘character’ is malleable, is susceptible to differing interpretations,

is subjective, and changes over time” (1993, p400).

But it appears that some of these ‘measurers of change’ are more antagonistic to change than others; and Barrett argues:

“(W)ith broader aims and objectives, conservation can become part of a wider theory of local townscape management, aiming to maintain a range of buildings in the townscape, which are useful and offer a human-scale environment, rather than just seeking to preserve the architectural elite, creating museum streets” (Barrett, 1993, p453).

But, just two paragraphs later, she insists that:

“Management of minor change is critical, and detailed monitoring can help keep track of this which if uncontrolled could effect the character of a conservation area” (p454).

This reflects an attitude to townscape and conservation area management in which all and any change is anathema and which appears to promote *preservation* through the protection of ‘character’.

But this study sets out with rather different intentions. This is for two reasons: first, as we shall see, conservation areas have been designated for a rather shorter period in South Africa than in Britain, and the measurement of change is not yet as burning a question; and, second (and more importantly), in South Africa the very idea of constancy is not as significant as it is in the historical European towns and cities: although many of the leading promoters of conservation in Cape Town have implicitly intended conservation to imply preservation and constancy, the ruling paradigm (also largely implicit) includes an expectation of change. This is almost certainly because townscapes and conservation areas in South Africa are seldom homogeneous, are seldom densely developed, and have usually been in constant states of change.

But Punter’s work must be central in any discussion about development control. His early history of aesthetic control in Britain in two parts (1986 and 1987), his studies of development control in Reading (1985) and Bristol (1990a) which both focus on the key role players, the operations and results of aesthetic control, and a later work, with Carmona, which sets out to “improve design policies and design outcomes, to make design control more effective in encouraging good design” (1997, p14), together demonstrate the very great difficulty in making aesthetic judgements in the development control context and in guiding the implementation of policy in this regard. There is, however, an essential ambiguity at the core of the subject: and this is the question of the intent and ambit of aesthetic control and its relationship with conservation-oriented control. Indeed, Punter and Carmona argue:

“While conservation policies are central to the whole thrust of English design policies, they also largely repeat, albeit often deepening, the key substantive areas of policy...”; and

“The relationship between general design policies and conservation policies can be problematic unless the two are carefully interlinked and cross-related to one another” (1997, p264).

But this is more easily said than done.

First, while there is an essential commonality there are, at the same moment, quite

disparate goals and purposes: there is ambiguity at base. Second, while policies may be "interlinked and cross-related", in practice these two quite distinct concepts are very quickly and messily intertwined: the wide range of the actors in each dispute (be it about conservation or about 'aesthetic' control) have different views, different paradigms even, which are quite independent of the statutory and policy frameworks.

Loew, in his analysis of French attitudes and practices regarding the insertion of new buildings in historic areas, points out:

"French planning legislation and the protection of the built heritage have followed separate paths throughout history" (p22); that is until the 1962 *Loi Malraux*, since which time:

"(B)ridges have linked the two kinds of legislation, without entirely merging them" (p22).

Also, *vis a vis* the division in decision-making powers, he points out that:

"(M)ore than one gatekeeper is involved in deciding whether or not a building is acceptable, and they do not necessarily arrive all at the same conclusion" (Loew, p94).

It is apparent that in France (as in South Africa) not only is there a differentiation between the *criteria* for decision-making *vis a vis* aesthetic- and conservation-oriented controls but there is also a separation/differentiation between the *authorities* who make those decisions.

Although several of the commentators/researchers referred to have dealt with the conservation of historic buildings and of the character of the townscape in some detail, relatively little attention has been given to the impact of the values and approaches of the key actors to *theories* of conservation. Given the notoriously controversy-ridden reputation of conservation over the past hundred and fifty years, this is surprising. Indeed, this appears to be a particular *lacuna* in English-language planning and environmental research. While the ideas and theories underpinning conservation have been given detailed attention in several British doctoral dissertations (for example, those of Jokilehto in 1986 and Baumann in 1997, both at the IAAS in York, and, in rather less detail, in those of Larkham, 1986 and Whitfield, 1995, both from Birmingham, and Loew, 1995, from Reading), the effect of these ideas and theories on the *practice* of architectural and, in particular, urban conservation has not been given as much attention as it is in the parallel Italian, French or German literatures, which give very detailed attention to the history of art, architectural and urban conservation theory and is, in very large part, devoted to demonstrating or arguing the cultural or artistic appropriateness or otherwise of current interventions on the monuments or the environment. Indeed, it often appears that the English are agreed that Ruskin and Morris had the last word on the subject.

However, this largely European research tradition has been extended into the internationally shared debates and to a (relative) consensus in principle which is reflected in the international conservation charters from the Athens Charter of 1931 and the Venice Charter of 1964 to the Nara Document on Authenticity of 1994 (ICOMOS, 2001). It is through these and similar charters (the Australian Burra Charter is the best known in English-speaking countries and in South Africa) that the ideas underpinning conservation are brought into the everyday business of development and conservation-

oriented control. It bears mentioning, if in passing, that although conservationists may work toward and enthusiastically welcome international agreement and the charters, they are a two-edged sword, and Choay has shown how they effect movement towards globalization and domination in the heritage field by the western powers (Choay, 2001, p140). Indeed, it is ironical that endeavours that are directed at preserving *local* character and essence, the *genius loci*, should need to rely on *international* charters and agreements.

While it may appear that there is a relative consensus in principle between conservationists, this is in large part an illusion. In the every-day business of development and conservation-oriented control there are many key actors or role-players who each have different responsibilities and interests. The tension between public and private interest is, by itself, sufficient cause for considerable conflict, but differences in opinion regarding the identification of significance, differences in opinion regarding the impact of the proposal on either the significance of the building or site or on the character of the environs, differences in opinion regarding the appropriateness or otherwise of the demands of the authorities or of specialist interest groups can each lead to considerable conflict. As Larkham puts it:

“There is thus a multiple problem. First, what is to be preserved? Closely allied to this is the question of who identifies the preservation-worthy buildings and areas, and whether this identification meets the approval of the population living, working and recreating in these areas. Indeed, as a second facet of the problem, to what extent do those influencing development and those affected by it have consistent views about the area in which development is proposed? Thirdly, how is conservation/preservation to be carried out: are the buildings and areas identified in any way removed from the natural life-cycle of construction, use, obsolescence, decay and demolition? Fourthly, what is the nature and scale of changes proposed and carried out to the physical urban fabric?” (1996, p5).

1.4 The Approach and Method of the Enquiry

This study will not deal with buildings or sites of the greatest significance where the overwhelmingly most important factor is the cultural value of the individual building, the “historical monument”, but will examine the complex interactions between a variety of role players, the authorities in particular, both conservation and planning, in their shared but often diverging roles and responsibilities *vis a vis* the townscape, in the rather more difficult circumstances that pertain when the right to develop is not in question but must yet be constrained. This study is intended to examine the way in which the endeavours to exercise conservation-oriented controls have been and remain bedevilled by inconsistencies between conservation theory and practice, the right to develop, and the wider cultural, social and economic climate; and it will examine the detailed workings of the conservation-oriented controls in Cape Town and how they intersect with and impact on the system of property rights created primarily by the town planning or zoning scheme. Because the city centre of Cape Town is both the oldest colonial settlement in South Africa, in a startlingly beautiful setting, with a vibrant city centre, the intersection between development rights and conservation constraints is ideally studied here.

Conservation endeavours in other cultural and historical contexts are also riven by conflict and differences of opinion. Indeed, this is notoriously so. Such conflict has

revolved around a variety of issues in different times and places, and the history of conservation can be described as a history of dispute about historical relics and how they should be preserved. Baldwin Brown, writing as early as 1905, states:

“There is no subject connected with the care of ancient monuments more important than the one indicated in the title of this section (Restoration and Anti-Restoration), and there is none on which opinions are more divided” (1905, p46; title added in brackets).

While it is quite clear that the lack of congruency between development rights and conservation constraints is often the primary cause for conflict and controversy, often the approach to or theory of conservation becomes the butt of the controversy. Indeed, this is not always inappropriate either, because it is precisely the approach to the conservation aspect of the development proposal that determines financial viability or otherwise; and it is likely that every disagreement regarding the exercising of conservation-oriented controls will include over-lapping disputes regarding, first, the impact of the controls on development rights and, second, the perceived impact of the proposal on the cultural significance of the building, site or environs.

This study intends to examine this dynamic and the pitfalls in the imposition of urban conservation-oriented controls and it will, hopefully, reveal or suggest the optimum or appropriate actions, behaviour and responses from the actors who play significant roles in, have interest in, or influence development or the administrative and scrutiny processes leading to the approval of conservation-related development. The focus of the study is, therefore, on the operations of the two bureaucracies, the local planning authority and the national heritage resource management agency, in this case the City of Cape Town and the then National Monuments Council respectively, and then on the position and influence of the other key role-players who, together with the key officials in the authorities, formed a conservation-focussed growth management-oriented urban governance regime in Cape Town that was increasingly effective from about 1975.

The core component of the study is a multiple-case study, which is itself comprised of two parts: the first part is a survey of the attitudes of the various key actors involved in the scrutiny of development regarding the operations of conservation-oriented controls; and the second part is a series of ten development project case studies, each set in the city centre of Cape Town, in which the exercising of the conservation-oriented controls is examined in detail¹. The developments all, with one slightly earlier exception, were scrutinised and approved during the period from 1986 to 2000. This period was chosen because it was the life of the final form of the recently superseded National Monuments Act of 1969. The last amendment, in 1986, included a provision which gave new responsibility and opportunity to the then National Monuments Council, enabling the NMC to intervene and assist local authorities in urban conservation-oriented control (Kearney, 1988; Townsend, 1991; Hall and Lillie, 1993).

The development project case studies each rely on the very detailed description of the

¹ Nine of these cases are described in detail in Chapter 6. The exception, the new NBS building, is more briefly covered in Chapter 5, section 5.10. The selection of these development project cases and the reasons for treating the earliest of them, the NBS, differently is discussed in Appendix 1: Research Methods.

developments themselves, the relevant documents and on interviews with the individuals who had played significant roles or had had a significant influence on the administrative processes leading to the approval of the proposals (on average ten per case study). All of the properties had substantial development rights attached and, most importantly, each of the development proposals had a significant and at least potentially controversial architectural and/or urban conservation aspect. The presumption at the outset was that instances of clear conflict between property rights and conservation constraints would provide the best opportunity for the examination and analysis of the attitudes of the participants to conservation-oriented controls and of their opinions about urban conservation more generally.

The study necessarily presents a considerable volume of contextual material. This material, which includes descriptions of approaches to conservation, the practice of conservation, the law establishing development rights, and the recent history of planning and development in the city centre of Cape Town, is based very largely on library research, but also, of course, includes considerable interpretive explanation. The material on the administrative mechanisms relies very largely on personal experience and communications internal to the two bureaucracies concerned, the National Monuments Council and the Cape Town City Council. This is the background that enables a context-rich reading of the dramas presented in the development project case studies and a full understanding of the interpretations and findings derived from the case studies. The case studies, on the other hand, rely on the careful analysis of the motivations, drawings and bureaucratic documentation of the scrutiny processes, on this researcher's personal experience of the negotiations and discussions between the authorities, the architects and the Heritage Committee of the Cape Institute of Architects, my own personal knowledge of processes followed by the bureaucracies, interpretation of the drawings and notations, and on the confirmed (shared) memory of the key actors, their individual opinions and attitudes to the controversies, conflicts and issues at stake.

The methodology of the study is described in considerably more detail in Appendix 1: Research Methods.

1.5 The Questions to be Examined in the Study

The primary endeavour is to analyse the workings of the mechanisms used in the imposition of conservation-oriented constraints and to evaluate their efficacy; the secondary, but directly related endeavour, is to explore the effect of these mechanisms on development rights.

In brief, the study sets out to explore the themes "conservation constraints" and "development rights" and their relationship so that, ultimately, conclusions regarding the efficacy of the conservation-oriented controls can be drawn. In order to do this the following questions are examined: one, whether the approach to or theory of conservation adopted or demanded by the authorities and other key actors is appropriate or not; two, whether the development rights in the city centre are appropriate or not; three, what the impact of the demands of the authorities on the development rights is; four, whether the significance or conservation-worthiness of the buildings, sites and environments being affected by each proposed project has been adequately

identified in advance or not; and five, whether the authorities are capable and efficient or not. The ultimate question, however, regards the efficacy of the controls in conserving the significance of conservation-worthy buildings, sites and the urban landscape. This last question has two parts or readings: an analytical one asking whether the controls have an effect or not and, assuming that they do, an evaluative one asking what that effect is. This, of course, begs another question: *what criteria are to be used in such an evaluation?*

The Approaches to or Theories of Conservation Favoured by the Key Actors

Although the other questions may, at first sight, appear to be of far greater moment in the mechanisms and the workings of the conservation-oriented control system and on the rights, conservation practice is notorious for dispute and polemic about the correctness or otherwise, about the appropriateness or otherwise, of the *theory* or *approach* of the architect and/or of the authorities to the *conservation problem* itself. In fact, the history of conservation is a history of debate. A number of approaches or theories have been formulated in this history and are referred to by the architects or demanded by the authorities with greater or lesser explicitness in development control negotiations; and, because the essence of conservation-oriented controls is to constrain individual property owners and their architects to conserve the conservation-worthiness or cultural significance of private property or the environs for the benefit of the wider community both in the immediate and more distant future, these approaches can and do often become the focus of dispute and controversy.

The presumption at the outset was that any dispute about the approach or theory to be adopted would lead to uncertainty, delay, conflict and, possibly, to the failure of the project in conservation terms at least. The question to be examined in this regard is, in fact, a complex of questions: first, *what are the approaches favoured by the key actors*, both by insiders within the conservation lobby and by outsiders in the development industry; second, *do the differences lead to conflict and effect the scrutiny and approval processes*; and, third, *do the differences/conflicts have any effect on the ultimate outcomes, the completed projects?*

The Development Rights Attached to Property

In South Africa property rights have a very firm basis in law and are interfered with legislatively only with difficulty and gradually over time. But rights, established by the law, are continually affected (or potentially affected) by a very large variety of laws and by the creation of new law; such changes can, however, only be made in terms of "law of general application" and can be subject to compensation. Thus, property rights are a continually changing balance of individual freedoms and public interests but are, of course, constantly being affected by ever new law and new interpretations derived from case law. In *practice*, however, development rights (and, therefore, the financial value) of property in developed parts of towns and cities are established *primarily* by the local town planning or zoning scheme. It is also true that Cape Town's town planning scheme created very considerable development rights in its city centre. It is also clear that there are some internal contradictions within these rights and, perhaps most importantly, that these rights are at odds with the historical scale and character of the city. It is, therefore, inevitable that the conservation-oriented controls will frequently interfere with the enjoyment (or exploitation) of the development rights; as Glazewski puts it:

“(U)sually most contentious is the conflict which typically arises regarding private property interests in a particular resource of historical and cultural significance, and the public interest in having access to and enjoying the resource in question” (Glazewski, 2000, p593).

Any threat or potential threat to the enjoyment/exploitation of the rights must inevitably be resisted by the developer. It is, therefore, essential that the nature of the law establishing the rights and, therefore, the financial value of the property be understood and quantified in each case before it will be possible to grasp the degree or cost of interfering with the rights.

It was assumed at the outset that the greater the development rights attached to a property, the greater the likelihood that the development team would contest assessments of conservation-worthiness and, therefore, the greater the likelihood of conflict. The question to be examined was, therefore, *what precisely are the development rights in the historic city centre, and are they appropriate?*

The Impact of the Conservation-Oriented Requirements on Development Rights

While the assessment of the nature and degree of the conservation-worthiness of private property is, as we shall see, potentially provocative, the controls themselves are clearly even more contentious because the impact on any proposal, on rights and on financial feasibility is so much more immediate. For the developer, the identification of conservation-worthiness is a threat, a *potential* dispossession; exercising the controls is the threat *carried out*, the loss *actual, made real*. The question to be examined in this regard, therefore, is closely tied to the nature and extent of conservation-worthiness.

The controls, of course, are just a means to an end and do not have any intrinsic merit of their own: the controls are the tools through which buildings, sites or environments of significance are protected and required to be re-used and given enhanced or new meaning. The expectation at the outset was, therefore, that the appropriateness (or otherwise) of the imposition of the controls in each case would be assessed both by the actors within the development control system (including both the authorities and the development team) and the other interested parties against two criteria: first, the impact of the controls on the development rights and the costs of that impact and, second, the significance of the buildings, site and/or environs being protected.

The first question to be examined then in this regard was, in each case, *were the property rights of each proposal effected by the conservation-related requirements of the authorities?* The second related question, which pre-supposes the question about identification, was as follows: *was there a direct relationship between the degree to which the rights were affected and the degree of significance of the building, site or environment?*

The Identification of Conservation-Worthiness

The *potentially* most contested set of issues in this discussion is the determination of significance or conservation-worthiness and the degree of that significance. In each development proposal the question must be asked whether the building or site has significance and how much, because such significance is likely to affect both the

approach to the conservation problem and the degree to which the authorities respect or attempt to undermine the development rights.

The identification of significance depends on, first, the availability of information about the buildings, sites or environments involved or affected and, second, on the values associated with such information: societal values regarding history, architecture, the environment, recent political events and the position of the assessor of significance in society all come into play.

It was assumed at the outset that the greater the degree of significance, the greater the likelihood that the authorities would act with caution which would, in turn, lead to frustration and conflict. It was also assumed at the outset that the greater the degree of significance, the greater the likelihood that the developer would act defensively and confrontationally (in order to defend, pre-emptively, the rights). A second or alternative assumption in this regard, however, ran counter to this suggesting that the greater the clarity with which the significance is assessed and presented and the greater its accessibility, the greater the confidence of the development team in coming to grips with the impact of the significance and, therefore, the lesser likelihood of conflict. The question to be examined was, therefore, *are all conservation-worthy buildings, sites and environments identified, is the degree or extent of significance also explicit, and is this identification and grading system accessible and well-known to the development industry?*

The Capability and Efficiency of the Authorities

This study deals with two authorities, the Cape Town City Council and the then National Monuments Council.

In this context, the criteria against which the authorities' effectiveness and efficiency would be expected to be measured include the following: their ability to provide relevant information (in particular about the significance of buildings, sites and environments), the accessibility and clarity of their policies and decision-making criteria or "planned inputs", and the skill or competence of the officials, their mutual inter-authority liaison and co-operation, the consistency and validity of their decisions, the timeousness or promptness of their responses and decision-making or "actual inputs" (PIEDA, 1992, pvi). While performance regarding the 'planned inputs' can be examined and assessed, it is difficult to measure performance regarding the 'actual inputs' objectively. However, it is contended that the authorities' performance is seldom measured objectively, and that appearances are more significant. It is also contended that appearances determine expectations which, in turn, determine behaviour and the way in which the authorities are approached. As a consequence, actual performance is less significant in this context than the perception of performance. Indeed, it has been suggested in Britain that the public at large evaluates the performance of the authorities based on the appearance of approved development only: planning (and development control) and the performance of the authorities "is principally judged by the general public on the appearance of development which gains planning permission" (Punter, 1987, p58) rather than on any other grounds. Also, although local planning authorities in Britain have since 1992 been required to publish details of their performance, the indicators used (for example, the numbers of applications and the times taken to deal with them)

have measured efficiencies in a very crude way rather than the true effectiveness or efficiency of the authorities or of the system of land use controls or any particular policy (see Morrison and Pearce, 2000).

The proposition in this regard was that the authorities would be regarded as capable and efficient by the *property owner/developer/development industry* if information was given promptly and clearly, if negotiations were conducted speedily and clearly, if decision-making was quick and reasons given promptly and if the project was financially successful (because financial failure is often blamed on the authorities); and by the general public if the cultural significance/ conservation-worthiness of the site or environs was protected (while this is the authorities' *raison d'être*, the efficacy of the controls will be dealt with in the following question). The questions to be examined in this regard were: *did the authorities have the necessary information readily available, were interactions and negotiations conducted speedily and were decisions made promptly and rationally?*

1.6 The Efficacy of the Controls

This is, of course, the essential question: *do the controls work?* Or, put less simplistically, there is a two-fold question to be examined in this regard: first, an analytic question: *did the controls have an impact on the form of development approved and, if so, what was that impact?* The second question was an evaluative one, and the ultimate question underlying the entire study: *did the controls have a beneficial effect on the management of the townscape of the city centre of Cape Town?*

Whether laws and their associated administrative measures are effective or not is difficult to demonstrate without considerable empirical research: this is reflected in the mutually exclusive findings of leading researchers: Whitehand has been sceptical, arguing that, with the notable exception of Punter's work, there have been very few studies on the effects of the planning control process and he refers to the studies by Larkham and Pompa, both of 1988, which have shown that local planning authority influence in design is minor (Whitehand, 1992a, p207); and Larkham, in a later work, contends that:

"In general, though, indirect agents have little visible effect upon the form of development" (Larkham, 1996, p138).

Punter, on the other hand, has contended that in Reading:

"Perhaps half of the major office applications since 1974 have been significantly improved in design terms by passage through the control process" (Punter, 1986a, p209).

And he goes further in his 1990 study of design control in Bristol where he argues that in evaluating the success of the controls, it is not sufficient to examine ultimate outcomes, the *built* results, but that:

"Rather it is important to judge aesthetic control by what is invisible to the vast majority of people - what it rejects" (Punter, 1990, p365); and he insists that: "Some ... developments needed remarkably little amendment, though they benefited from significant early consultation. But most were substantially improved through the control process, that improvement was not merely confined to elevations but it also embraced siting, massing, public access, disposition of

open space, landscaping..." (Punter, 1990, p365).

Wong, however, has argued that unless the relationships between policy, its implementation and the indicators of efficacy are conceived congruently, the gathering of data is and will be ineffective (Wong, 2000). Indeed, it must be conceded that the efficacy or effectiveness of the conservation-oriented control system cannot be measured objectively or with any degree of confidence unless a carefully designed system is established *in advance* of any monitoring and data gathering, and the data is captured as each project is processed (see also PIEDA, 1992).

However, it is contended that we *can* evaluate the effectiveness of the controls imposed on a *limited number of cases* if each individual case is carefully reconstructed, and the history of the events and the assessment of each individual case is confirmed by the key actors in each case. It was, also, proposed at the outset that three assessments of effectiveness would be made. The first would, in effect, be 'by referendum', that is, the generally held consensual view of the on average ten or so key actors interviewed in each development project examined in a case study: if the *key actors* in each case agreed that the conservation-worthiness of the building, site or environment had been protected *by the controls*, or if they agreed that the proposal had been improved *by the controls*, it could then, in that particular case, be argued that the controls had been effective. This first evaluation is made in and as part of each of the case studies (Chapter 6) and will incorporate my own input as a key actor. A second assessment of the success (or otherwise) of each project is made in the chapter assessing the case studies as a group (Chapter 7) through the application of the evaluative criteria or 'distilled criterion' developed specifically for this purpose. Finally, a third assessment would be made by assessing the effect of the system of controls on the development projects as a group and the effect of these buildings on the city centre itself, again through the application of these specifically developed criteria for evaluation. This, third, evaluation will be made in the final concluding chapter (Chapter 8).

The Criteria for Evaluation

The controversial nature of the ideas about conservation, both in its history and in its everyday application in the cities of the world, has already been alluded to: given this, it is necessary to declare my personal predilections at the outset. Also, the necessity for an explicit framework of evaluative criteria for the assessment of the outcomes of each of the dramas (which each development project is) has been argued in the previous section. The assessments of the outcomes of the case studies will, in turn, inform the evaluations and conclusions of the study regarding its essential question: *do the conservation-oriented controls actually protect the conservation-worthy or culturally significant elements in the environment and the conservation-worthy urban environment itself?*

This, of course, begs a question (or two): what are conservation-oriented controls and what are their intentions? The answer is to be found in the tentative definition of modern conservation at its birth immediately after the French Revolution, namely, that *conservation* is the *regulation* and *administration* by the state of the *protection* of buildings, sites and environments of *historic and artistic interest* into the future in the interest of the nation (see Chapter 2). This suggests in turn another, perhaps more

complete and more modern definition, namely, that *conservation is the entire complex of the intellectual and other activities involved in the process of the recognition or identification and evaluation of culturally significant buildings, places and environments, and all of the activities aimed at the transmission of such identified buildings, places and environments into the future in the interest of all of humankind* (see Brandi's definition in Chapter 1 of his 1963 *Teoria del Restauro*; in Price et al, 1996, p230-231).

It appears, then, that in order to develop or articulate the necessary evaluative criteria (or criterion) there are only three questions or complexes of questions that must be answered: what are the qualities of the objects of our attention? Which are the objects? And how are they to be transmitted into the future?

First, the *qualities* of the objects that make them significant:

The qualities or characteristics that make a building or environment significant are, of course, determined by the societal or cultural values of the society in question. Although this is a singularly important component of the system of conservation-oriented controls, I shall not dwell on the historical and/or societal underpinnings of these values here other than to emphasize that these values are, or should be, determined by the society itself or by bodies accepted as expert in the field, and accepted by society at large to be representative in this regard. Since the beginning of modern conservation practice immediately after the French Revolution the primary cultural values in the western world have been explicitly art and historical significance (Athens Charter, 1931, Article I; in ICOMOS, 2001, p7). The Venice Charter of 1964 still referred to art and historical value, but in addition referred to an undefined "cultural significance" (Article 1, ICOMOS, 2001, p13). The Burra Charter (most recently revised in 1999) defines "cultural significance" to be "aesthetic, historic, scientific, social or spiritual (added in 1999) value for past, present or future generations" (Burra Charter, Article 1.2; ICOMOS, 2001, p39). The explicitly stated values of significance during the period under review in South Africa were those enunciated in the relevant legislation, the National Monuments Act of 1969 (superceded in 2000), namely, "historical and cultural" (Section 2A) or "historic, cultural or aesthetic interest" (Section 5(1)(cC)). This is extremely vague and not very helpful. As we shall see later in the study, however, the essential indicators of significance implicitly accepted by the key actors in Cape Town during the 1980s and 90s were age, architectural interest, historical associations and contribution to the townscape. These criteria are not very distant from those referred to, explicitly and implicitly, throughout the history of the theories of conservation and adopted in most other parallel circumstances. There are, of course, very often other qualities that come to the fore in the assessment of significance; but, as we shall see, in the spatial and temporal limits of this study, the criteria of *age*, *architectural interest*, *associational interest* (to a lesser degree) and the *contribution made to the townscape* have been adopted as the primary qualitative signifiers of conservation-worthiness or cultural value. Again, as we shall see, there has been no questioning or criticism by any of the parties involved in conservation-oriented development control in the city centre of Cape Town of these criteria. I shall, in the concluding assessments and the evaluative conclusions regarding the success or otherwise of each of the case study development projects and of the controls as a system, adhere to these criteria.

Second, the *objects* of our attention:

The objects of our attention are those that satisfy one or more of these four qualitative criteria. There is, however, another essential criterion which we need to adhere to when we address the significance of each individual object: in the history of conservation *authenticity* has always been a primary factor (as we shall see in Chapter 2). Indeed, the *building as document approach*, in particular, requires that the objects of our attention, that is the building, building complex or environment, be comprised in large part of the actual, real, original, authentic matter or fabric of the original and/or historical strata/layers. This fabric is real and can be identified and confirmed as such through research and physical examination: the test is a relatively straight-forward one and does not require qualitative evaluation: the ancient building and its layers either exists or it doesn't. The *historical approach* requires that the shape, form and/or appearance be "historically correct": this requires authentication primarily through documentary research of the particular case/object. The *stylistic approach* requires that the design, shape, form and/or appearance be consistent or appropriate: this requires exhaustive research of the general type so as equip the designer with sufficient knowledge in order "to put oneself in the place of the original architect and try to imagine what he would do if he returned to earth" (Viollet-le-Duc, 1854; quoted in Price *et al*, 1996, p318). The *critical conservation approach*, on the other hand, requires that the *image* or *essence* of the work of art or conservation-worthy object be conserved, even restored, "as long as this is possible without producing an artistic forgery and without erasing every trace of the passage of time left on the work of art" (Brandi, 1963, in Price *et al*, 1996, p231). This is considerably more complex because two separate judgements must be made: first, whether the *image* or *essence* of the conservation-worthy building/environment can be identified and, second, whether that image or essence can be conserved without forgery, falsification or loss of patina.

It is quite clear that the concept of authenticity is a contested one and is, probably, at the root of much of the controversy in conservation theory. Indeed, it would appear that each theory of conservation has its own idea about authenticity hidden below the surface of its discourses. I must, therefore, declare a preference here: and I shall hold to a two-pillared concept. The first pillar is that of *authenticity of material*, and the second is that of *authenticity of image*, including all of the marks and patina of history. Given these preferences, the significance or conservation-worthiness of a building, group of buildings and/or environment must be tested against this two-pillared criterion of authenticity; and this test must satisfy the demands of *both* the conservation-of-the-building-as-document and of the critical conservation approaches; the building or environment must be comprised of sufficient ancient material *and* it must truly reflect or manifest the image or demonstrate the characteristics ascribed to it. Also, in the concluding assessments and conclusions regarding the success or otherwise of each of the case study development projects and of the controls as a system, I shall adhere to this two-pillared criterion of authenticity. In other words, any subject suggested to be conservation-worthy and any outcome of any conservation endeavour must satisfy this criterion.

Third, how these objects are to be *protected or transmitted into the future*:

The question "how?" does, of course, imply the question "why?" and, in this context, the "why?" question needs to be answered before the "how?". I shall *not*, however, attempt to address the bigger question as to why modern society conserves its historic, artistic or

environmental heritage. Considerable attention has, of course, been given to the question in the literature: for example, Lowenthal's *The Past is a Foreign Country* (1985) gives an exhaustive answer and Tunbridge and Ashworth's *Dissonant Heritage* provides insight into their own question "why do we do it and what is it used for" (1996, pviii). Many commentators have questioned the intentions and results of these conservation/preservation endeavours: these include, for example, Hewison's relatively early 1987 attack on the heritage industry; Lowenthal's learned, if eclectic, and increasingly sceptical works including his 1992 essay "Authenticity? The dogma of self-delusion" and culminating in his 1996 admonition of "heritage crusaders", which both scorn the conventional conservationist stance; and Choay, in her interesting critique of the value of the built environment in establishing identity, argues that the heritage mirror reflects a deeply narcissistic image, in which:

"Thus the historical heritage has ceded its constructive function to a defensive one dedicated to the recollection (in every sense) of a threatened identity" (Choay, 2001, pp165-71; words in brackets in the original).

Given this polemic, I need to declare a predilection or preference here too: the term "historicist" will be used frequently in the study, very often in a pejorative sense. Throughout the study the term will be used to characterise endeavours which intend or hope to return a building or townscape to an "historical" configuration, to reconstruct "history" or a past "historical" appearance, or which hope to revitalise or recapture history itself. These are hopeless endeavours; they are, indeed, self-deluding and cultural narcissism, and they are doomed to emptiness. Conservation endeavours are, or should be, self-consciously directed at the revitalisation and infusion of new life into the architectural and urban heritage, the creation of new and current meaning.

This study is, however, directed at examining the workings and effectiveness of conservation-oriented controls, so I shall accept the directive that "the historic environment and the historical artefacts within it should be protected" without further question. The study aims not to answer the questions why we conserve or whether we should, but to explore questions about the ways in which we try to conserve and whether we are effective or not in these endeavours.

The "why?" question that will be addressed is: *why is each individual building or environment to be conserved and how?* The answers to these why- and how-questions must be rooted in the very qualities that establish their significance, their historic, architectural and/or townscape value, and as *authentic* manifestations of these values.

Given these arguments, the success or otherwise of how the buildings and townscapes are conserved will depend on very careful analysis of the historic, architectural and townscape significance of the building/site concerned and of the immediate and wider environment, a clear understanding of this significance, and a detailed analysis of the impact of the new intervention on the characteristics of significance of the building and site and on the immediate and wider environment.

It is quite clear from this that I shall not adopt the conventional criteria or principles of the Venice or Burra Charters for the evaluation of either individual endeavours or of the endeavours to guide or control each project. The criteria that shall be applied will be

based on the *critical conservation approach* and on the Nara Document on Authenticity. These are as follows:

- The cultural significance of a site and its environs shall be researched ('authenticated') and clearly identified *in advance* of the imposition of any restrictions or the design of any intervention;
- Such cultural significance shall be reliant on the criteria of *age, architectural interest, historical association* and *contribution to the townscape*, and shall be reliant on the presence of *authentic ancient material* and an *authentic image*;
- The conservation endeavours/intervention shall, in all cases, *strive for new added and enhanced cultural significance*, giving new life and meaning to the fabric, texture and functioning of the city, and, at very least, conserve and/or revitalise the cultural significance of the site and environs.

A distillation of these criteria is as follows: *The authenticated (proven through research) authentic conservation-worthy fabric and character of the buildings, the texture, grain and scale of the townscape, and the people-oriented functioning of the urban environment shall, at least, be conserved if not enriched and enhanced by each endeavour/intervention in and on the city.*

Chapter 2

The Ideas and Theories of Architectural and Urban Conservation

2.1 Introduction

The ideas and theories, the discourses, of architectural and urban conservation require an introduction here because they underpin the *practice* and *control* of architectural and urban conservation; and because they are the source of many, perhaps most, of the conflicts that bedevil the exercising of conservation-oriented controls. In writing this introduction, but without any pretence to her erudition, I adopt an approach similar to that of Choay:

“As a frame of reference I will go back in time, in search of origins but not of history; I will make use of concrete figures and points of reference, but without attempting to provide a complete inventory” (Choay, 2001, p6).

The frame of reference that I hope to establish is that set of concepts, themes, theories and the varied discourses which contribute to and, in turn, constitute the discourses of urban conservation.

Although many commentators have described a series of *phases*, *periods* or *moments* in the development of these discourses, I have chosen to use Jokilehto’s four *approaches* (1986, pp1-6) in the ordering of this account (see the numerous reviews of this history, for example, Brown, 1905; Bonelli, 1963; Ceschi, 1970; Jokilehto, 1986 and 1999; Luciani, 1988; Price *et al*, 1996; Choay, 2001). This is because architects and conservationists do today adopt the historically developed theories or their derivations as their own chosen or preferred *approaches*. This account also includes commentary on those international charters which have had a bearing on architectural and urban conservation because it is through these charters that the sometimes arcane and theoretical discourses of conservation are introduced into the every-day practice of architectural and urban conservation and the regulation of their practice.

The ideas of *urban conservation* evolved slowly in Germany, France, Austria, Italy and Britain at the end of the 19th and in the early 20th century, primarily in reaction to the scale and nature of the changes in the traditional European cities wrought by industrialisation and by attempts to transform and beautify the great cities. These ideas were derived from and influenced, most importantly, by the theories of *architectural* preservation, the growing recognition of the significance of urban context and of the vernacular, and the early ideas about town planning and townscape design. Later, the devastation of the European cities during WWII created a quite new set of circumstances that led to new responses and, ultimately, to the formalisation of *urban conservation* controls in the 1960s throughout the European countries. The implementation of these policies in many parts of the world has resulted, in particular in the city centres of Western European countries and of the United States, in the practice known as *facadism*. This practice requires detailed attention here because it has become so widely adopted, because it has become so controversial (see Loyer and Schmuckle-Mollard, editors, 2001), and because it has been so frequently adopted in the city centre of Cape Town. Also, given the particular influence of British ideas and practice regarding urban conservation and the related ideas of design control on South

African administrative practice, architectural and conservation circles, British precedent is given detailed attention.

2.2 Architecture and Architectural Conservation

The practices of architecture and of architectural conservation have always been inextricably interwoven; the practice of architecture is and has always been inseparable from the re-use, the modelling and the transformation of the existing. The first *architectural* decision has always been the decision of the patron or architect to persist with the existing building, conserving it and adding to it, or to transform it, creating a new original work, even if a hybrid; in other words, to persist with existing architectural forms or to develop new forms.

There are, however, several important differences between architecture and architectural conservation that have led to a separation of disciplines. The most significant of these, in this context, are the differences between the users or consumers of the works and the divergences in their interests and attention. Architecture may well be an essentially co-operative art and “the mirror of history and social culture” but, in its practice, it is, and has been since the middle ages, the responsibility of the individual architect or of the Wrightian client-architect-builder triumvirate (Zevi, 1963, pp625-695). The primary beneficiaries or consumers of the architectural work are the owner and its users. On the other hand, architectural conservation relies, in the first instance, on societal values and on the cultural significance of the object of attention and, in the second, on respect for that significance which leads so to the conservation of the object *on behalf of* society at large. In other words, the responsibility of safeguarding the significant object for future generations over-rides private interest. The most significant consumers are therefore, first, the cultural community that has identified and/or identifies with the significance of the building or site, its heritage (cf. the Nara Document on Authenticity; ICOMOS, 2001, pp94-95), and, second, the future generations of all mankind (cf. all the international charters and agreements since the 1931 Athens Charter; see ICOMOS, 2001). In other words, every conservation endeavour is explicitly underpinned by a coercing, constraining impulse in the interest of the community that has generated or identified that heritage resource, in the interest of the community that cares for it, and in the interest of all future generations.

Most commentators suggest that the defining moment of the separation between architecture and architectural conservation and the beginning of “modern” conservation came in the immediate aftermath of the French Revolution and its associated iconoclasm (for example, Bonelli, 1963, p194; Choay, 2001, p14). The National Assembly decreed first that:

“(T)he sacred principles of liberty and equality no longer permit the monuments raised with pride, prejudice and tyranny to be left before the French peoples’ eyes” (Decree, 14 August 1792).

Then, barely a year later:

”It is forbidden to remove, destroy, mutilate or alter in any way with the excuse of eliminating traces of feudalism or royalty ... books, manuscripts, engravings, drawings, paintings, reliefs, statues, antiquities ... that concern the arts, history and education” in order to maintain “the leading position of France in commerce and industry” (Decree, 24 October 1793; quotes from Jokiletho, 1999, pp70-71).

This second decree clearly contains the several distinguishing elements of modern conservation: *the state has created a law protecting objects of historical and artistic interest into the future in the interest of the nation.*

But, as Choay points out: "even when matched by penal measures, a law is not sufficient"; and an inspectorate and specialised practitioners, too, had to be "invented" (Choay, 2001, p99). Thus the separation between architecture and architectural conservation was completed by 1833 (the date of the creation of the post of Inspector of Historic Monuments) in France when the practices of conservation and restoration were institutionalised, specialisation in the treatment of the monuments was demanded, and the discipline of restoration and conservation established.

2.3 The Origins of the Approaches to Architectural Conservation

Jukka Jokilehto has suggested that there have, in essence, been four approaches to the conservation of "ancient monuments and works of art" (Jokilehto, 1986, pp2-6). These are the *traditional*, the *historical/stylistic*, the *conservation-of-the-building-as-document* and the *critical* approaches, and which could, with some licence and addition, be described as follows:

The Traditional Approach

The first is the *traditional approach* which has always existed and which aims, in the first instance, at the straight-forward and unself-conscious repair to functionality of, for example, a tool or simple building rather than a work of art or architecture (both Brandi and Heidegger make this distinction; referred to by Jokilehto, 1997, p231). In this first instance the ordinary existing edifice is repaired or added to for as long as it has a use-value, for as long as it can be kept functional; and the repairs and/or extensions may be carried out in the same architectural character as the extant building, or may more frequently be executed in a quite different and current style (cf. Brown, 1905, pp50-51). Indeed, it is a frequent, if not general, characteristic of ancient buildings that they have been built in stages, sometimes over many centuries, and/or remodelled periodically, *usually in distinguishable styles.*

In the second instance, this *traditional approach* has since antiquity also applied to significant buildings which have more than use-value and have memorial and/or symbolic value; and readings from the ancient Greek and Roman writers confirm this. For example, the Greek historian Arrian, in his *Life of Alexander the Great*, written in about 170 CE, but relying on now lost eye-witness accounts, described the actions of Alexander some five hundred years earlier in 323BCE: when Alexander found the tomb of the Persian Cyrus the Great, itself already some two hundred years old dating from c528 BCE, to have been recently robbed and damaged, he instructed one of his lieutenants:

"(T)o put the monument into a state of thorough repair: he was to restore to the coffin what was still preserved of the body and replace the lid; to put right all damage to the coffin itself, fit the divan with new strapping, and to replace with exact replicas of the originals every single object with which it had previously been adorned; and, finally, to do away with the door into the chamber by building it in with stone, covered by a coat of plaster, on which was to be set the royal seal. Alexander had the Magi who guarded the monument arrested and put to

the torture, hoping to extort from them the names of the culprits; but even under torture they were silent, neither confessing their own guilt nor accusing anybody else; so, as they could not be convicted of any sort of complicity in the crime, Alexander released them" (Arrian, 1958, pp222-223)².

The *traditional approach* to conservation and protection was aimed simply at maintaining functionality, notwithstanding the self-evident and often very considerable significance of the edifice, and little or no concern was shown for the style of the repair/extension works or the material of the edifice. It is also true that there was no good reason for doing otherwise: the available materials and building techniques ensured an organic consistency. As the recently late Fritz van Voorden put it:

"In the past, the use of land both for building and for farming produced, in the main, harmonious results in spite of constant change; the pictures we have of the past are nearly all characterised by balance in form and atmosphere. Even that of the late nineteenth century, which absorbed many new elements, such as tramways and railways, new industries and extensive housing construction outside the limits of old fortified towns, displays considerable harmony. Changes to the existing pattern resulted in a new balanced whole. Rarely was anything left once the new had replaced or been woven into the old; there remained few isolated fragments of old buildings or public works. No general protection of areas for preservation of historic buildings was yet necessary; for the time being, all that was required was to take some care, particularly with regard to buildings which obviously merited such attention by reason of their age and architectural interest" (van Voorden, 1981, p433).

The traditional way of looking at the repair or renewal of buildings should, perhaps, be called "*functional restoration*" or simply "repair" (indeed, Choay regards this simply as "*re-use*"; 2001, p24). It does also bear pointing out that, in modern-day cases where the architect and/or developer of a site disputes the significance or conservation-worthiness of the extant buildings and/or the environs, this argument is re-made. Choay puts it as follows:

"For their part, the architects invoke the creative rights of artists. Like their predecessors, they hope to make their mark within the urban arena rather than be relegated outside the city walls or condemned, in historic cities, to pastiche. They recall that over time a variety of styles have coexisted, been juxtaposed and interconnected in the same city or the same building. The history of architecture - from the period of the Romanesque, to the flamboyant Gothic or to the Baroque - is readable in a number of great religious edifices of Europe, such as The appeal of a city like Paris comes from the stylistic diversity of its architecture and its spaces. These should not be frozen in time by an intransigent approach to conservation" (Choay, 2001, p5).

In other words, the *traditional approach* to the existing landscape and townscape is to treat it in simple functional and/or economic terms.

² It is interesting to note that Alexander required that the *objects* inside the tomb be replaced with "exact replicas": this does go a step further than simply maintaining functionality, but this refers to the funerary objects only and not to the building.

The second and third approaches, historical/stylistic restoration and conservation of the building as document, both have their origins in the Renaissance when, despite the continued use, abuse and even mining of the ancient classical ruins for materials, it was recognised that the relics signalled past greatness, both of the empire and of the church. Indeed, notwithstanding the generally agreed view that conservation begins with the iconoclasm after the French Revolution, Brown, writing in 1905, argues:

“(T)he history of the care of monuments began on the day when Leo X gave Raphael the control over the remains of ancient art at Rome” (Brown, 1905, p46).

However, he concedes:

“(F)or practical purposes we may begin the story of the modern care of monuments with the early part of the nineteenth century ... connected with the so-called Romantic movement, a reaction against the neo-classicism of the preceding hundred years” (p15).

Choay similarly describes the earlier phase of modern conservation in the Quattro- and Cinquecento as the *classicizing phase*, where the artefacts that were given “heritage status belonged exclusively to antiquity”, and the later post-Revolution phase as the *consecration phase*, which institutionalised the preservation of the *historic monument* (Choay, 2001, p15). Indeed, she describes the immediate post-Revolutionary period as the moment of the *invention* of the *historic monument* (p14).

The Historical/Stylistic Restoration Approach

The second approach, *the historical/stylistic restoration approach*, the first of Jokilehto’s two approaches to be born out of the Renaissance, initially emphasized the relics and the great monuments as exemplars to be imitated, learned from and, ultimately, to be surpassed by the works of the new great holy Roman empire (of the Renaissance). Indeed, this approach is an intrinsic part of the Renaissance interpretation of classicism by the humanists, artists and architects like Alberti, Bramante and Raphael; in their minds, the re-use of existing buildings and the creation of a new classicism “that could at once bring our past back to life, assure the glory of the artist-architect, and authenticate the testimony of historians” (Choay, 2001, p15) were not far apart. It is also not far in spirit from the *traditional approach* just discussed. Subsequently, during the 19th century while the European nation-states were being created, the historical associations of these relics of classicism and, in particular, the later medieval relics and great monuments were exploited as evidence of each nation’s history and of their (national) greatness. Architects like Wyatt in the late-18th century, and during the 19th century, Pugin and George Gilbert Scott in England, Viollet-le-Duc in France and Giovenale in Italy, all transformed many of the great medieval cathedrals and churches in order to achieve a “stylistic unity” for “historical” reasons (although their rationalisations, religious and/or nationalistic, differed). The theory most clearly articulated by Viollet-le-Duc (1814-1879) has come to be known as “stylistic restoration”:

“Restoration ... Both the word and the thing are modern. To restore an edifice means neither to maintain it nor repair it, nor to rebuild it; it means to reestablish it in a finished state, which may in fact never have actually existed at any given time” (Viollet-le-Duc, “Restoration” in *Dictionnaire raisonne de l’architecture francaise du Xie au XVIIe siecle*, 1854, Vol 8, 1854; quoted from Price *et al*, 1996, p314); and

“It is clear that the architect responsible for restoration needs to know the style and forms of the building he is working on, as well as the school of architecture

to which it belongs. Even more, the architect needs to know the structure, anatomy, and temperament of the building. He needs to know these things because, before everything else, his task is to make the building *live*. He needs to develop a feel for it and for all of its parts almost as if he himself had been the original architect" (p317); and that

"In such circumstances, the best thing is to try to put oneself in the place of the original architect and try to imagine what he would do if he returned to earth and was handed the same kind of programs as have been given to us. Now, this sort of proceeding requires that the restorer be in possession of all the same resources as the original master - and that he proceeds as the original master did" (p318).

Viollet-le-Duc's drive for stylistic unity was later to be described by Riegl as "newness value" (*Neuheitswert*), which:

"(C)oncerns the fresh and intact appearance of these works. It is 'rooted in thousands of years of perception - namely, the priority of youth over age'; in the eyes of 'the masses', 'only new and whole things tend to be considered beautiful'. This value is all the more interesting since - in spite of the universality probably rightly assigned to it by Riegl, it had never before been either identified or clearly designated" (Choay, 2001, p113; quotations of Riegl from Forster and Ghirardo's 1982 translation of *The Modern Cult of Monuments*)

Although he appears from his writings to be conservative, Scott (1811-1878) was often as radical a destroyer and inventor as Viollet-le-Duc; and it is clear that during the second half of the 19th century restoration practice in most European countries was very largely along these lines (see, for example, Breitling, 1981, on practices in Germany and Austria; Ceschi, 1970 and Luciani, 1988, on Italy; and Jokiletho, 1999, on France)

However, this approach to restoration was attacked throughout the 19th century and at the beginning of the 20th century Brown argued that:

"It is generally acknowledged that this procedure was a mistake" and that the architect "must adapt the style of his new work to the style of that part of the building with which it should most suitably harmonize" (Brown, 1905, p52).

Jokiletho calls this *approach* "romantic restoration" (Jokiletho, 1986, p2), which it is; but it should perhaps be better described as "*historical and stylistic restoration*" because this approach emphasizes the significance of the historical past through the restoration and or recreation of the building. The primary emphasis is on the symbolic value of the ancient edifice; it almost inevitably encourages the historicist transformation of the ancient edifice or its remains and, notwithstanding the very considerable historical research on which such transformations or restorations may be based, the essential focus is on the *appearance* of architectural, stylistic or historical correctness and its reference to a particular or "best" moment or period in the building's history.

This approach is still today argued by a wide variety of parties to be the most apposite approach: those who seek to return the building to a particular form for purely artistic or architectural reasons, those who seek to refer to a particular "golden age" in the local or national history, and those who have a particular political or historical axe to grind.

These reasons are not, of course, mutually exclusive, but neither are they necessarily associated. Indeed, as we shall see later in the study, in few cases do parties who agree on a particular approach to the conservation problem do so for the same reasons.

Conservation of the Building as Document

The *third approach*, and also born out of the Renaissance spirit, is very close in its *origins* to the historicist approach just described, but is focussed on the conservation or preservation of the *authentic ancient physical matter* comprising the ancient edifice. This approach has its origins in the very human and very ancient impulse of associating meaning with objects. The essence of the memorialising or historicising impulse is the association of past events with extant objects recognisable as relics of that past or of those events. This impulse is at the base of the collecting and the protection of relics, and which was clearly present from the beginning of the Renaissance. Indeed, the collecting of sculptures or broken pieces of architectural decoration, or pieces of antique *bas-reliefs* sometimes with inscriptions literally bearing messages from classical antiquity, was profoundly influential during the Renaissance and subsequently (Alsop, 1982; Haskell and Penny, 1981).

This approach is most clearly seen in the endeavours to interpret and re-interpret the sculptural works of classical antiquity. For example, the corrections of earlier hypothetical restorations when the original parts were subsequently found as is demonstrated in the labyrinthine history of the many restorations of the *Laocoon* from its discovery in 1506 till the early 20th century. Winkelmann's insistence in the late-18th century that restored parts of a sculpture should be distinguishable from the original was also applied to architectural preservation and restoration; and, eventually, by the early-19th century, consensus was reached (in art-history circles at least) that the antiquities should not be restored (Haskell and Penny, 1981, pp99-107). These developments reflect the recognition of the importance of the original authentic material and of the authentic art work.

Directly related to the restoration of sculpture is the practice of re-assembling architectural works by *anastylosis* (Greek for "restoration", but defined as "the reassembling of existing but dismembered parts" in the Venice Charter, 1964, Article 15) and the insertion of new parts to fill *lacunae* in the ancient structure, usually of a different material: an example of this was Valladier's still much admired restoration in 1817-23 of the Arch of Titus, in which Stern had first stripped the ancient structure of the medieval additions and dismantled the Arch in large part, for Valladier to reassemble the building and complete the missing parts in travertine, thus differentiating the new work from the ancient marble.

The significance of concept of authenticity (of material) is also reflected in the late-18th and early-19th century antiquarian criticism of the restorations of medieval churches in England, in France and in Germany. In England as early as 1795 antiquarians like John Carter and Sir Henry Englefield anticipated the tone and content of Ruskin's later attacks on the "restorationists" in their commentary on the work proposed at Durham Cathedral (Jokiletho, 1999, pp106-109); and in France in 1839 the archaeologist Didron articulated the perhaps most frequently quoted conservative principle:

"Regarding ancient monuments, it is better to consolidate than to repair, better

to repair than to restore, better to restore than to rebuild, better to rebuild than to embellish; in no case must anything be added, and, above all, nothing should be removed" (Didron in *Bulletin archaéologique*, 1839; from Jokiletho, 1999, p139).

However, both in England and more particularly in France, such criticism was in part absorbed and engulfed by historicist ideas and practices in both architectural revivals and in architectural restorations.

But in England, in particular, the anti-restoration movement (known as such after 1877), with Ruskin (1819-1900), the best-known art critic of the century and the movement's most articulate protagonist, vehemently resisted the destruction and/or remodelling of ancient buildings:

"*Restoration* ... means the most total destruction which a building can suffer: a destruction out of which no remnants can be gathered; a destruction accompanied with false description of the thing destroyed" (Ruskin, 1849, *The Seven Lamps of Architecture, The Lamp of Memory*, para. XVIII); and

"Restoration ... is a Lie from beginning to end" (*The Lamp of Memory*, para. XIX).

What disturbed Ruskin was the deceit that he perceived, not the loss of the building. Indeed, Ruskin accepted the inevitable process of life and death, and preferred the loss to an artificial or contrived replica or "lie". Ruskin is the clearest champion of authenticity, be it in architecture, be it in conservation:

"Watch an old building with an anxious care; guard it as best you may, and at *any* cost from any influence of dilapidation. Count its stones as you would jewels of a crown; set watches about it as if at the gates of a besieged city; bind it together with iron where it loosens; stay it with timber where it declines; do not care about the unsightliness of the aid; better a crutch than a lost limb; and do this tenderly, and reverently, and continually, and many a generation will still be born and pass away beneath its shadow. Its evil day must come at last; but let it come declaredly and openly, and let no dishonouring and false substitute deprive it of the funeral offices of memory" (*The Lamp of Memory*, also para. XIX).

This approach, which emphasizes the preservation or conservation of the real, the actual matter, has gradually come to be the accepted orthodoxy in most European countries. In Britain this position was best stated in the 1877 Manifesto of the Society for the Protection of Ancient Buildings (SPAB) drafted by the artist and reformist William Morris (1834-1896):

"to stave off decay by daily care, to prop a perilous wall or mend a leaky roof by such means as are obviously meant for support or covering, and show no pretence of other art, and otherwise to resist all tampering with either the fabric or ornament of the building as it stands, if it has become inconvenient for its present use, to raise another building rather than alter or enlarge the old one; *in fine* to treat our ancient buildings as monuments of a bygone art, created by bygone manners, that modern art cannot meddle with without destroying" (SPAB, 1887).

In Italy the works of Boito (1836-1914), in particular, led to "philological restoration" which emphasized the importance of the monument as a "document":

"Considering that the architectural monuments of the past do not matter only in the study of architecture, but serve also as essential documents to clarify and

illustrate all aspects of the histories of many times and peoples, they should therefore be respected with religious scruple, precisely as documents in which any alteration, however slight, which appears to be original and could confuse and gradually lead to mistaken conclusions” should be avoided (Boito in *Questioni Pratiche di Belle Arti*, 1893; from Jokiletho, 1999, p212; cf. Luciani, 1988, pp76-78).

In Germany, the art historian Dehio (1850-1936), argued on similar lines in 1901 that “to conserve and only to conserve! to complete only when conservation has become impossible” and in 1905 that “We do not conserve a monument because we consider it beautiful, but because it is a part of our national existence” (both phrases from Jokiletho, 1999, p197 and 217 respectively); and in Austria the art historian Riegl (1857-1905), in his influential *The Modern Cult of Monuments: Its Character and Its Origins* (1903) and subsequent works, emphasised the importance of the irreplaceable atmosphere created by authentic ancient remains and of the “unintended” monument. Choay credits Riegl with the development of a quite new understanding of the historic monument:

“Riegl’s analysis thus reveals the simultaneous and contradictory demands of the various values accumulated by the historic monument over the centuries.... These conflicts, which Boito already hinted at in the context of restoration, surface again when the question of re-use arises and, in a more general way, that of the listing of historic monuments. Riegl demonstrates that they are not, however, unresolvable; rather, in his analysis, they are amenable to compromise, negotiable on a case-by-case basis, depending upon the condition of a given monument and the social and cultural context in which it is placed. Riegl’s axiological analysis lays the foundation of a non-dogmatic and relativist conception of the historic monument - consonant with the relativism that he introduced in the art historical studies” (Choay, 2001, pp113-4).

Indeed, Choay’s words echo those of Bonelli’s in his description of “critical conservation” (Bonelli, 1963), to which we shall come shortly.

Dvorak (1874-1921), following Riegl, in his *Katechismus der Denkmalpflege* (“Catechism of the Preservation of Monuments”, 1916), further developed this position recognising the vulnerability to change of lesser and local vernacular buildings; and in Germany and Austria, as a result of the endeavours of Dehio, Riegl and Dvorak, the “restorations” of the 19th century were abandoned (Breitling, 1981, p54).

It is apparent that during the period between 1875 and 1930 this essentially preservationist attitude to the actual substance of the monument gradually came to be accepted throughout Europe. It is an essentially romantic approach in that the *patina* and historical *strata* of the monument, and the *appearance* of age, in particular, are more important than stylistic unity; and a picturesque ruin is more admired than an accurately restored work (this was, of course, not a new idea and was *the* driving idea behind the 18th and 19th century grand tours). This approach was further articulated by the influential Italian architect and town planner, Gustavo Giovannoni (1873-1947), who developed a set of principles largely reliant on Boito’s work (and known as “scientific restoration” (cf. Luciani, 1988, pp78-80; Jokilehto, 1999, pp219-222) and which were incorporated into the *Athens Charter* in 1931 and the Italian *Norme per il restauro dei*

monumenti ("Standards for the restoration of monuments") in 1932. The Athens Charter, adopted at the first International Congress of Architects and Technicians of Historic Monuments, enunciated several general principles including the necessity for regular and permanent maintenance, the preservation of different periods and styles, the abandonment of restorations except, ambivalently, when it "appears to be indispensable", and that all works of consolidation "should whenever possible be concealed". The principles clearly focussed on the substance of the ancient fabric, but called for respect of historic and artistic interest (ICOMOS, 2001, pp7-8). The Athens Charter codified the ideas and principles of the *conservation of fabric as document approach* which has, despite many demonstrations of its inadequacies, remained the orthodoxy in most parts of the world ever since.

Subsequently, in 1964, the second International Congress of Architects and Technicians of Historic Monuments at Venice adopted the Venice Charter, which built on the ideas and principles of the Athens Charter but with several important differences or advances: the Venice Charter gave greater recognition to the importance of lesser or vernacular works and to their settings and townscapes generally; it more clearly favours the "superimposed work of different periods"; it refers to the safeguarding of monuments "no less as works of art than as historical *evidence*" (my emphasis) and specifically refers to "respect for original material"; unlike the Athens Charter, it requires that "any extra work which is indispensable must be distinct from the architectural composition" and "must be distinguishable from the original so that restoration does not falsify the artistic or historic evidence"; but it is, however, less ambivalent than the Athens Charter about restoration in that it clearly permits restorations, the aim of which "is to preserve and reveal the aesthetic and historic value" and must be reliant on "original material and authentic documents", and which "must stop at the point where conjecture begins" (ICOMOS, 2001, pp13-14). The well-known Australian Burra Charter has sustained this philosophy, emphasising the importance of "existing *fabric*" and, for example, defining restoration as the return of "the existing *fabric* ... to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material" (of 1979 and revised several times, most recently in 1999; ICOMOS, 2001, pp38-45; emphasis in original).

This approach, which defines the conservation-worthy building (and site) as a *document*, is enshrined in most of the international and national charters and standards, and it remains the orthodox approach in most countries today. However, in practice and in *urban* conservation, in particular, this approach more often than not leads to unimaginative and rigid solutions and to confused decision-making because it does not enable aesthetic, functional, economic or any other criteria to over-ride that of the authentic ancient material. Given the general international consensus in this regard, the routinely initial resistance of the authorities and of the conservation-minded to intentions to demolish or alter, regardless of the significance of the extant building or its site, is unsurprising. Indeed, assuming a relatively high degree of conservation-worthiness, this approach *is* usually the appropriate approach within the arena of *architectural* conservation. As we shall see, however, its weaknesses are considerable in the arena of *urban* conservation and in situations where extra-conservation criteria are more significant.

It bears noting that most of the commentators on the history of conservation theory and practice during the past two centuries follow the same basic developmental schema adopted above. It is also generally accepted that the self-conscious restoration of significant buildings, be it “in style” or to an earlier “historical” form, and the preservation of original fabric is a modern concept developed and articulated subsequent to the development of modern historical awareness in the 18th century and, more particularly, since the French Revolution. The well-known passage from the Greek historian, Plutarch, however, suggests otherwise. Lowenthal has pointed out that conservation theory has not satisfactorily addressed the philosophical riddle regarding identity (and, therefore, also regarding authenticity) raised in the passage long discussed within philosophical circles (Lowenthal, 1989, p68). Plutarch, writing soon after 100 CE, describes the continuous repair and/or restoration of Theseus’ galley that took place between his return to Athens and the time of Demetrius of Phalerum, regent of Athens, that is, some five hundred years between the estimated date of the historical period of Theseus of c 800 BCE (Wiggins, 2001) and the time of Demetrius’ regency from 317 to 307 BCE:

“The thirty-oared galley in which Theseus sailed with the youths and returned safely was preserved by the Athenians down to the time of Demetrius of Phalerum. At intervals they removed the old timbers and replaced them with sound ones, so that the ship became a classic illustration for the philosophers of the disputed question of growth and change, some of them arguing that it remained the same, and others that it became a different vessel” (Plutarch, 1960, p28-29).

Even if we do not take Plutarch’s passage at face value but as a philosophical riddle, there are a number of deductions that can be made: first, that, in ancient Greece, memorialising could take a variety of forms, including the safeguarding of everyday objects associated with significant persons and events (in this case Theseus’ ship, an example of Riegl’s “unintended” monument); second, that everyday objects, by virtue of such memorialising, could become memorials/monuments; third, that such objects could be maintained and repaired periodically (“at intervals”) and that such repairs were, at least in cases like Theseus’ ship, carefully “in style” (the ship self-evidently *appeared* to be the same or otherwise none of the philosophers would have argued that it remained the same); and, fourth, from the fact that some of the philosophers argued that the ship was not the same ship, we can conclude that at least some ancient Greeks required that the timbers, the substance of the ship, be original or authentic for the ship to be accepted as Theseus’ authentic/genuine ship.

It appears that nothing has changed in two thousand years. This is precisely the same debate that continues to this day between the *historicist restorers* who argue that the authenticity of an artefact is reliant on its *form or appearance* and the *conservationists of the building as document* who require that the artefact be *comprised of its original material*; and it is significant that modern philosophers have been unable to come to a conclusion either (see the debate, first noticed by Lowenthal in his 1989 article to have significance for conservation, between Smart, 1972, pp145-148 and 1973, pp24-27; Dauer, 1972, pp63-64; Davis, 1972, pp109-110; Scaltsas, 1980, pp152-157; Chandler, 1984, pp55-58). It appears to be agreed that:

“(T)here is no sharply defined hierarchy of sufficiency conditions”; and that

“the sufficiency condition might be the spatio-temporal continuity of the form of the object, or the identity of the parts, or the identity of the matter of the object, and further, that the origin and history of the object might play an integral part in determining whether the initial object is recovered or not” (Scaltsas, 1980, p152).

In order to transpose this argument to the debate about restoration *versus* conservation simply substitute the term “primary criterion/criteria” for the term “sufficiency condition” above. Wiggins, however, points out first that use/function may also be a significant factor in the determination of authenticity and, more importantly, that groups with different interests will use different criteria (Wiggins, 2001, pp92-102, 161-162, 169-171). For example, antiquarians who memorialise the ship as a symbol of past Greek greatness will require that the ship be of its original material; while the priests who use the ship for ritual voyages will require that the ship sail in the manner Theseus had sailed it; and art historians who are moved by the beauty of the form, by its “newness value”, will need reassurance that the *appearance or image is authentic*.

In other words, the three approaches to the conservation of material culture discussed so far do not give sufficient clarity in practical decision-making because, to paraphrase Scaltas, there is no sharply, sufficiently or adequately defined *hierarchy* of criteria for decision-making.

The Approach of Critical Conservation

This brings us to the *fourth approach*, alluded to in several places, *critical conservation*, which allows the primary criteria of both *historicist restoration* and of the *conservation as document* approaches and suggests a methodology for the weighing of the relative importance of the criteria *in each case*.

It was reported earlier that Jokiletho had in his 1986 doctoral dissertation described four approaches to conservation: this is not entirely accurate because he described three and then argued that “a modern synthesis of the two previous approaches” (restoration and conservation) had evolved in Italy immediately before and after WWII (Jokiletho, 1986, p4). This fourth approach, *critical conservation*, based on the works of Boito and Giovannoni and of Riegl, was developed by Argan, Brandi, Pane and Bonelli. It is, perhaps, not surprising that this development should have taken place in Italy with its vast heritage of historical relics and its deep and pervasive art-historical culture. Ceschi points out that:

“The Athens Charter and the (Italian) norms of restoration had obviously been superseded by the vastness of the task, in that the choice between restoring and not restoring could no longer rely on the original parts and strata of the monument, recognisable in their historic phases” (1970, p172; my translation).

The necessity for a new concept to direct the restoration activities was clearly greatest in Italy: even before the war Giovannoni had written:

“More than in any other country in the world, the themes of restoration and conservation rise up in Italy, due to the very vastness of our monumental heritage, to the level of an essential national question” (Giovannoni in 1938, quoted in Luciani, 1988, p80; my translation).

Following the work of Giovannoni, and recognising the tensions between what he called "artistic restoration" and "conservative restoration" (here called *historicist restoration* and *conservation of the object as document* respectively), the art historian Giulio Carlo Argan (1909-1994) argued that the core of the conservation endeavour had to be shifted from the art-historical to the *critical* sphere; and, together with Cesare Brandi (1906-1988), a critic and art historian, Argan explored the philosophical, artistic and practical components of the conservation activity. Furthermore, the ideas regarding the process of artistic creation (reliant on philosophers like Croce) and the differences between works of art and common products (reliant on Heidegger) were integrated into conservation practice (cf. Jokiletho, 1999, pp223-241). The conclusion of these endeavours over several decades before and after WWII was the formulation of the theory and principles of "*restauro critico*" (or *critical conservation*). Two other Italians, the architect Roberto Pane and the architectural historian Renato Bonelli, also made significant contributions to this approach by emphasizing the *creative act* required in finding a solution in each conservation endeavour. *Critical conservation/restoration* is defined as a "critical process and then creative act, the one as an intrinsic premise of the other" by Bonelli, where each historical object is unique and where each conservation action is based on its own critical assessment which leads to its own unique creative solution (Bonelli, 1959, p13).

Thus the previous positivist theory of *conservation of the object as document* was radically revised and, by creating a closer and more direct relationship between the histories of architecture and of art criticism, the principle of the absolute prevalence of the critical assessment was established. Later theorists to follow this line of thinking include the Belgian Phillipot (1976), the Italians Laura and Paulo Mora (Mora *et al*, 1984), and Carbonara (Price *et al*, 1996, pp202-211). This approach emphasized the methodology adopted by the restorer/conservator *vis a vis* the importance of the cultural significance of the building and/or environment in question (cf. Carbonara, 1976 and 1997).

This fourth approach, *critical conservation*, has not, however, found general acceptance outside of the more architecturally and artistically sophisticated circles in Europe. In Italy the work of architects like Carlo Scarpa and Giancarlo de Carlo have been enabled by enlightened authorities; and in Spain and Britain the authorities have, in a limited range of circumstances, permitted clearly modern architectural interventions enabling new interpretations of the monument and of the city itself (Cantacuzino, 1998 and 1996; see also Cantacuzino, 1989). It appears that in France greater acceptance of modernity in architecture encourages and enables a less restrictive attitude to clearly modern buildings in historic townscapes (Loew, 1995; Sutcliffe, 1993, pp160-206; Evenson, 1981). The critical approach, beginning with a critical analysis of the building's and site's significance and of the context, then creatively integrates old and new. Indeed, this is what every creative architect does in any case, even if, in conservation terms, unself-consciously.

It is apparent, then, that the ideas about conservation have gradually developed through the millennia, starting with *simple unself-conscious repair*, the *traditional approach*, moving to a concept in which the *appearance* at a significant moment in the life of the building assumed the greatest import, the concept of *historical restoration* (which

includes *stylistic* restorations), then to the idea that gives greatest significance to the *authentic original or ancient matter itself*, to the idea of the *building-as-document* and, finally, to an argument that insists on a *critical assessment and then a creative act* that subsumes the assessment so that the new revitalised and reinvented building incorporates the pre-existing, giving it new life. It is true that the Athens and Venice Charters, themselves best reinterpreted by the Australian Burra Charter (itself revised several times since 1979), also emphasize research and analysis, but they do not have a method for evaluating impulses and values outside the limited world of art history and cultural history. The concept of *critical conservation* has recently been approached more closely through the 1994 Nara Document on Authenticity which, "conceived in the spirit of the Venice Charter", does go further, building on and extending it, recognising the diversity of cultural heritage and that "all cultures ... are rooted in the particular forms and means of tangible and intangible expression which contribute to their heritage" (ICOMOS, 2001, pp94-95).

It does appear, however, that the fourth approach, *critical conservation*, has been adopted most fruitfully in the practice of *urban* conservation, precisely because the city can very seldom, if ever, be regarded or treated as an art work or as a building or complex of buildings of fixed form and appearance.

2.4 The Origins of Urban Conservation

Just as the ideas, theories and practices of art conservation/restoration have informed those of architectural conservation, so have the ideas and practices of architectural or monumental conservation informed the ideas and practices of urban conservation. Indeed, it is often difficult to separate architectural from urban conservation. In practice, the architect and client usually see their endeavours to be architectural, whereas the authorities and other interested parties usually, unless the building is particularly significant, see a larger canvas and they deal with the individual case as though it were only a part of the greater whole. In other words, they see the individual architectural project as a part of a larger urban conservation or urban design problem. It is also true that many commentators and theorists have contributed to both architectural and urban conservation; their contributions have been somewhat artificially separated here under the two headings for reasons of exigency.

If it is accepted that the city is a living organism, even if its shape and form have been self-consciously designed and even if its use and development is carefully managed, it is evident that the limiting positivist ideas and practices of the *building-as-document* approach will be inappropriate in *urban conservation*. In a living city certain parts of the organism will inevitably need to change or be renewed; and not all parts of the city will have the same significance. The *city as document* implies a frozen organism, its substance fixed. The approach of *historical restoration*, with its aesthetic and/or historical criteria, is equally inappropriate because this approach and the notion of the *city as art work* also demands an *unchanging form*; not in this case because of the importance of the actual substance, but now for the sake of the artistic image, the picturesque charm of a particular arrangement of shapes and materials, or for the sake of a particular configuration which has particular significance. Perhaps a *world heritage site* like Pienza can be treated appropriately in either or both of these *historicist*

manners; which is precisely how it is treated³. Parts of Pienza have great art-historical importance, both as individual buildings and as urban set pieces, and they should be preserved both for their substance and for their aesthetic value; and the rest of the town is old and historically important enough to be respected as a document, as a palimpsest even, now frozen in time. Burtenshaw *et al* have noted that "preservation is a particularly likely fate for cities of homogenous age" (1991, p159). A living city, however small, however limited or constrained, is too complex an organism for either of these approaches: "Flexibility in response to change is an urban quality that must itself be conserved" (Burtenshaw *et al*, 1991, p159). Indeed, even in tourism-focussed "gem" cities like Rothenburg, Naarden, Aigues Mortes and the like, the limitations imposed are experienced as excessively inflexible (Ashworth, 1997, p96; Ashworth and Howard, 1999, pp107-116), and vernacular towns like Alberobello (a world heritage site in South Italy) are, despite the picturesque charm and the even numinous character of the fabric, often almost caricatures of real authentic towns.

In fact, theorists and practitioners throughout the history of conservation have recognised this, but it was not until the late 19th century with the development of a modern theory of town planning and urban design that the conservation or preservation of whole parts of the city or of the city itself was considered. Indeed, it appears that ideas about *urban conservation* have arisen during the past century in response to the radical changes to well-known and accepted urban forms being wrought by the very scale of modern transportation systems, by the scale of buildings enabled by modern building techniques, by the scale and impact of the very act of modernising cities, and by slum clearances in unplanned industrial cities (cf. Smith, PJ, 1980, pp99-133). Indeed, it appears that early ideas about urban preservation were both a response to the development of the 19th century *industrial city*, transforming the ancient city, and to attempts to re-make the city as an art work in the second half of the 19th century, for example, Paris and Vienna (cf. Olsen, 1986; Kostof, 1991 and 1992; Thomas Hall, 1997), although such criticism was often ambivalent:

"It cannot be denied that the majority of the French Romantics were traumatised by interventions of the 'wideners', and that they witnessed with nostalgia the disappearance of ancient cities whose charm and beauty they celebrated. On the other hand - and this is the essential point in terms of the history of mentalities - it is clear that they did not see this as an issue of a specific heritage worthy of preservation in the manner of an historic monument" (Choay, 2001, p119).

Notwithstanding the history of the development of the ideas regarding preservation, restoration and conservation of the (largely) continental commentators described in the previous section, several English writers have argued that:

"(T)he historically aberrant idea that aspects of past built environments should be preserved has been a consensus among dominant intellectual elites in western countries for only about four generations, and a majority view of citizens for probably no more than two" (Ashworth, 1997, p95; see also Kain, 1981b, p3 and Eversley, 1974, p14).

While this may appear to be somewhat over-stated, it is very largely true with regard to

³ Pienza, a small town in Tuscany, was in large part rebuilt by Rossellino for Pius II between 1459 and 1462.

the protection of *whole environments*, built or natural, and it is certainly true that the history of *government involvement* in *urban* conservation is relatively brief (Thomas, 1983, p179).

There were several sets of ideas that contributed to the development of this very modern notion of *urban conservation* during the late 19th and early 20th century. These ideas include the polemic of, for example, Ruskin and Morris who sought not just to protect buildings and monuments through "daily care", but "were fighting for the life and survival of the pre-industrial city" (Choay, 2001, p122); the arguments about the visual and picturesque (or contextual) qualities of towns articulated by Sitte in 1889⁴, Unwin in 1909 and by Geddes in 1914; antiquarian (and Sitte's) objections to Hausmann's modernisation or *eventrement* (evisceration) of Paris between 1852 and 1870 (Olsen, 1986, pp35-57; Hall, 1997, pp55-83; Choay, 2001, p119); the parallel endeavours in Vienna between 1857 and 1914 under the Emperor Franz Joseph (Olsen, 1986, pp35-57 and 58-81; Hall, 1997, pp168-186); the first explicit articulation of ideas about urban conservation in 1893 by Charles Buls, Mayor of Brussels, in his *Esthetique des Villes*, in his resistance to Leopold II's radical transformation of Brussels (Thomas Hall, 1997, p230 and p332); criticism, often nationalistic, of the effects of similarly motivated works in many European towns, particularly in Germany; the work of Riegl during the 1890s in uncovering the development of style in "vernacular" arts (and crafts) and Dvorak who, following Riegl, emphasized the significance of local vernacular buildings; Giovannoni's criticism from 1913 of the 1909 plan of Rome which proposed cutting even more new roads through the ancient city and, from 1930, of the Fascist regime's radical demolitions of whole medieval quarters in order to uncover the relics of classical Rome; and Giovannoni's recognition of the value of the lesser buildings of the city or "architectura minore" and the historical context that the city comprised⁵ (see Jokiletho, 1999, pp219-223; Kostov, 1991 and 1992):

"This (urban) heritage is thus endowed with a dual status - whose antinomy Giovannoni discovered in the work of Viollet-le-Duc and Sitte - and charged with a dual role that neither Sitte nor Viollet-le-Duc wished or was able to assign to it. What is more, this urban heritage, the fragmented and fragmentary basis of a dialectic between history and historicity; finds itself treated according to the complex approaches of Riegl, for whom each patrimonial object constitutes a field of opposed forces between which a state of equilibrium, unique to each situation, must be created. And in managing this conflictual dynamic, Giovannoni recognizes and confers upon the ancient urban fabric the present day and social value that Ruskin and Morris had granted it without, however, succeeding in rooting themselves in historicity: the city dweller and his praxis as such assume their place at the very focal point from which emanates the forward-looking stance of the *Vechie Citta ed Edilizia nuova*" (Choay, 2001, 136-7).

There are thus three clear themes in this Europe-wide movement. These were: first,

⁴ Choay has shown that Sitte did not suggest the actual preservation of the ancient city, but promoted its *didactic* value in which he, Sitte, followed Viollet-le-Duc (Choay, 2001, pp123-128).

⁵ Choay points out that Giovannoni, in his 1931 *Vecchie citta ed edilizia nuova*, which repeats the stance and ideas of his 1913 article of the same title, first used the term "urban heritage" (Choay, 2001, p132).

criticism of the destructive effects of modernising the medieval (pre-industrial) city; second, a new directly related and self-conscious attempt to preserve/create picturesqueness; and, third, a growing recognition of the historical significance of lesser or vernacular architecture.

However, notwithstanding this apparently significant groundswell of interest in urban conservation, relatively little was accomplished during the first half of the century except in Germany. Interestingly, in Germany where the nationalist concept of *heimatschutz* (the defence or protection of the home) was a goal associated with the preservation of medieval towns and monuments (cf. Breitling, 1981), the first urban conservation laws were created in 1902 in the *Land Hesse* and were implemented in towns like Rothenburg (Kostof, 1991, p87; Dolling, 1974/1982, pp70-74). Brown, writing in as early as 1905 about Rothenburg, describes "their building ordinances, to our views minute and even pedantic but natural enough in a town which is frankly run on antiquarian lines", and he quotes the entire ordinance (the most revealing sections only are repeated here):

"S. 1. All buildings to be erected within the circuit of or upon the city walls must be so carried out as to agree with the general architectural traditions of Rothenburg, and especially with the ancient structures in the vicinity, and must be in harmony with the whole aspect of the streets and of the town.

S. 2. The same applies to any important reparations or alterations on buildings which in whole or in part are visible from a street, an open place, or a road.

S. 3. Every other constructive alteration in the outer walls and roofing of buildings thus visible must be carried out in the way prescribed in S. 1, and needs the permission of the local authorities" (from Brown, 1905, p.121).

A significant set of early cases in the development of the ideas of *urban* conservation were those towns and cities that were very badly damaged during First World War artillery bombardments. These include Ypres, in Belgium, rebuilt exactly as the medieval city had been before the war-time destruction. Interestingly, considerable dispute about what course to follow had preceded the reconstruction: some had wanted to keep the ruins as a memorial of the destruction, some proposed that the opportunity to build a modern garden-city be taken, and some argued that the symbolic significance of the medieval town was such that it should be rebuilt (Jokiletho, 1999, p282). In the event, the medieval centre was recreated. Much the same practice was followed with the central core of Arras in France, destroyed in 1917, in a few other French and Belgian towns (Meek, 1996, p322), and in the Polish town of Kalisz which had been very badly damaged in 1914 (Zarebska, 1981, pp75-96).

However, it was not until after the profound damage to many European cities during the Second World War that urban conservation assumed any real significance in architecture and planning (cf. Burtenshaw *et al*, 1991, p141; Bonelli, 1959, p42). The extent of the war damage was such that a new theoretical position was required. Bonelli has pointed out that the theory generally accepted at the time was that of the 1931 Athens Charter, which assigned primary significance to the fabric of the building as demanded by the *conservation of the building as document* principles, but also allowed the aesthetic and historical criteria of *historical and stylistic restorations* of the most significant buildings. This, in effect, limited conservation to maintenance and repair, and

required the retention of all phases of construction. The primary problem, in these circumstances was, however, the repair or reconstruction of entire city quarters (Bonelli, 1945, in Bonelli, 1959, pp30-40).

The first solution proposed was to reconstruct them exactly as they had been, but was recognised to be romantic and simplistic, leading to the forgery of history (Bonelli, 1959, p43). This route was taken in many cases, however, because of the symbolic significance of the destroyed townscapes. It is interesting to note, for example, that in 1980 the reconstructed town centre of Warsaw was recognised as a *world heritage site* for its "outstanding universal value" (Jokilehto, 1999, pp255 and 285). Many German towns also chose to reconstruct their city centres in the post-war reconstruction programmes and "few cities took advantage of this opportunity for renewal and adaption to modern demands" (Holzner, 1970, p319). Holzner argues that the "arrogance of tradition and historic responsibility" was so stubbornly embedded in the German "hinter-world"⁶ that Germans resisted change to an unusual degree (Holzner, 1970, p337).

The second alternative was to reconstruct the cities "in the spirit of the times", that is as contemporary architecture. But this, too, was recognised to be simplistic because the heroic first period of modern architecture was devoid of a historico-critical awareness and, more importantly, lacked a coherent sense of the city (Bonelli, 1959, p43-44; also see Smith, 1977). Thus a compromise "intermediate" solution was adopted in many cities constructing volumes of a similar size and finish as those destroyed without directly copying the pre-existing forms as, for example, in Nuremburg in Germany (Soane, 1994, pp162-165). However, because of the inadequacy of modernism's historical awareness, the results were far from happy and these attempts were, at least until the 1980s, considered in progressive architectural and planning circles to be the "deviant manifestations of urban communities" (Soane, 1994, p165). In certain circumstances, however, preserved ruined relics juxtaposed to modern construction have been successful, but these cases have usually used the remains of particularly significant buildings, for example Coventry Cathedral, and are not really a part of the argument about *urban conservation*.

Bonelli argues that a positive result of this debate was the development and acceptance of the idea of the city as a living and unitary organism in which history and life are fused in a constantly developing continuity. Furthermore, as a consequence of the unsatisfactory results in both architectural and urban conservation, the new concept of architectural conservation, *critical conservation*, had emerged. From this, further development and conclusions were drawn, particularly with regard to minor works of architecture (Bonelli, 1953, Chapter 3, "Danni di Guerra, Ricostruzione...", in Bonelli, 1959, pp41-58), which enabled a new methodology for dealing with both monuments and contexts, both smaller and larger sites. In other words, the methodology of *critical conservation* and its inherent relativism enabled *urban conservation planning* to overlap with and be integrated into town planning, at least in Italy. However, it is also apparent that the theory and methodology of the largely Italian *critical conservation* is not yet accepted or widely known outside of Italy and, as pointed out earlier, the dominant conservation theories and practices throughout the world are still today those of

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A Nietzschean term implying "historical unconscious" .

conservation of the building as document. As a consequence, planners and commentators from outside the “traditional preservation paradigm” argue that conservation, because it “is inherently incapable of either accommodating or rejecting these more recent imperatives” threatens the successful management of the past and the environment (Ashworth, 1997, p94-95), and those within that paradigm demonstrate precisely the correctness of the outsiders’ criticism.

However, in Italy at least, the considerable damage to many of the cities during the war and rapid post-war urbanisation forced the integration of architectural and urban conservation and town planning. This meant that the historical centre was defined as an organism with its own defined function in the greater city, and that this function be defined and fixed relative to the other parts of the city. Given this, certain new functions of the city like managerial, commercial and financial offices were, in many cases, assigned to zones outside the historical centre; traditional activities within the historical centre were actively encouraged and enabled by the authorities; and related programmes designed to encourage these policies were integrated into the municipal, district and regional development and investment plans (Bonelli, 1963, p197).

Associated with and contributing to this dynamic, the research undertaken by historians like Argan and architects like Caniggia and Muratori into the issues of typology at detailed, building and urban scales (and later by Rossi and Aymonino) ensured that reconstruction planning would integrate architecture and urbanism (cf. Bandini, 1992 and Kropf, 1993).

As a result, during the 1950s and 60s most regions developed general plans and most cities developed regulatory plans, for example, Bologna’s first regulatory plan was approved in 1958, Ferrara’s in 1960, and Rome’s in 1962. Each of these plans followed the principles described by Bonelli, that is, they identified the “centro storico”, or historical centre, whose development and use was to be extremely restricted; and later amendments and additions to the regulatory plan included very detailed plans which showed the form and degree of conservation/remodelling permitted for every building in the historical centre. Furthermore, the designated historical centre was usually extensive, incorporating the entire historical townscape within the town walls (see Cervellati *et al*, 1970; Cervellati, ed, 1976; Giovanetti, 1986; regarding Bologna, Ferrara and Rome respectively).

In the context of this study, it is enough to point out that in the historical centres in Italy, *urban conservation is*, in effect, *town planning*; furthermore, urban conservation is very largely reliant on very detailed recordings and analyses of the physical fabric of the existing building fabric, the typologies and the urban morphology (see Cesari *et al*, 1976; Cervellati *et al*, 1970; Giovanetti, 1986). Samuels and Mageean have pointed out that these “prescriptive morphological techniques” are the very basis of development control practice in Italy (Mageean, 1998, pp64-65; see also Samuels, 1990, pp415-435).

As a result, in Italy almost all historical centres are designated as such and are controlled through these prescriptive controls. There are, however, a number of disadvantages to a regime that limits the permitted uses in the historical core, that displaces many of the activities of modern city life *and* limits the built form to the

existing. But the most significant is that the restrictions tend, over time, to persuade the ordinary citizen to relocate to parts of the city outside the "centro storico" (Brock *et al*, 1973, pp118-122). It is clear also that urban conservation practice in Italy today, notwithstanding the advances in theory and often in practice since the war, is still dominated by the "traditional preservation paradigm" described by Ashworth (1997), that is, the *conservation of the building as document* approach. Given the examples of the achievements in Bologna by the communist local government to protect the *community* as much as the fabric and in Ferrara where the policy and practice has long been to protect the city as a whole rather than just its fabric through *town planning regulations* instead of through the preservation legislation (Carlo Cesari, senior planning official from Ferrara, in a lecture at ICCROM, 18 May 1990), this may appear an overly harsh judgement. In practice, however, even these cases emphasize the preservation of fabric over all else, although this appears to be the effect of the demands of the national department of antiquities, the *Soprintendenze*⁷.

In France a rather different intellectual regime pertains. First, relatively few *secteurs sauvegardés* (conservation areas) have been designated since the 1962 *Loi Malraux* created this possibility. This is because rather higher standards for the bureaucracy's performance and requirements that conservation-oriented restrictions be matched by funding, limit the designations (Meek, 1996, p324). Indeed, Loew points that:

"The application of the legislation on *Secteurs Sauvegardés* has been limited and very selective: in thirty years only 79 areas have been designated even though there has been in the last decade a renewed interest in this instrument and a widening of its application to cover more 'ordinary' areas" (1995, p93).

By comparison, during the 21 years between the Civic Amenities Act of 1967 and the definitive count in 1988 by English Heritage, 6 300 conservation areas were designated in England alone (Pearce *et al*, 1990).

However, Loew explains that;

"The concept of area conservation ... was probably less urgently needed as vast areas of protection have existed for some time around the 35,000+ monuments" (1995, p93).

These "silly and nasty circles" are areas of protection "within a circle of 500 metre radius around a listed building" created by the 1943 law that amended the still applicable, though modified and strengthened, 1913 law dealing with the protection of historic buildings in France (Loew, 1995, pp37-38).

Secondly, and more importantly, French policy has, since the 1950s, deliberately encouraged modernist design of new buildings in historic areas:

"Thus the presence of contemporary buildings in historic centres is not only the result of transactions revolving around design control, but also of specific political objectives of both central and local government which use all the means available to achieve them. For central government the objective is to promote,

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This impression was confirmed during a four-month funded research tour of Britain and Italy in 1992-1993, when I interviewed more than 30 professionals in Italy, almost all in the conservation authorities and institutions.

both at home and abroad, French culture simultaneously rooted in the past (heritage) and progressive (modern architecture). For the *Maires*, the objective is to promote their cities on the same basis. The public sector as builder gives the lead and shows by example what can be done; the private sector follows. As a result of their education and professional training, civil servants and officers in charge of implementing the policies are imbued with the same view of French culture and of the role of architecture: they encourage innovation whilst protecting the past. The normally conservative general public is gradually won over through education and advertising campaigns, and by the government's careful use of professional opinions" (Loew, 1995, pp267-268; also see Sutcliffe, 1993, pp160-206).

Thirdly, and probably most importantly, it is also true that:

"From the seventeenth century onward, Parisian building facades were strictly regulated"; and that:

"The continuance of such controls into the nineteenth century was conspicuously evident in the large volume of building accompanying the renovations of Hausmann between 1853 and 1870" (Evenson, 1981, p177).

Indeed, this principle has long been at the heart of French development control: strict control of the building envelopes (facades, heights and roof shapes) is accompanied by a relative freedom of expression in architectural character and style.

2.5 Ideas about Urban Conservation and Design Control in Britain

In Britain the development of the ideas about and the practices of urban conservation and the related ideas regarding townscape and design control have followed a rather different course.

Design control has its origins in the same causes and impulses that led to the ideas of *urban conservation* and of *townscape* and is closely related to both; and can, from certain points of view, be seen to incorporate both. In Britain, and in its ex-colonies like South Africa and Australia at least, the terms "design control" or "aesthetic control" generally mean the exercising of control over the appearance and the visual impact of new development through the planning system. The intentions of the first British legislation in this regard, the 1909 Housing and Town Planning Act, were "to improve upon the drab monotony of by-law housing development", but in the 1920s several pieces of legislation enabled the preservation of buildings, the existing character and significant features of the locality. In other words, early in the century the control of appearances and urban conservation-oriented controls over-lapped seamlessly. It is clear, however, that neither intention was deemed to be compelling at the time (Punter, 1986b, pp351-81; also Bloch, 1986).

Subsequently, new provisions were created in the legislation, notably the 1932 Town and Country Planning Act, enabling control of the design and appearance of development on condition that such decisions could be appealed to a tribunal. The fact that tribunals were operating in only a third of the country by 1937, and concentrated in the southern, south-eastern and central England, indicates the extent to which planning authorities chose *not* to exercise these powers.

However, the most significant aspect of design control in the 1930s was the debate about the modern movement, which was reflected by a number of celebrated/infamous (depending on your point of view) appeals regarding the refusals of “conspicuously modern houses” by tribunals, usually dominated by older establishment architects.

“Since many of these buildings had won widespread professional acclaim at the time, occupy pride of place in histories of modern architecture, and are now protected by listing, their difficult passage through the development control process brought the whole system into disrepute” (Punter, 1986b, p366).

But these controversies demonstrated popular resistance to modernism and, most often, a preference for “neo-Georgian”. Indeed, it is apparent that aesthetic control has since the 1930s been an arena in which a number of players have engaged with rather disparate intentions.

The most heated moments in the debate were within the architectural profession, although Punter argues that:

“Efforts at aesthetic control exemplified the conservative-escapist side of upper-middle-class values, and in general, educated and informed taste played a more important role... than did the architectural establishment” in exercising aesthetic controls (1986b, p369).

However, and perhaps in part because of these disputes, from the late 1930s, aesthetic controls were considerably reduced in their impact: and neither the influential post-War ministerial *Advisory Handbook on the Redevelopment of Central Areas* of 1947 nor the Town and Country Planning Act of the same year gave meaningful control. Both of these influential expressions of state policy, however, promoted segregated land uses, floor space indices, daylight regulations, open space and parking requirements rather than any notions of urban design (Punter, 1986b, p372), and they recommended rather that both developers and local planning authorities should be advised by competent architects (see Punter, 1986b, p352-381; Larkham, 1988, pp1-20; and Larkham and Chapman, 1992).

The relatively theoretical discussion immediately after World War II in the European countries of Italy, France and Germany regarding the principles and methodology for making decisions about the shape and character of towns, in particular those badly damaged by the war, was paralleled by an equally heated debate in Britain, initially largely within the architectural and planning professions, about *townscape*. This debate about the nature of towns and cities in Britain had many antecedents including, of course, several of the commentators already referred to, like Sitte, Unwin and Geddes and going back to the ideas of the “picturesque” developed in the 18th century. But for convenience, the modern debate about *townscape* can be dated from an article entitled “Exterior furnishing or Sharawaggi: the art of making urban landscape” in the *Architectural Review* in January 1944 by Ivor de Wolfe (the pseudonym of H de Cronin Hastings, whose family owned the *AR*), although the ground had been prepared in the mid-1930s by the *English Tradition* series which included articles by Eden and Sharp. The *Architectural Review* pursued this issue over the next two decades with a significant impact on thinking in planning and architectural circles in Britain. Subjects of articles included themes in townscape, Cullen’s important 1949 article, “Townscape Casebook”, the detailed analysis of several small towns (in association with the Universities of

Birmingham in 1953-4 and of Bristol in 1956-8), and general principles and aspects of planning and conservation. During this period the *AR* also published the now famous "Outrage" issue (in 1955) and the subsequent "Counter-Attack" columns, which pursued similar themes. It bears mentioning that the editorial board of the *AR* included luminaries like JM Richards, Osbert Lancaster, HdeC Hastings and Nicolas Pevsner (cf. Bandini, 1992). Subsequently, the writings of commentators like Cullen (1961), Sharp (1968) and Worskett (1969) in England and Lynch (1960) in America further examined and promoted these arguments (cf. Baumann, 1997, pp150-222).

This debate did not, however, have an immediate impact on reconstruction planning in Britain after the War. The Blitz, between September 1940 and May 1941, and the "Baedeker raids" in 1942 had badly damaged large parts of several English towns and cities; and even before the war ended processes for the reconstruction of these cities were initiated. As in the specific cases of Birmingham (Cherry, 1994, p141) and Bristol (Punter, 1990a), many cities simply dusted off their pre-war plans which focussed on relieving traffic congestion and suggested ambitious (sometimes hopelessly so) redevelopment proposals. This reflected a "clean sweep" philosophy to reconstruction that was consistent with English attitudes to the city: "the English hatred of large, overcrowded and industrial cities is traditional, and virtually as old as the cities themselves" (Ravetz, 1980, p22); and even as renowned a conservation architect-planner as Thomas Sharp, commissioned to do reconstruction plans for the historic cities of Exeter, Durham, Salisbury and Oxford, argued that "the watchword for the future should be - not restoration, but renewal" (Sharp in his *Exeter Phoenix: A Plan for Rebuilding*, 1946, quoted from Ravetz, 1980, p24). Planners saw themselves as "an elite of knowledgeable and public-spirited experts and social reformers" (Robson in *The War and the Planning Outlook*, 1941, quoted from Ravetz, 1980, p40), and they moved confidently and idealistically to reform and recreate the English cities. In the case of Bristol, the town council first proposed the compulsory acquisition of some 770 acres, which was reduced to 245 acres by the Ministry of Planning in late 1946. Subsequently, in 1948 when a new Ministerial Circular required that "only land for essential and immediate needs should be purchased", the City proposed a 19 acre redevelopment, but only 4 acres were approved immediately, with the balance later painstakingly assembled. The proposals "became immediate victims of local interest groups, Ministerial caution, and Treasury imposed austerity" (Punter, 1990a, pp23-57). Thus, the reconstruction of British towns during the 1950s proceeded under the banner of "clean sweepism" but, fortunately, very slowly.

While the "Outrage" and "Counter Attack" debate in the *Architectural Review* was directed primarily at standards that were wasteful of space and that inhibited appropriate contextual design, this debate promoted good design but not necessarily design control. Indeed, the townscape movement exhorted better and more design rather than more control, which was increasingly seen by the architectural profession to *inhibit* good design rather than promote it. Throughout the 1960s and 1970s the debate regarding the necessity of design control continued as the Ministry of Housing and Local Government slowly clarified a "two tier approach" (Punter, 1987, p41): and the 1967 Civic Amenities Act clearly separated the two axes of design control, first "preserving or enhancing" the "character or appearance" of the environs within conservation areas with a presumption against demolitions and, second, on infill and/or greenfield development

outside of the historical built environment. However, the pressures of the 1969-1973 boom provoked considerable adverse criticism of design control, as did the Essex County Council's 1973 *Design Guide for Residential Areas*. Punter points out:

“In many respects the *Guide* was nothing more than a sophisticated reworking of *Counter Attack's* wholesale critique of quantitative (especially highway) standards, and its demarcation of urban, suburban, arcadian and rural landscapes for residential design. Both were infused with many of the principles of Unwinian site planning” (Punter, 1987, p46).

But the success of the Essex County *Guide*, demonstrated by the spawning of innumerable similar sets of guidelines during the next decade, simply emphasised the split in opinion on the issue of aesthetic control. Larkham suggests that the angry reactions of architects in the letters pages of, for example, the *Architects Journal* from 1974 to 1978 demonstrate both the resistance to control and the strength of that resistance (Larkham, 1988, pp6-7). Punter, Whitehand, Larkham and others have all demonstrated that the aesthetic predilections of the antagonists to modernism have included historicism, revivalism (usually neo-Georgian) and neo-vernacular forms and more recently, since about the late-1970s, postmodernism.

In essence, the debate took place between the architectural profession, the development industry and the ministry (DoE) on the one hand, and the planning profession, many of the local (planning) authorities, conservative components of the design professions generally and, increasingly, the public at large on the other hand. However, the sharpest and most heated arguments during the past two decades have taken place between the Royal Institute of British Architects (RIBA) and the Royal Institute of Town Planners. There have been periodical rapprochements between them with periodical flare-ups which, as Punter has pointed out, have often been precipitated by aspirants to the presidency of the RIBA. While this debate had simmered for decades, it came to a very public head in 1984 when the Prince of Wales, in his speech on the occasion of the RIBA's 150th anniversary, expressed unusually outspoken opinions on modern architecture generally and on two then recently publicised proposals in London, describing the competition-winning design for the proposed extension to the National Gallery as follows:

“(I)t looks as if we may be presented with a kind of vast municipal fire station, complete with the sort of tower that contains the siren”; and

“(W)hat is proposed is like a monstrous carbuncle on the face of a much-loved and elegant friend” (HRH, 1989, p7); and of a Miesian tower proposed in the City: “It would be a tragedy if the character and skyline of our capital city were to be further ruined and St Paul's dwarfed by yet another giant glass stump, better suited to down town Chicago than the City of London” (the full speech is contained in Jencks, 1988, p43).

As Punter has pointed out, there is “more than a touch of irony” in the Prince claiming to speak for the common man (Punter, 1987, p52); but it is true that he was echoing very precisely views frequently voiced by the general public, and the Prince's comments on architecture did strike a very common chord. Indeed, precisely because they were (and remain) quite so at odds with those of the architectural profession, the Prince of Wales' opinions have attracted considerable public approval and, paradoxically, have raised the profile of architectural excellence and environmental sensitivity as issues of

public interest and concern in Britain and elsewhere:

“No doubt, this polemic has had its positive side since it has helped architecture become the public art it was always meant to be, and even the enemies of the Prince have to thank him for providing them with a popular forum...” (Jencks, 1988, p7).

Certainly the feelings expressed by the Prince in his *A Vision of Britain: A Personal View of Architecture* do reflect wide-spread lay and some professional opinion:

“For a long time I have felt strongly about the wanton destruction which has taken place in this country in the name of progress; about the sheer, unadulterated ugliness and mediocrity of public and commercial buildings, and of housing estates, not to mention the dreariness and heartlessness of so much urban planning” (HRH, 1989, p7).

But the Canaletto painting of the Thames in c1750 superimposed on the then (1989) current view (pp56-57), and the rather contrived quotations from letters of the common man and woman, from “Ron Gosney”, “Mr and Mrs JE Bowen”, “Mrs Robin Barber”, “Mrs S Hind-March” and the like (p8) are all clearly intended to suggest a no-nonsense (and low-brow) view of architecture and the environment. They are also precisely the views of the conservative who resists any and all change. It is also a view that, because of its very popularity, has had a significant impact on the practice of design control, both with regard to the aesthetic preferences promoted and with regard to the rigidity and vigour of the controls.

Indeed, the public reaction to the Prince’s engagement with modernism in architecture and planning has precipitated a movement now known as “new urbanism” which seeks to create environments that give an affirmative response to the Prince’s rhetorical question:

“When you walk around in an urban area, do you feel in your bones or in your heart that it is a community that works;... a place where there is a definite sense of character and belonging” (HRH, the Prince of Wales, in *Urban Villages Group*, 1992, p16).

This view is derived from a predisposition to conservatism in architectural taste, ever dormant, ever nascent, in English cultural life; and, as a consequence of its growing public acceptability and success, the architectural periodicals in particular and the literature on aesthetic control in general are dotted with dismayed accounts of over-fastidious, whimsical or inconsistent judgements by the local planning authorities.

It is quite clear that design control in Britain during the 20th century has had mixed support and mixed success (cf Baumann, 1997, pp108-142) and, in a 1994 review of design control in Europe, Punter argued that an open verdict should be recorded on the two measures of real effectiveness, namely, whether the central government gives real teeth to the design policies and endeavours at local level by supporting their decisions at appeal, and whether the design controllers have the skills to interpret the policies and negotiate real quality in design (Punter, 1994b, p179 and 1993, pp10-18)

2.6 The Designation of Conservation Areas in Britain

As we have seen, the post-War reconstruction in Britain proceeded at a relatively slow pace. But the property boom of 1959-1966 changed the climate to one of considerable

criticism of planning and architecture nationally. Criticism also mounted against traffic planning and the effects of new road programmes and their impacts on the nature and character of historic towns. As a result, many towns proposed, as part of their local development plans, what Punter has called "proto-conservation areas"; and in 1964 the Council for British Archaeology listed 324 town centres worthy of preservation on historical and archaeological grounds, recommending "areas of special control" (Punter 1990a, p68). Significantly, the CBA proposed that each of these towns be required to prepare a "heritage plan" which, recognising the damaging impact of the growth of traffic, should include a "transportation plan" which would form an obligatory part of the development control process. They also identified 51 towns so special that all proposals affecting the historic centres should be decided by the minister rather than the local planning authority (Burke, 1976, p132). Notwithstanding these new trends, comprehensive modernist redevelopment of many British towns continued and much was accomplished during both the 1959-1966 and 1969-1973 development booms, thus completing two decades of planning blight (Punter, 1990a, p123).

In smaller towns and in those not affected by war-time damage, change followed a more "natural", but not dissimilar, course to that described above. But recovery was slow until after the mid-fifties with the 1959-65 boom wreaking considerable and unguided damage on the shape, nature and character of British towns (Whitehand, 1984; Larkham, 2000).

In 1967 the Civic Amenities Act was promulgated, in large part in response to criticism of planning since the war. This important statute contained two significant provisions: one, the ability of local authorities to designate areas "of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance"; and, two, for public participation in development control processes and largely through amenity or residents' groups. It has been argued that this period, the late 1960s and early 70s, signals several associated phenomena: first, the death of modernism, famously "on July 15, 1972 at 3.32pm (or thereabouts)" when the award winning Pruitt-Igoe housing scheme in St Louis, Missouri was imploded; second, the associated rise in contextualism in architecture (Jencks, 1977, p9); third, the retreat from comprehensive redevelopment in Britain; and, fourth, the rise of urban conservation as a popular movement (Punter, 1990a, p121; Pendlebury and Townshend, 1999, p72; Brand, 1994, p88), even as a crusade (Ashworth, 1997, p95; Lowenthal, 1997).

It does bear pointing out that numerous commentators have argued that the conservation movement in Britain is different from other countries in the degree to which the legislative framework has grown out of grass roots support (for example, Saunders, 1996, p9). However, the change did not happen quickly or easily: increasingly throughout Britain local authorities' development and planning policies became conservation-led during the 1970s, which meant that the architecture of both new development and redevelopment was more likely to be contextual or "postmodern revivalist" than modernist. Indeed, it has been argued that, in effect, postmodernism became the approach of choice for new development in the same way that conservation is the approach adopted *vis a vis* the existing townscape (Whitehand, 1984, p42).

Following the listing of 324 towns with town centres appropriate for preservation by the

Council for British Archaeology in 1964, and while the Civic Amenities Act was in preparation, the government had jointly with the four local authorities commissioned detailed historic city studies of Bath, Chester, Chichester and York. The intention of these studies was to propose solutions for specific local problems that would be relevant to all historic towns:

"The aims of our study are two: they are *to pioneer a method of conservation*, and to guide the future development of a particular city" (Insall, 1968, pxvii; emphasis added).

The studies were carried out in 1966-67 (Buchanan, 1968; Insall, 1968; Burrows, 1968; Esher, 1968 for Bath, Chester, Chichester and York respectively) and did, indeed, have the impact desired, serving as the model for survey work and policy making in Britain for the following two decades. It bears mentioning that the survey teams were all architect- and architectural historian-led. The four towns chosen were, however, self-evidently historic towns of the highest order and their planning was always going to be conservation-led; and both Bath and Chester have subsequently been designated as *world heritage sites*. However, the studies were very much products of the period and, notwithstanding the very high order of significance of these environments, they were all surprisingly ambivalent about the degree/extent of preservation they were recommending and, perhaps more tellingly, about the recommended scale, form and architectural character of new building. Not one of the four reports contains anything clearer or more directive about the design of new buildings in the historic centres or in conservation areas than the following:

"This does not imply that there is no place for new development in an old environment such as that at Chichester. Far from it. New buildings may be necessary or desirable, and can be made to fit in with the established environment, and even to balance it... Aping past styles is becoming increasingly undesirable; new buildings in old environments should (save in exceptional circumstances) be generally in the idiom of the day and at times of materials for which there is no historical precedent, yet, at the same time, fitting satisfyingly and harmoniously into the existing urban context" (Burrows, 1968, p1-2); that "(An) honest attempt to build in a present-day idiom should be made with a straightforward expression of function, structure and materials as well as a sympathetic relationship to the existing surroundings" and that the architectural language of new buildings is "a matter of personal choice" (Buchanan, 1968, p53); that

"(Development parcels) markedly larger than the traditional ones" should be prevented; and that

"(Control will require) a rare mixture of firmness and sensitivity, and it can only succeed if architects of the very highest calibre are employed both to design buildings and to advise the planning authority" (Esher, 1968, p197).

These recommendations echo the ambivalence of all the British legislation referring to conservation-oriented and design control from the 1909 Housing and Town Planning Act to the 1947 Town and Country Planning Act and all policy guidance since (see Punter, 1986b and 1987). As a result of the direction (or absence thereof) given by these four studies, local planning authorities have since been inclined to favour a particularly conservative *conservation of the object as document* approach, which is appropriate only in particularly well-preserved towns. The net effect has fostered and encouraged

a particularly conservative and restrictive approach to urban conservation generally in Britain.

Throughout this period, from the early 1950s to the 1970s, the debate about *townscape* and its contribution to thinking about urban design and the character of both new towns and development within historic towns continued, though in the main within the architectural and design professions. At the same time, however, urban geographers working in what has become known as the “Conzenian” method (MRG Conzen, a leading figure in the geography department of the University of Birmingham since the early 1950s) have sought to analyse and understand the urban environment through its morphology. Conzen identified a number of factors that are most significant in the understanding of the city, namely, the town plan (which includes the street system, the plot pattern and the building arrangement), the building fabric (and its architectural character) and the land use (Conzen, 1966); and these researchers have argued that a full understanding of urban morphology is a pre-requisite for townscape conservation (Conzen, 1973; Whitehand, 1981 and 1984). Researchers working in this tradition have concentrated on a number of factors in large part ignored by others, including, most importantly, the relationships between morphological frames and morphological periods, the rate of change of the urban landscape and the under-lying reasons for the changes, all of which they have emphasised are essential for a proper understanding of cities and towns and, therefore, for the successful management of the townscape, that is, for successful urban conservation (Conzen, 1966; Whitehand, 1984; Larkham, 1988, pp462-464, and 1991, p237). This research methodology and the insights that it gives for the management of historic towns and conservation areas has, however, not been particularly influential in physical planning, urban management or even urban design circles for the simple reason that these ideas have remained within the disciplines of geography and historical-geography (see, for example, Kropf, 1993), although the work of researchers like Mageean (Mageean, 1996 and 1998) is intended to correct this.

Notwithstanding these various policy directions and the research methodologies adopted and/or available to urban management and urban conservation over the past thirty-five years or more, conservation-directed management itself continues to suffer from the same problems as in the past. In 1983 Thomas recognised the difficulty in integrating conservation planning with other aspects of planning (residential, traffic, economic, etc) and the difficulty that conservation has in creating policy:

“Indeed, conservation ceases to be a policy at all: simply a way of thinking about the quality of the environment” (Thomas, 1983, p181); and

“A prerequisite ... is that conservation is properly integrated with mainstream planning”; and

“In this sense it is perhaps unwise to think at all in terms of coordinating housing (or any other planning endeavour) and conservation policies. Conservation is simply a component of the planning strategy for any residential (or any other) area” (Thomas, 1983, p248; words in brackets added).

Indeed, the necessary clarity regarding urban conservation policy and vision, the practicalities of townscape management and of the integration of such concerns affecting city management, has not been developed with clarity anywhere; and as late as 1996 Larkham, referring to a 1982 commentary by Worskett, emphasizes that this

is still the case:

“There is no consensus, either amongst planners, architect/designers nor the public, on how change should be incorporated in historical townscapes. The nature and scale of the problem, possible solutions and their success or failures are all debated. However, this debate remains mostly at the level of vague generalisations or specific case studies. What is conspicuously absent is any idea or theory of townscape management, any ethic of conservation planning. Worskett has identified four needs. First, a redefinition of our ways of perceiving the historic town: instead of an emotional reaction against the twentieth century, a more positive and considered approach on a sound philosophical basis is needed. Secondly, the development of that philosophical argument into a more widely accepted conservation ethic, dealing with the constraints on and opportunities for coping with change in historic areas. Thirdly, it is necessary to demonstrate the practical application of that ethic. Finally, there is a need to stimulate public awareness and debate” (Larkham, 1996, pp251-252).

The upshot of this is that architectural and urban conservation practice is still fraught with uncertainty and controversy in most countries.

2.7 The International Front: EAHY in 1975 to Nara, 1994

On the international front in the 1970s (then dominated by the European countries), a popular drive for an improved quality of life (reflected and underpinned by the 1972 Club of Rome report, *Limits to Growth*) encouraged the belief that the degradation of the environment, natural and built, could be halted through an “integrated” approach. The Council of Europe in Amsterdam declared 1975 as “European Architectural Heritage Year” (EAHY) and considerable impetus was given to the conservation and management of the urban environment, in particular, to the designation of conservation areas and the integration of conservation and physical planning; and in 1976 at its meeting in Nairobi UNESCO adopted the *Recommendation Concerning the Safeguarding and Contemporary Role of Historic Areas* which proposed that all member countries adopt policies and statutory provisions *vis a vis* historic towns and their surroundings that were consistent with the principles of *integrated conservation* (UNESCO, 1985, pp197-208). The substance of this recommendation was ultimately adopted by the ICOMOS General Assembly in 1987 as the *Charter for the Conservation of Historic Towns and Urban Areas* and is known as the *Washington Charter* (ICOMOS, 2001, pp74-75). New principles included in these documents were:

- the integration of conservation and physical/town planning goals and objectives;
- the adoption of adequate statutory protection of the urban environment by all countries;
- that such protection and preservation should emphasize *re-vitalisation*;
- that all protection should be reliant on comprehensive surveys: not only of the architectural and urban fabric and histories, but of the socio-economic contexts;
- public consultation; and
- protection against pollution of all kinds.

Although these principles are self-evidently progressive and were expected to invigorate both conservation practice and the cities themselves, the explicit reliance on the *preservation of the building* (and all components of the environment) *approach* of the Athens and Venice Charters limited the effectiveness of this new *integrated approach*

to urban conservation..

These attempts to integrate conservation and physical planning with economic development have also contributed directly to the trivialisation of heritage resources and these conservation endeavours themselves. In the drive to promote heritage resources since the 1980s, in particular, the heritage industry grew like topsy; and writers from Umberto Eco in his scathing essay, *Travels in Hyperreality* of 1967 (only translated into English in 1986), to David Lowenthal's often sarcastic *The Heritage Crusade and the Spoils of History* of 1996 have highlighted the process of trivialising history and heritage. Although, conversely, the World Heritage Convention, which is the means for the identification and declaration of *world heritage sites*, has provided a forum for discussion and debate on planning for historical cities, in particular during the 1990s.

However, relatively recently in 1994 at Nara in Japan an international conference on *authenticity* came to some interesting conclusions. It was recognised that the historical debate on restoration of conservation was largely the result of discussion of the stone architecture of Western Europe; and it was recognised that architectures of, for example, timber or adobe require an intrinsically different approach to restoration. Indeed, the Nara Document also refers to "aggressive nationalism", "the suppression of cultures of minorities" and to "the diversity of cultures and heritage in the world"; and, most importantly, it is recognised that "all judgements about values (and) the credibility of related information sources may differ from culture to culture ... It is thus not possible to base judgements of value and authenticity on fixed criteria ... (and) requires that heritage properties must be considered and judged within the cultural contexts to which they belong" (Nara Document on Authenticity, in ICOMOS, 2001, pp94-5). This is an enormous shift to a relativistic and modern position and which allows for the evaluation of each heritage resource in its own context. This shift is, however, perfectly consistent with the principles of *critical restoration*. Indeed, the Nara Convention's definition of conservation sounds very like the definition of *critical conservation*:

"Conservation: all operations designed to understand a property, know its history and meaning, ensure its material safeguard and, if required, its restoration and enhancement" (Nara Document on Authenticity, Appendix II; ICOMOS, 2001, p95).

One of the outcomes or side-effects of this relativism, of this acceptance of the need to integrate financial feasibility with conservation, is a practice that has been adopted increasingly and has become ever more controversial in many urban environments: this is the technique known as *facadism*.

2.8 Facadism

It is quite clear that the very success of the conservation movement world-wide during the past three decades (Burtenshaw *et al*, 1991, p154) and the very number and extent of conservation areas have had an effect on what we understand or imagine to be the underlying intentions of urban conservation.

There were approximately 6 300 conservation areas in England and 589 in Greater London alone by 1988 (Pearce *et al*, 1990); and 10 000 in England by 1999 (Whitbourn, 2001, p283). This has, inevitably, meant that townscapes of lesser significance and

charm than the self-evidently conservation-worthy areas first proposed have more recently been designated as conservation areas⁸. As a result, it has increasingly been asked in Britain, at least, whether saturation point has not been reached and whether continued designations have not already watered down the concept itself (Morton, 1991, p5). This question has not been answered, but the result is that, since the 1980s in Britain and in many other parts of the world, developers and designers have increasingly adopted or been required to adopt design strategies that disguise the true nature and scale of proposed development in environments where the authorities have found it difficult to insist on the preservation of buildings of *relatively* little merit. This has led increasingly to the adoption of “fit in” or “in keeping” devices which include, most commonly, the construction of replicas, neo- or pseudo-vernaculars, pastiche or facadism (Barrett and Larkham, 1994, p1).

Of course, these difficulties do not result solely from “watering down” the concept of townscape management or conservation area control, but apply also in areas of the greatest significance and homogeneity and, as we shall see, they pertain particularly in the parts of the city with the highest land values.

Most commentators have recognised that facadism is related to the practice of *refronting*, which has been common since the 18th century: indeed, Saunders has argued that refronting is a form of facadism (1986, p227); and Lowenthal, confirming this view and quoting Pevsner, argues:

“England was the first country to break the unity of interior and exterior and to wrap buildings up in clothes not made for them, but for buildings of other ages and purposes” (Lowenthal, 2001, p246).

Gianghian points out that a similar tradition existed in Venice from the Renaissance to the Baroque (Gianghian, 2001, pp242-3). Refronting has, however, usually been carried out in association with major remodelling and, unlike facadism, has in the past usually given a *modern* architectural appearance (Barrett and Larkham, 1994, p7). The French Director of Architecture and Heritage, Francois Barre, puts it as follows:

“Facade remodelling was formerly viewed as rejuvenation, intended to update a building’s exterior aspect in conformity with the taste of a given era (Barre, 2001, p222).

Facadism, of course, is intended to do quite the opposite: it is intended to disguise the true nature of the new building behind the retained facade and to give the impression of age or constancy and/or to maintain an existing townscape character.

⁸ It bears mentioning that in the city centre of Cape Town the first six conservation areas proposed in 1979 included just the *immediate* surrounds of five city squares and the Lutheran Church complex; then in 1982 the buildings *lining* Long Street were proposed as a conservation area; in the late 1980s the buildings *lining* six more streets in the city centre were proposed; and in 1994 *the entire historical city* incorporating this matrix of squares and streets was proposed as one consolidated conservation area. In other words, the extent of proposed conservation areas in Cape Town increased from the *immediate surrounds* of the five major city squares and one small complex to the *entire historical city centre* in just 15 years.

In as early as 1975⁹, in an article entitled "'Facadism' used to be a dirty word", the English academic, teacher and architect, Peter Smith argued that the technique was a compromise, but a justifiable one (1975a, pp77-80); and, although there has been considerable controversy since, a wide range of commentators have tended to agree that the compromise is often appropriate. These have included Saunders (who was secretary to the Ancient Monuments Society in England for twenty-odd years), writing in as conservative a journal as the Transactions of the Ancient Monuments Society (1986, pp227-240), and Whitehand (a renowned English historical geographer and urban morphologist) who, relying on unpublished research, concluded that ordinary people are, first, content with the appearance of age and are not disturbed by "fakes" and, second, do *not* hold to the view that "buildings are historic documents" and should, therefore, not be altered (1992, p208).

The practice of *facadism* has, however, been controversial in many parts of the world. Indeed, it is anathema to many purist conservationists, in particular to those holding to the *conservation of the building as document* approach. It has become so controversial, but so ubiquitous that ICOMOS, in association with several French state departments, held a three-day international conference on "Facadism and Urban Identity" in 1999 in Paris (Loyer and Schmuckle-Mollard, Proceedings, 2001), which was attended by many of the leading thinkers in conservation. The following definition of "*facadism*" was suggested at this conference:

"A neologism, the term *facadism* designates the destruction of one or more existing edifices, whatever their condition, with the exception of one or more facades, most often situated on the street front, behind which a new construction is built" (Robert, 2001, p270).

Francis Chassel, head of the French inspectorate of heritage, speaking at the same conference, articulates contrasting positions in the controversy as follows:

"Facadism derives from a complex consensus. Investors do not want any risk, the public authority does not want the boat rocked, the legal authority hates anything new, associations cannot stand modern architecture, and 'modern' architects abandon these places of high risk. Finally, everyone agrees; it is a minimising agreement, but it works. Facadism corresponds to a compelling social request"; and

"Those who privilege architecture, whether they be the defenders of a hard 'Historic Monuments' line, or the sectarians of hard-core modernity, cannot consider this practice without being disgusted. But those who are attached to the long, slow work of urban renewal are not surprised and have less reason to be shocked" (Chassel, 2001, p298).

The practice is attacked by *architectural purists* for its "dishonesty", one of the greatest of architectural sins to the doctrinaire modernist, and for its perceived slight on the abilities of modern architects. Smith has argued that the modern architectural concept of the exterior reflecting the interior is both esoteric and wrong-headed, and he points out that the concept is quite unrelated to how most people perceive and experience

⁹ It bears pointing out here that Bumberu, 2001, p278, is wrong to argue that the term 'facadism' dates from the 1980s; Smith says in 1975 that it "*used*" to be a dirty word.

buildings: very few people do actually experience the insides of most buildings, and even fewer are actually conscious of the relationship between inside and outside as it requires a highly sophisticated spatial ability to connect the inside and outsides of buildings; he also argues that urban design has its own rules and its own syntax which does not require such a relationship; and, finally, that because social conventions are so different inside and out, there is no need for such a relationship (Smith, 1975a, p79-80). Barre argues this point even more vigorously:

“There is thus no sacred union between facade and interior. Furthermore, a distinction should be made between levels of exterior. The facade is the junction of object and sequence. It takes part in a more vast and complex reality than that of the single architectural object. It is a relation inscribed in a context, within systems of articulation which provide social and collective scales. This adds to the facades ambiguity, polyvalence and richness” (Barre, 2001, p223).

Barre also points out that cities and buildings constantly change function, which does not necessarily require change in appearance and in facade (p224). Gianghian, too, points out that:

“(In Venice) no unshakeable one-to-one relationship exists, as current architectural theories presuppose, between the facade and the interior layout or the architectonic structure” and that the unrelated changes to both facade and interiors were and are “incessant” (Gianghian, 2001, p243).

Facadism is also attacked by the *conservation purists* for its failure to protect the whole building and often significant interior features, its misrepresentation of the true nature of the townscape, and because developments using facadism are very seldom successfully carried off. Indeed, most commentators arguing from a *preservation of the building as historical document* point of view and, focussing on authenticity of fabric, abhor the practice. Jokilehto puts it best:

“One of the most disconcerting and diffused phenomena in the second half of the twentieth century has been the all too frequent choice of ‘facadism’. This is often justified on the grounds of economics vs architectural or picturesque values; it is often accepted as the least bad solution” (1999, p313).

But for many, facadism is the destroyer of the very soul of heritage, of its very meaning and of its *raison d’etre* (Didier Repellin, the chief architect of the French department of historic monuments, quoted by Cantacuzino, 2001, p249)

A number of critics also insist that while facadism is often presented as a device for protecting the city, it usually transforms the social life and character of the city, driving residents to the suburbs; Pincon and Pincon-Charlot describe this process in parts of Paris (Pincon and Pincon-Charlot, 2001, pp256-7) and Santaolalla in Barcelona and Seville (Santaolalla, 2001, pp262-65). It must be added, if in parenthesis, that they are not able to demonstrate whether the flight to the suburbs is caused by the high cost of modern construction or the high value of the land which attracts higher order uses which can pay for the high costs of restoration/reconstruction (and the land).

Facadism does, however, have several significant benefits:

- the principal advantage is, of course, the economic benefit derived from enabling a higher or more economic use in a modern building within a sensitive or historic townscape;

- the essential landmark quality and value of otherwise undistinguished or even bad buildings which have a significant presence in the townscape can be preserved;
- the townscape value of collections of undistinguished buildings, none of which could be maintained individually, but which together add up to a distinguished sequence can be preserved;
- the appearance and character of townscapes of charming but otherwise undistinguished buildings, the background or “backcloth” buildings, can be protected;
- large scale developments can be accomplished without “urban visual bankruptcy” (see Smith, 1975a, p80; Barrett and Larkham, 1994, pp13-18); and
- even residential densities can be significantly increased as, for example, in Toulouse where facadism was devised to “‘painlessly’ transform and densify the city centre, while preserving the exterior appearance of the buildings and blocks of buildings” (Berger, 2001, p318).

In other words, it would appear that the benefits of facadism are, or can be consistent with the *raison d’être* of urban conservation, that is, the protection of the character of both special and quite ordinary townscapes. Indeed, contrary to Jokilehto’s claim that “such practice has had the most serious impact on the integrity of historic cities or villages, undermining efforts to introduce integrated conservation planning at the level of settlements and cultural landscapes” (Jokilehto, 1999, p314), it is often the doctrinaire *preservation of the building as document* approach that undermines the revitalisation of the city by virtue of its rigidity.

On the basis of Larkham’s analyses of change in several English towns (Larkham, 1988, 1991, 1992), their comprehensive review of the literature and their detailed analysis of the practice of facadism from 1970 to 1989 in a conservation area in Birmingham’s city centre, Barrett and Larkham conclude that facadism seems to be limited to certain land uses and certain building fabrics; and, accordingly, that facadism does not occur evenly in the townscape or evenly between cities and that it is linked to specific areas and types of building. In Britain it has been used predominantly in office developments in city centres involving buildings constructed between about 1850 and 1920; in other words, in circumstances where land values are high, economically feasible uses are limited and where the built fabric is not of the highest degree of conservation-worthiness (Barrett and Larkham, 1994, pp18-31). Also, in his attack on “Brusselization”, Simeone points out that facadism in the city centre of Brussels is principally the result of the change of the primary function of the central city, from residential and other mixed uses to the service industries and office use (2001, p239).

The cost of facadism may, however, also be born by residential redevelopment in circumstances where land values are very high, the fabric is derelict, and the appearance of development is very rigorously controlled, for example, in the upper class residential areas of the great European cities.

It does also bear noting that the theories of art restoration, of painting in particular, of Argan and Brandi, have contended that the artistic image of a work of art can be independent of its supporting structure. Facadism in *urban conservation* is arguably a

parallel instance of such cases. It must be recognised, however, that the artefact being conserved is the townscape as an entity (or the appearance of its image, at the very least), and not a collection of individual buildings. Indeed, identity and the authenticity of identity do not necessarily rely on the preservation of every unit of component matter: it relies, rather, on the preservation of the defining aspects or components of that particular identity (Hobbes, 1839/1635; Wiggins, 2001, pp92-102, 161-162, 169-172), but, as we have seen earlier in this chapter, there is no primary criterion for the recognition or establishment of identity (Scaltsas, 1980, p152) nor, therefore, of authenticity.

We must, therefore, treat each case on its own merits. We must, therefore, carry out a careful critical analysis in each case and then devise a unique and creative solution; as demanded by the method of *restauro critico* or *critical conservation*. Such decisions and, indeed, all decisions about conservation, can only be taken when all the circumstances are taken into account: the relative conservation-worthiness of the building, the existing property rights and the effect of the applicable laws, the potential for conservation of the fabric itself, the impact on the immediate environs, the significance of the immediate environs, the needs of the environment, and of the city, town or landscape within which the project stands and of which it is a component part. In those cases where facadism has enabled the construction of projects which would otherwise have been visually disturbing, but, in the event, fit quite comfortably into the townscape, the device will have served its purpose. Interestingly, in Cape Town, several parking garages have been constructed adopting facadism and enabling the economically feasible upgrading and revitalisation of adjoining and nearby conservation-worthy buildings which would otherwise have (and in many cases had already) become uneconomical without parking and, therefore, obsolescent.

Indeed, if we accept that the true *urban conservation* endeavour is the revitalisation and conservation of the city itself (Bonelli, 1959), then such interventions are inventive and authentic acts themselves. Barre, too, has argued that "the art of fabricating a city is an art of imbrication", an art of creating with over-lapping elements (Barre, 2001, p224). Thus urban conservation is an art of creating palimpsests, both destructive and creative; and it is a truly modern art, taking into account both past, present and future imperatives and readings.

2.9 Conclusion

This chapter has introduced the ideas, the theories and the precedents, those fragments of the archaeology of knowledge in the field of architectural and urban conservation, which underpin the discussions and debates in the everyday practice of conservation-oriented control of development: this is, perhaps, the *intellectual* background or framework of the debates and the choices and demands made by the architects and the authorities in real life. With this as one contextual framework, we must now turn to the next, rather more tangible and constraining framework, that of the law and the practical administration of the law pertaining to development rights, to development and to the protection of the environment.

Chapter 3

The Law and the Administration of Development and Urban Conservation in South Africa, with Particular Reference to Cape Town and the Western Cape

3.1 An Introduction to the Law and its Administration

While Italy and Britain, in particular, have had major if quite different influences on the development of the ideas and practice of both *architectural* and *urban conservation*, every country, of course, has its own history, its own urban geography, its own development history, and its own legal system. In this chapter the complex of laws and administrative mechanisms that have regulated development and the built conservation-worthy environment in South Africa and in Cape Town during the period in which the development project case studies to be described later were scrutinised and approved, that is, from 1986 to 2000, will be described in some detail.

In South Africa property rights have a very firm basis in common law and, since 1993, constitutional law, and are interfered with legislatively only with circumspection and very gradually over time. There is, of course, considerable commentary demonstrating this (for example, in this context, van Wyk, 1999, pp84-92; Glazewski, 2000; and van der Walt, 1987).

As a consequence in South Africa, as in other countries, property rights are a continually changing balance of individual freedoms and public interests. Indeed, the law professors, Bayles and Polden, have argued that, despite the numerous differences between the legislative systems pertaining in Britain and the USA, the net effect of the similarities that pertain is an over-riding sameness; and they demonstrate how in the gradual process of reinterpreting and developing the law, both countries manifest:

“(T)he same power of government to regulate land use for the public and private right in the total context of the expanding understanding of urban and environmental values and relationships” and that “the operative working force is not the law, not the courts, but the political scene” (Bayles and Polden, 1988, p75).

This same dynamic pertains in South Africa; and this has recently been demonstrated in a landmark case in which the court has recognised that the change in the political circumstances and, since the overthrow of the previous “egregiously immoral regime” of apartheid and in the light of the Constitution, the religious and environmental rights of “the entire South African nation” must weigh heavily in the re-consideration of property rights claimed to have been granted some 40 years earlier, particularly as the rights of “the entire nation” were likely to be affected (Judges Davis with Veldhuizen re Oudekraal, 2002; as yet unreported and is currently under appeal).

In South Africa the history of town planning law and its effect on property rights can, for convenience, be said to start at the beginning of the last century. At that time the development of land was managed through the devices of surveying, land registration and conditions inserted in title deeds.

“The South African system of registration, by which rights are stated in title

deeds, has been much admired as a good system" (Floyd, 1960, p85). However, uncontrolled subdivisions in the then Transvaal led to that administration promulgating the 1902 ordinance specifically to control subdivisions, in the event, ineffectively. Later, the 1927 Cape ordinance did succeed in regulating subdivisions in an orderly way, but still relying on title deed restrictions. Indeed, this system of imposing conditions of title on whole townships served, in effect, to create *proto-town* planning schemes. But with increasing urbanisation and the growing complexity of urban life, the need for a more comprehensive management tool became more apparent. As a result, the 1931 Transvaal ordinance required local authorities to draw up town planning schemes, and the Cape Provincial Townships Ordinance 33 of 1934 did the same. Given the established system of registration of title and the recording of rights in the title deed, it is not surprising that town planning schemes in South Africa, at the outset, relied on:

"(The) use of zoning in the American manner with a strong influence of the local legacy of land title restrictions" and were "technically based and control-oriented towards protecting established interests" (Oakenfull, 1993, pp62-63).

It did, however, take some time for local authorities to satisfy these requirements: for example, Johannesburg promulgated its town planning scheme in 1946 (Floyd, 1960 and 1966). But, because fears that the creation of town planning schemes would result in claims for compensation, in the Cape the Provincial Administrator declined to approve completed schemes, which remained either "awaiting approval" or "in the course of preparation". As a consequence, although Cape Town had published a draft *Final Statement: Proposed Town Planning Scheme* in 1940 (CCC, 1940) which it adopted in 1941, the Scheme was only formally promulgated ultimately in 1986 when the Land Use Planning Ordinance came into effect:

"Any town-planning scheme in terms of the Townships Ordinance, 1934 (Ordinance 33 of 1934), which in the opinion of the Administrator is in force immediately prior to the commencement of this Ordinance, shall be deemed to be a zoning scheme which is in force in terms of this Ordinance" (LUPO, Section 7(1)).

Floyd, making the point that town planning schemes actually *reduced* the rights attached to land, pointed out in 1960 that:

"Town planning schemes have now to some extent modified title rights. This was necessary for title restrictions were found to be too rigid and could not be adapted to the changes that the passing of time brings" and, necessarily, that "as a result Act 48 of 1946 gives Administrators powers to amend title restrictions" (Floyd, 1960, p85; this Act was subsequently replaced by the 1967 Removal of Restrictions Act); and further that:

"Zoning is the most important administration or police power affecting land utilisation"; and "What is in reality purchased when land is acquired is a bundle of rights in the land. The effect of zoning is to remove some of those rights" (Floyd, 1960, p104).

But this is to see the limiting aspect of such regulation only. Van Wyk, quotes Justice Clayden's 1948 judgement:

"Restrictions on the use of land are not attractive to a potential buyer. It is restrictions affecting his neighbours which appeal to the buyer. The township

owner, seeking to make the lots attractive to the buyer so that it can realise as high a price as possible, will normally insert the restrictions so that it can attract the buyer by reason of the character of the land following on the restrictions on other lot holders”.

This, she argues, demonstrates the principle that limitations and restrictions placed on adjoining properties protect, even create, the amenity and character of the environs (Van Wyk, 1991, p39).

In practice, therefore, the development rights and, as a consequence, the financial value of property in built-up parts of towns and cities are established *primarily* by the applicable town planning scheme. Of course, *position* is the primary market determinant, but the town planning or zoning schemes take position into account when assigning or creating use zones and thereby creating development rights. Indeed, land use and land value have long been recognised to be “mutually determining” (attributed to von Thunen in 1826; see Whitehand, 1987, p30), though the precise relationship has been and remains a subject of considerable analysis and debate. Put enigmatically by Alonso in 1960, “land uses determine land values” and “land values distribute land uses” (also quoted from Whitehand, 1987, p30).

Rights are, of course, periodically changed, affected (or potentially affected) by amendments to the applicable town planning scheme and by the introduction of the other new laws referring, for example, to land use planning, environmental and heritage management. Before the interim Constitution of 1993, such changes evolved *extremely* slowly; but subsequent to the interim and final Constitution in 1996, such changes can only be made in terms of “law of general application” and can be subject to compensation^{1 2}. The Constitution differentiates between “deprivation” and “compensation”, which approximate the American concepts “police power” and “the power of eminent domain” (Eduard Fagan, 2002). In South Africa, as in the USA:

“Although an exercise of the police power may thus result in the deprivation of property (or a property right), such interference is usually thought to be justified as part of the ordinary operation of government” (Roux, 1997, 242; words in brackets added).

Consequently, the gradually increased restrictions on the development of property through “laws of general application” are recognised as “deprivations”, and do not (in general) result in compensation being paid. There is, of course, often a fine and indistinct line between deprivation and expropriation, but Fagan argues that if the American jurist, Laurence Tribe’s, four conditions are met it is unlikely that the South African courts would find the imposition of new restrictions to amount to an

¹ (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
 (2) Property may be expropriated only in terms of law of general application -
 (a) for a public purpose or in the public interest; and
 (b) subject to compensation, etc” (Section 25, Constitution of RSA, 1996).

² Neither the interim Constitution of 1993 nor the final Constitution of 1996 had a marked or immediate impact on the law or the administration of the law pertaining to development control during the period of the study. As a consequence, the Constitution is not given more attention than in this introduction.

expropriation. These four conditions are:

- that the new restriction advances some *public* interest;
- that the new restriction does not completely destroy any of the *essential* rights in the classically recognised bundle of rights;
- that the new restriction leaves *much/some* of the commercial value of the property untouched; and
- that there be *some* reciprocity of benefit (Tribe, 1988, pp597-8; from Eduard Fagan, 2000, p9; my emphasis).

The most significant of the laws that have given rise to development rights and that have gradually affected these rights through the imposition of conservation-oriented controls in the city centre of Cape Town up until 2000 are the following:

3.2 The National Building Regulations and Building Standards Act

In South Africa the administration of the complex of laws regulating development relies, in the first place, on the 1977 National Building Regulations and Building Standards Act, (NBR and BS Act). In the context of this discussion it is significant that this Act requires that before any building works are approved “the requirements of ... *any other applicable law*” must be complied with (Section 7(1)(a); emphasis added). The Act also requires that a building may not be used for any purpose except for the purpose for which it was approved. In other words, no building may be built except according to an approved plan (Section 4(1)) and no building may be used except in accordance with the use shown on an approved plan (Section 12(5)). Given the requirement referring to “any other applicable law”, the approval of the building works must always be the last step in the approval process. No opportunity for interested and affected party or public consultation is provided for. The local authority is the decision-making body. Importantly, the local authority *shall* refuse to grant its approval if it is satisfied (Section 7(1)(b)) that the building proposed:

- probably or in fact will disfigure the area;
- probably or in fact will be unsightly or objectionable; or
- probably or in fact will derogate from the value of neighbouring properties.

These latter powers are, however, infrequently exercised. These provisions are used, rather, as a safety net and are invoked only when the provisions of the town planning scheme or any other applicable law have not provided for adequate scrutiny and mitigating of potentially adverse impacts (NBR and BS Act, 1977; Freeman, 1985, p12). It bears mentioning that the courts have consistently upheld the rights of property owners to develop their properties within the limits of their already existing rights. In other words, the impact of *permitted* development is presumed not to derogate from the value of property and, for example, a view enjoyed for many years by virtue of the land not being (fully) developed is not a right, whatever the resultant effect of a new building on the amenity and value of its neighbours (see Justice Kondile, 2002(2)SA, pp391-407).

Importantly, however, the zoning regulations and any conservation law are self-evidently “applicable law” and must be satisfied before building plan approval can be granted.

3.3 Planning Ordinances and Zoning Schemes:

The town planning schemes (or zoning schemes, as they are now more commonly known in South Africa), which are clearly amongst the “other applicable law” referred to in the NBR and BS Act, are created through provincial planning ordinances (although the national Development Facilitation Act, No 67 of 1995 (DFA) has served this purpose since 1996 in all the provinces except the Western Cape and Kwa Zulu-Natal). It is the provincial planning ordinance, the Land Use Planning Ordinance, No 15 of 1985 (LUPO), which applies in the Western Cape and which contains the provision that establishes the *right* to use land for the purposes and in accordance with the restrictions determined by the local zoning scheme. Indeed, the general purpose of a zoning scheme is explicitly:

“(To) determine use rights and to provide for control over the utilisation of land in the area of jurisdiction of a local authority” (LUPO, 1985, Section 6).

Scheepers argues that the right to development is also established through the 1996 Constitution and the 1986 United Nations General Assembly Resolution known as the Declaration of the Right to Develop (Scheepers, 2000, pp16-23).

Although certainly more flexible than the previous system of title conditions, rights determined in this way by zoning are notoriously rigid and difficult to change; and, as a consequence, “forward planning” is difficult to implement. In order to address this feature of zoning, LUPO created “structure plans” which were to promote “forward planning”. These structure plans, however, neither created nor took away rights, and as a consequence had very little effect on forward planning. But they did enable the delegation of decision-making powers to local authorities and thus, in theory, created some flexibility (Cameron, 1992, pp28-32). Although LUPO, explicitly, neither created nor removed rights, the creation of “structure plans” was a first, if tentative, attempt to relax the rigid and conservative legislative regime constructing rights, and it signalled a change in the stance of the Provincial Administration in this regard.

If a development proposal is consistent with the provisions of the town planning or zoning scheme it is deemed to have satisfied the applicable planning law; the proposal is deemed by the local authority to comply rather than being formally approved. No planning application is made and no planning approval is granted as the proposal is *consistent with the development rights*. Unless other legislation pertains or unless Section 7 of the NBR and BS Act is invoked, the proposal *must* be approved. But if the development proposal is not consistent with the provisions of the zoning scheme, a formal planning application must be made to the local authority. The procedures for making and scrutinising such applications are set out in the relevant ordinance or Act (LUPO in the Western Cape; the DFA in the rest of the country). The procedures include provisions for interested and affected party consultation (known as “advertising”). The local authority is the decision-making authority. Appeals against decisions from disaffected applicants or objectors are at present decided by the regional government (in terms of LUPO in the Western Cape or by a tribunal elsewhere). These procedures are, of course, an extremely important part of the planning system, but are not given full treatment here because in the city centre of Cape Town, the site of the study and of the nine³ development project case studies examined in detail in Chapter 6, the rights

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See Footnote 1, Chapter 1 and Appendix 1: Research Methods.

created by the Zoning Scheme are of such a scale and nature that planning applications are relatively infrequently made or are, in general, uncontroversial. This will be discussed in a little more detail in one of the case study accounts, that of The Terraces.

3.4 Cape Town's Zoning Scheme

The draft town planning scheme for Cape Town, the *Final Statement: Proposed Town Planning Scheme* (CCC, 1940) drawn up during the 1930s and first published as a draft in 1940 and adopted by the City Council in 1941, comprised two parts: the regulations and the map. The regulations were published later in c1951 as the *Final Statement of the Town Planning Scheme*, and the map was published in sections over the next two decades, the city centre being the first, also in c1951.

The vision of the city underpinning Cape Town's zoning scheme was that of the modern American city of the 1920s and 30s. Accordingly, the limitations (and, correspondingly, the development rights) in the city centre are straight-forward (in that they *quantify* what is permitted) and they permit very large buildings.

The land in the city centre is all zoned for "General Business" which permits most forms of business and residential uses, or, on the periphery, for "General Commercial" which permits most forms of business, residential and industry (other than noxious industry). Buildings may cover the entire site. Eaves or parapet heights may be a maximum of 37m on boundaries that face onto streets wider than 18,5m, this eaves height being reduced proportionally on a sliding scale to a height of 25 m facing streets 12,5m wide and less; the height of the building may be increased by setting back at a rate of 1 m horizontally for every 2 m of additional height, with a maximum permitted height of 60m. The permissible floor area ratios are considerable: the properties lining Adderley Street have ratios of 10,1 and the ratio is 9 in most of the city centre, falling off to 7,2 and 5,6 at the periphery. It appears that the two tallest and biggest buildings built in the early 1930s at the very heart of the city and abutting the central square, Greenmarket Square (the Commercial Union Building, now known as Market House, and the Protea Assurance Building), were used as the model for the floor area ratio of 9. Neither included any parking (Townsend, 2001). Interestingly, the Zoning Scheme⁴ does not demand any parking in the city centre, nor is floor area used for parking included in the floor area calculation. Today this introduces an anomalous effect: a building with several floors of parking (increasingly the case as the demand for private parking in the city centre increases) could occupy much of its permitted envelope without having approached its permitted floor area, prompting the owner to apply for departures from the setback or height restrictions in order to enjoy the permitted floor area. It appears that the "bulk-free" parking provision of the zoning scheme has been a primary cause of ever larger buildings being proposed in the city centre. Indeed, the two biggest buildings proposed in the historic city centre in recent years both required considerable departures from the height and set-back regulations; both received considerable criticism from officials and interested parties alike; both were only approved after appeals to the provincial government; but both satisfied the floor area restrictions. Also, neither was built and the validity of the approvals lapsed (after two years). (The

⁴ In Cape Town this set of regulations with its map(s) was known as the Town Planning Scheme until 1990, when it was re-named as the Zoning Scheme.

Adderley, at the top of Adderley Street and 90m in height was approved in 1994; and T-One, opposite the Lutheran Church and also 90m in height, was approved in 2000.) The reason for their failures apparently being that both were simply too big, in the wrong place (Louis Karol, the well-known architect, contends that "this city is so sensitive ... go 60metres and you're dead", interview, 3/11/2000), or proposed at the wrong time (another experienced commercial architect, Denis Fabian, contends that "there are only three important things in development in South Africa: timing, timing and timing"; interview, 2001, 2/9/2001). As a consequence (of being in the wrong place and/or at the wrong time), sufficient and appropriate occupants/ tenants could not be attracted.

It is clear that the Zoning Scheme establishes very considerable development rights in the city centre. It is also clear that there are some internal contradictions within these rights and, most importantly, that these rights are at odds with the pre-modern historical scale and character of the city centre even though the restrictions had been based on buildings built in the early 1930s.

As a result Cape Town has (as have many other towns in South Africa) in the last two decades included provisions in their town planning or zoning schemes for a variety of types of *special area*; and many of those towns including Cape Town have created conservation areas as a type of special area. In Cape Town and Stellenbosch this process was initiated in the late-1970s; other towns like Pietermaritzburg, East London, Paarl and Franschoek followed in the 80s, and Worcester, Graaff-Reinet and Montagu a little later. Today Cape Town has forty-odd conservation areas, including the entire city centre which incorporates much of the historical colonial settlement which is now the modern CBD. In each town these provisions are framed in a slightly different way (see Townsend, 1991). The history of the creation of this provision and of the delimitation and designation of conservation areas in Cape Town between 1979 and 1997 is described in some detail in Chapter 5, which deals with the history of planning and conservation in the city centre.

In the case of Cape Town, development proposals within a declared conservation area require formal planning approvals for *demolitions* and for any *new building work*; and such approval shall be granted only if the demolition and/or design of the proposal is not "detrimental to the protection and/or maintenance of the architectural, aesthetic and/or historical significance of the area" (Section 108 of Cape Town's Zoning Regulations). The designation of a "conservation area" does not affect any of the other provisions or limitations of the zoning scheme, that is, the quantifiable development rights described above. In other words, the designation of a "conservation area" creates the power to prevent the demolition of buildings that contribute to the significance of the area and to permit or prevent the construction of a building on the basis of appearance or character of the proposal and the impact of the proposal on the character of the environs. If a development proposal were to satisfy all the requirements of the Zoning Scheme but, because its size would be detrimental to the character of the area, approval was refused, compensation could well be payable. This is, however, a moot point and will probably depend on a number of circumstances, including Tribe's four conditions discussed earlier in section 3.1 of this chapter, namely, those relating to public interest, what remains of the bundle of rights, what remains of the commercial value and the reciprocity of benefit (Eduard Fagan, 2002). Another such circumstance will almost

certainly be whether the property in question was purchased before or after its inclusion in a conservation area. Indeed, the Constitution requires that public and private interests be balanced and that “the history of the acquisition” be taken into account when compensation is considered (Section 25(3) of the Constitution).

3.5 The National Monuments Act

The National Monuments Act, No 28 of 1969 (NM Act), was replaced by the National Heritage Resource Act, No 25 of 1999 (NHR Act), effective from 1 April 2000. The new NHR Act will not be dealt with here: first, because the National Monuments Act was the primary applicable conservation-oriented legislation throughout the period of the scrutiny, approval and construction of the nine development projects analysed in the case studies and, second, because the essential relationship between conservation-oriented controls and development rights remains unchanged, even though the new legislation completely reorganises the mechanisms for dealing with the management of heritage resources as well as the structures and responsibilities of the agencies responsible for the administration of the controls and enables the authorities to demand a wide range impact assessments.

In 1969 the National Monuments Act was enacted, repealing the then current 1934 Natural and Historical Monuments, Relics and Antiques Act and its amendments of 1937 and 1967 and replacing the Historical Monuments Commission (more correctly the Commission for the Preservation of Natural and Historical Monuments) with the National Monuments Council. This 1969 Act was subsequently amended by numerous Amendment Acts in 1970, 1971, 1979, 1981, the Expropriation Act of 1975 and the Finance Act of 1980, and most significantly again in 1986 (which will be discussed later in section 3.6 of this chapter). The 1981 amendment repealed the War Graves Act of 1967 and its subsequent amendments by including the provisions relating to *war graves* within the National Monuments Act, and at the same time changing that title to the War Graves and National Monuments Act. In the face of this confusion of amendments, the legislation as it stood in 1981 will be discussed here without going further into the process of its formulation. It is, however, clear that the 11 separate establishing and amendment acts dealing with “monuments” and “war graves” in the 14 years between 1967 and 1981 demonstrate the apartheid establishment’s pre-occupation with heritage and its management in this period after South Africa’s expulsion from the United Nations and the Commonwealth and its deepening isolation. In this regard, the amalgamation of the War Graves and the National Monuments Acts in 1981, and the establishment of the two committees, the Burgergraftekomitee (committee for the graves of citizens of the Boer republics) and the British War Graves Committee (Section 3A) is significant. More than 60 000 graves were involved, of which 27 000 had been attended to by 1984 (Official Government Yearbook, 1984). The need for two committees, established by this 1981 amendment, to deal with graves of people who had died between 80 and 150 years before in the Anglo-Boer War of 1899-1901, in the rebellions of the second half of the 19th century, or in the Great Trek of 1835-54, is revealing; and it reflects and emphasizes the symbolic value of the graves to a divided white establishment during this period at the nadir of South Africa’s international isolation. It also reflects the unresolved tensions and antipathy between the descendants of British and Dutch settlers, each group requiring its own *legislated* guardian of its honoured dead. It also reveals, by virtue of the absence of a committee to care for the graves of indigenous

people or of immigrant groups of colour, the lack of power and participation in the mechanisms of power of black people.

In essence, the National Monuments Act re-enacted the provisions of the previous law, enlarging on certain provisions and making some important new ones. Though not significantly different in philosophy from the previous law (excepting that “natural beauties” and environs, included since the earlier 1923 law, were now excluded). It was still aimed primarily at individual buildings, and the ability of the Minister to declare any object of historical, aesthetic or scientific interest to be a monument remained as the cornerstone of the legislation. A proclaimed monument could not be destroyed, damaged, excavated or altered without the permission of the National Monuments Council. These provisions also applied to meteorites, fossils, paintings and drawings by “Bushmen” or other early inhabitants of South Africa, and to sites of archaeological interest. Simply notifying the owner of the intention to make a proclamation had the effect of constraining that owner to treat the building, object or environment *as if* it had already been proclaimed and, importantly, the NMC was itself able to *provisionally* proclaim monuments for five years without consulting the Minister and without agreement from the owner. These wide discretionary powers given to the Minister and to the NM Council were even greater than those of the British legislation on which, as a former British colony, the South African legislation was based. The Act also rather vaguely, if tantalisingly so, admonished the NMC:

“(To) endeavour to ensure that land surrounding or in the immediate vicinity of a monument is not developed in such a manner that the aspect of, or the view from, that monument is obstructed” (Section 5(8)).

This power has very seldom been exercised. Interestingly, this provision has echos of the French circles of protection within a 500m radius around each listed building described by Loew (1995, p93).

As in other parts of the western world, during the 1960s and 70s increasing criticism of modern building technologies and architecture and a growing recognition of the destructive effects of modern town planning and of transportation planning on the city had an effect on the endeavours of the NMC; and these ideas and pressures were first reflected in the declarations of monuments. In the city centre of Cape Town four public squares and the Public or VOC Gardens established by the early colonists were declared as monuments in 1960 and 1961 (NMC, List of Monuments, up-dated annually). The declarations also signal a growing recognition of the significance and conservation-worthiness of *whole pieces of the city*. This awareness of and concern for whole urban environments was increasingly reflected in the designations of large concentrations of buildings as monuments in certain old townscapes like the six city blocks in the Muslim Quarter of Cape Town declared in 1966 (Townsend and Townsend, 1978; Japha and Todeschini, 2001), the groups of simple fishermen’s cottages in the sea-side villages of Waenhuiskrans at Arniston and at Hotagterklip from the mid-1960s to the early-1980s, as did Gabriel Fagan’s restoration of the whole of Church Street and its environs after the earthquake in Tulbagh in 1969 (Fagan and Fagan, 1975), and concentrations of buildings in certain streets in the centre of Stellenbosch during the 1970s. It is clear, however, that these environments were seen as collections of “historical” (old) buildings that were to be protected because of their “authenticity” (age, stylistic characteristics and/or historical associations); and it was

imagined that the environments would be protected simply by ensuring the preservation of the older of the buildings (Greig, 1970; see also Adler, 1975). Although, as the inability of the NMC to manage or even influence the development of urban areas became apparent, several towns initiated mechanisms to preserve the character of the urban environment and to control new buildings through their town planning regulations. But as late as the 1980s the National Monuments Council was still trying to protect whole environments, surveying towns like Worcester, Caledon, Mossel Bay and Kimberley (Penny Pistorius, personal communication, 7/12/2002), and by declaring numbers of individual buildings in the older towns, for example, approximately 100 dwellings in Wynberg Village between 1981 and 1985 and over 220 simple Karoo homes in Graaff Reinet between 1983 and 1987 were declared as national monuments.

3.6 The Last Amendment of the National Monuments Act in 1986:

Reflecting the developments in conservation and its management during the 1970s and 80s and because of the obvious inadequacies of the legislation, in 1986 new legislation, or rather another amendment to the already much amended 1969 National Monuments Act, created three significant new powers and responsibilities. The first of these required the NMC to compile and maintain a register of immovable properties identified as conservation-worthy on the grounds of "historic, cultural and aesthetic interest" (Section 5(1)(cC)). The second enabled the designation of conservation areas. These two new provisions followed British legislation which had created the responsibility for listing or inventorisation in 1947 and the power to create conservation areas in 1967. The "register" has not been developed at all successfully, probably because the legislation did not also create management powers or responsibilities pertaining to the registered properties. Also, the provision enabling the creation of conservation areas by the NMC was not used immediately after its creation in 1986, nor very extensively ever. Indeed, this provision has, in the main, been used only in attempts to oblige reluctant or disinterested local authorities to interact with the NMC in the management of conservation-worthy parts of the urban landscape. These cases have been quite unsuccessful: for example, the management subsequent to the designation of NMC-controlled conservation areas in Worcester in the Western Cape (in c1994) and in Rhodes in the Eastern Cape (in 1997) has been conducted in spite of rather than in concert with the local authority; and the designation (in c1994) of the Clifton Bungalow area in Cape Town as a conservation area in terms of the NM Act has proved to be quite unnecessary as the City Council manages development there without any help or involvement from the NMC.

The third of the new 1986 provisions was the so-called "fifty-year" clause, which gave a general protection to all "historical sites", defined to be any "identifiable building or part thereof, marker, milestone, gravestone, landmark or tell (*sic.*) *older than fifty years*" (Section 1: Definitions and Section 12(2A)(f); emphasis added). This was an extraordinary provision and apparently one that entered the legislation in error: it has been suggested that the provision was supposed to apply to "historical sites" in designated conservation areas and on sites of known archaeological sensitivity only (Pistorius, 1991; Deacon and Pistorius, 1996, pp5-6; Pistorius, 1996, pp9-12; Townsend, 1991, p32). An unintended but significant effect of the "fifty year clause", which gave the NMC the responsibility of scrutinizing every alteration to every building more than 50 years old, was to oblige local authorities to co-operate with the NMC. This

enforced interaction has been beneficial for all parties in that the NMC has been confronted with the economic and functional realities of the development needs of the country, and local authorities have had to negotiate with the NMC over all conservation matters. This has meant that every town with origins more than 50 years ago has had to grapple with conservation ideas and practices ... a not inconsequential, if unintended, consequence!

These new provisions, coupled to the powers already contained in the Act, gave the NMC enormous and far reaching powers. Indeed, in 1988 Kearney (a well-known academic and conservation architect in Durban and then a member of the NM Council itself⁵), described the various protections as follows:

“The register, the conservation areas, individual proclamations, provisional proclamations, cultural treasures, historical sites and so forth” as a “full shopping basket” (1988, p238).

Many commentators, even those sympathetic to conservation-oriented goals, were extremely critical of the new powers, in essence, for four reasons. These were: first, the NMC did not have the resources to carry out all their new responsibilities; second, these powers were not integrated in any way with those of other authorities responsible for development control; third, the new controls would interfere with existing property rights which would lead to claims for compensation; and, fourth, these new controls were inappropriate in a developing and “young” country where development needs were great (see Fagan, 1988, pp233-234; Townsend, 1991, p32 and 34-35; Japha and Japha, 1993).

Controlling the development of “historical sites” has proved to be extremely difficult: the effect of the “historical sites” provision was to give the NMC control over every alteration of, extension to, or demolition of every building more than 50 years old in the entire country. Initially, this seemed to be an absurd situation, especially as very few local authorities knew of or were informed of the new powers of the NMC. Nor were they advised that the NM Act had, in the case of all buildings more than 50 years old, become *applicable law* in terms of the NBR and BS Act. Furthermore, some local authorities refused to refer applications made to them in terms of the NBR and BS Act to the NMC, although the “other applicable law” provision of that Act required that every such proposal had to be scrutinised by the NMC (Townsend, 1991). Over time, however, more and more local authorities referred such applications to the NMC; and the NMC was gradually able to establish co-operative relationships with most of those local authorities with large numbers of buildings over 50 years old within their jurisdictions. In such cases the local authority and the NMC established procedures which relied on the local authority first “screening” such proposals and referring only those that incorporated conservation-worthy fabric (Townsend, 1991). The development of such co-operative interactions was pioneered by the Cape Town City Council’s Urban Conservation Unit in 1987 and by early 1988 protocols had been established in Cape Town for referring the *necessary* proposals only to the NMC. Indeed, it is immediately apparent that the screening by the local authority is crucial; but that the screening can only be as good as the information on which it is based. Towns like Cape Town,

⁵ The National Monuments Council comprises a Council, “the NM Council itself”, and a bureaucracy of officials. This is explained in some detail in Chapter 4.

Pietermaritzburg, Durban, East London and some smaller towns like Worcester and Grahamstown had conducted surveys and had registers or catalogues of some kind which identified buildings of conservation-worthiness (with or without the help of the NMC). In those towns where the local authority had recognised the value of conservation, such surveys were (and are) invaluable tools in this screening process. It bears mentioning that this screening was not, strictly speaking, lawful, but it was a pragmatic and appropriate response of the authorities in the circumstances. Indeed, the only properly lawful procedure was for every local authority to send every application for building plan approval involving a building over 50 years old to the NMC. An impossible task!

The development applications involving 50-year old buildings which co-operative local authorities did refer to the NMC were sent to the local regional offices of the NMC and were scrutinized by the local regional plans committees. The plans committees were usually chaired by a member of the National Monuments Council itself who lived in the region, and consisted of invited voluntary members (local architects, archaeologists and representatives of local historical societies like the Simon van der Stel Foundation, etc). It was and remains the opinion of this researcher that such a practice is most unsatisfactory. Consulting experts and paying them for their considered professional opinion is one thing, but giving volunteers the almost unlimited powers of the NMC to interfere with development and make decisions about the nation's cultural resources (and, more particularly, about the associated development) with none of the responsibility is simply unacceptable. Indeed, it has become increasingly clear that the credibility of the law itself, the very basis of management, is being undermined by failures in the administration of the controls (Townsend, 2002b).

In those towns where conservation areas had been declared through the local town planning or zoning scheme, co-operation with the NMC was of considerable significance as the controls over-lapped, giving additional leverage and power to the local authority attempting to prevent the demolition of buildings of (relatively) lesser architectural merit but which contributed to the character of the area *and* were more than fifty years old. Indeed, it is clear that the opportunities for conservation-oriented control derived from the "fifty-year" clause needed to be regulated through new by-laws and regulations so as to enable more consistent and effective control (conceded by Ashley Lillie, personal communication, 7/6/2002; and suggested in Townsend, 1991, pp32 and 34).

It is, however, interesting to note the perceptions of three NMC officials about the nature and capacities of the NMC after the 1986 amendment. McConnachie argued that there had been:

"A fundamental, yet unconscious, change of policy and shift of emphasis from the HMC's having been essentially a cultural body with a conservation component, to the NMC's being essentially a conservation body with a cultural component"⁶ (McConnachie, 1988, p42).

While Hall and Lillie have it that:

"Since the watershed amendments of 1986 it (the NMC) has had the ability, in

⁶ The HMC was the Historical Monuments Commission, 1923 - 1969; and the NMC the National Monuments Council, 1969 - 2000.

line with international trends, to become involved in the environmental field as South Africa's primary agent of urban environmental conservation. The National Monuments Act is now sufficiently flexible to allow the Council to function as an environmental agency" (Hall and Lillie, then both NMC officials, 1993, p112).

It appears, then, that initially the NMC and its officials believed that their new powers were or could function adequately. It is clear also from Kearney's important 1988 paper, presented at a significant national conference, that the NMC hoped to be able to interact more effectively with local authorities and that it intended to create regulations that would facilitate this (Kearney, 1988, pp236-243). In the event, the NMC never did create the regulations which had been so necessary, particularly regarding the "fifty-year" clause.

At the same time, however, many of the NMC officials and NMC members did question the appropriateness of the "fifty-year" clause and the ability of the NMC to carry out these responsibilities. Indeed, as early as 1991 a fourth official, more realistically, recognised that the many new tasks provided for in the new amendment would:

"Stretch the NMC's already stressed resources to breaking point" and that "despite the power of the National Monuments Act, the NMC alone is unable to protect South Africa's heritage" (Pistorius, 1991).

In 1996 she (then no longer an NMC employee, but still frequently engaged as a consultant) argued that the over-whelming work-load inhibited the NMC's ability to deal with other more important tasks:

"Resources have thus been diverted from activities such as the systematic identification of conservation worthy property which could, in the long term, have led to the development of a more integrated and better coordinated heritage conservation system" (Pistorius, 1996, p10).

The NMC, as the statutory authority responsible for conservation country-wide, was then and remains to this day grossly under-staffed and its budget is a fraction of its needs. Nevertheless, it did continue to try to influence and have authority over every alteration to and hence the use of every building in the country over fifty years old. This was both untenable in principle and impossible in practice.

However, notwithstanding considerable resistance from many local authorities, the big property owners and influential associations like the South African Property Owners' Association (SAPOA), and the building industry as a whole, the "historical site" provision did have a considerable impact on conservation-oriented management of development in South Africa because it did give co-operative and conservation-oriented authorities and other interested parties sufficient leverage to influence development that would, otherwise, have been inimical to the character of conservation-worthy buildings and environments. This has certainly been the case in Cape Town, as is demonstrated in several of the case studies described later in Chapter 6.

It needs to be noted that, given the shortage of skilled or trained personnel, conservation-related control in South Africa almost inevitably stops at approval. Approvals may be withheld, sometimes almost indefinitely in order to negotiate and extract compromises from the developer, but once the approval has been granted, the actual building work is usually uncontrolled and very seldom even checked.

This situation pertained throughout the period of the case studies, that is, from 1986 to 2000, during which the nine development project case studies analysed in Chapter 6 were scrutinised and approved.

3.7 Other Applicable Law

There are, of course, several other laws and processes that must frequently be followed in the scrutiny of development proposals. These are not dealt with here because the development rights are rather more extensive in the city centre of Cape Town than in most other circumstances and, as a consequence, planning applications are seldom necessary. Indeed, the location of the city centre was chosen precisely for this reason, as this excluded other complexities in the development control processes being examined.

It is also true that a number of new laws have come into effect during the past five years that have considerably changed the development control environment. These laws are not dealt with in this study because they did not apply at the time of the scrutiny and approval of the case studies, that is from 1986 to 2000. These new laws include the following: the new National Heritage Resources Act of 1999, which came into effect in April of 2000, which includes provisions enabling the South African Heritage Resources Agency (SAHRA) to request heritage impact assessments, and the laws enabling environmental management, namely the Environment Conservation Act, No 73 of 1989 (although an old law, it has only recently been made truly effective though its regulations promulgated in 1997 and amended in 2002) and the National Environmental Management Act, No 107 of 1998.⁷ Also of central importance in the control of development in South Africa generally, but not discussed here for the same reasons, are the restrictive title conditions referred to earlier which in many cases were imposed by the first sellers of land parcels or by the authorities before the advent of town planning regulations and are, in effect, *proto-zoning* schemes (cf. Van Wyk, 1991, pp37-44 and 1999, pp15-21).

3.8 The Scrutiny and Approval Process

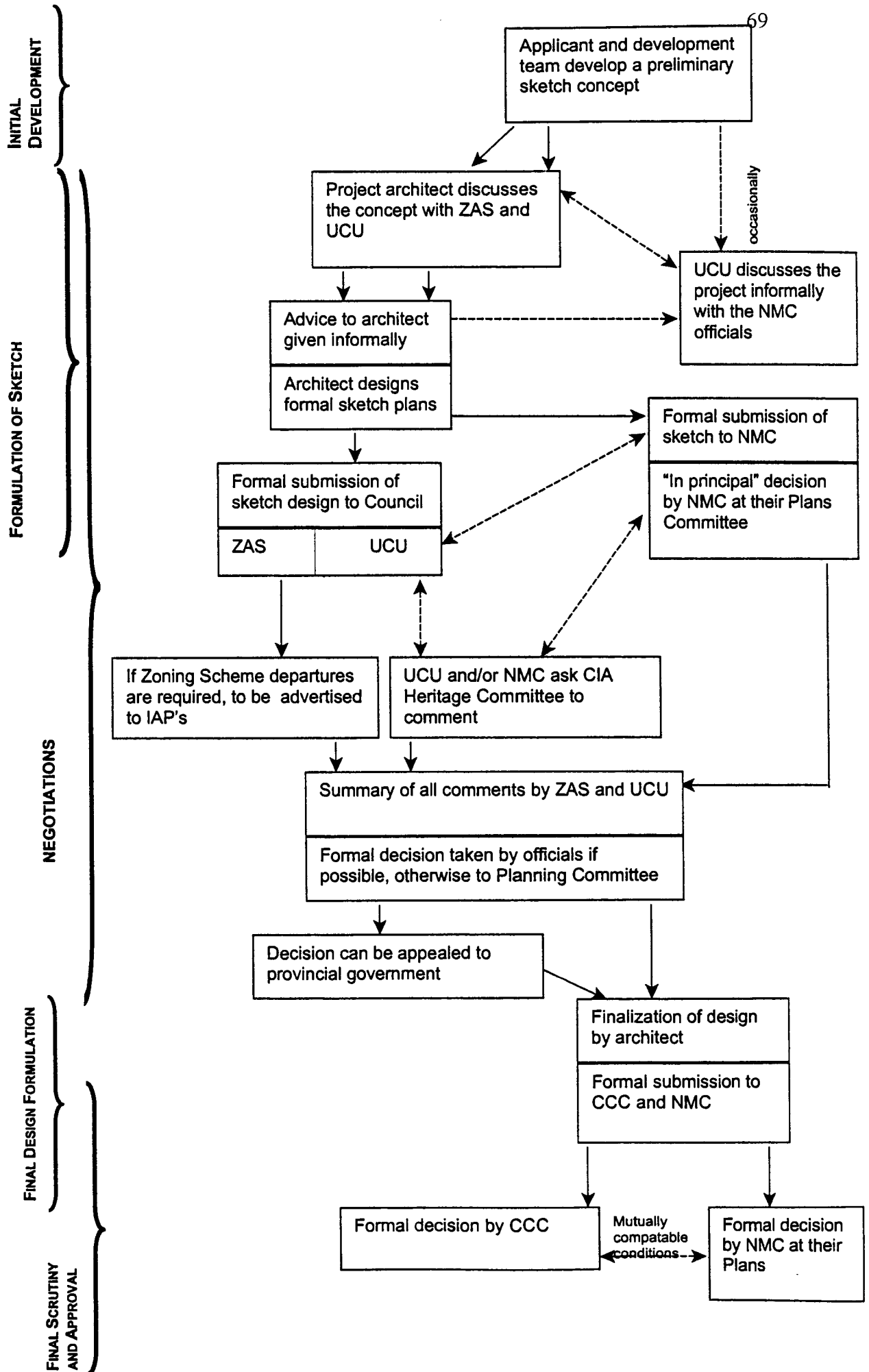
In order to understand the relationships between the authorities, their component parts, the development team, and other interested parties it is necessary to understand the sequences of the processes that each conservation-related development proposal must follow. This process is complicated by the fact that the two authorities, the NMC and the local authority, must make separate but identical (or, at least, mutually inclusive) decisions. Table 1 on the following page outlines the process that any conservation-related development proposal was required to follow in Cape Town during the period between 1986 and 2000. Typically, this process can be broken into five often overlapping phases:

First Phase: Initial Formulation of Development Intentions

The first phase is the initial *formulation of development intentions* by the developer and the project architect. The significant product of this phase is usually a preliminary

⁷ These laws and their impact are discussed in my papers presented at conferences in South Africa in 2002, "Managing the Environment: Towards the Integration of Administrative Actions" and "Towards Sustainable Management" (Townsend, 2002b and c); but they are not relevant here.

TABLE 1: SCRUTINY AND APPROVAL PROCESS



conceptual design that gives the scale and 'envelope' of the proposed building. In a number of the cases examined in this study, earlier proposals had enabled the authorities and the conservation lobby to formulate clear (or clearer than usual) guidelines so that the architect was in a position to design a proposal (or should have been) that responded appropriately. As will be seen, in as many as four of the nine cases examined, earlier designs had been proposed on the same site: these earlier negotiations enabled the architects in all five cases to design proposals that responded appropriately to the quantifiable development rights, but three of them were, nonetheless, controversial in conservation terms. This emphasizes the necessity for explicit guidance, in quantifiable terms, in conservation terms and in aesthetic terms.

Second Phase: Formulation of Sketch Design

The project architect would then almost invariably discuss these development intentions with the City Council's development control officials (in the Zoning Administration Section or ZAS). These officials would confirm the extent of the development rights contained in the zoning scheme and refer the architect to the authority's conservation specialists (in the Urban Conservation Unit). In most cases, this is the first time that the officials will be aware of any intention to develop. The conservation officials would identify any conservation-worthy buildings on the site, explain the characteristics and the degree of significance of both the buildings on the site and of the environs, and advise the architect of the Council's likely position *vis a vis* the preservation of any buildings and the preferred scale and character of the proposed building. These officials would, in certain cases, also have informal discussions with the NMC's officials. In certain cases the architect and/or developer would ask for an interview with a more senior official and these UCU and ZAS officials and, on occasion, even with an influential councillor. These discussions and the advice given was informal and very often only verbal. But if the officials were concerned about the proposal and/or about the architect's ability he/she would confirm the advice given in writing. The product of this phase was a *formal sketch design* by the project architect which would (ideally) incorporate all of the advice given. It bears mentioning that this phase is an all important one, and a very risky one to skip in conservation areas, where the criteria for assessment and approval must take into account "architectural, aesthetic and/or historical *significance*" and will invariably be difficult to articulate.

Third Phase: Negotiations

The project architect would formally submit this sketch design or, in some cases, a demolition application to the City Council and, in some circumstances, to the NMC for a formal response and/or approval. In this phase the UCU and the NMC's officials would ordinarily have rather more complete discussions about troublesome aspects of the proposal and any disagreements they may have had between themselves and/or with the developer's architects. The NMC and UCU would usually then decide whether to ask the Cape Institute of Architects' Heritage Committee for an opinion. On occasion, the NMC's Plans Committee will also have considered the proposal. Ordinarily, this phase was a period of consultation between the two authorities and the Heritage Committee and negotiation with the development team, particularly in cases of disagreement. In these cases of disagreement the authorities will have researched and articulated the reasons underlying the special significance of the buildings and environs so as to give the necessary guidance to the development team.

In those cases where the proposal could be redesigned in accord with the advice of the authorities and the Heritage Committee, “in principle” approvals would be given by both the NMC and the City Council, with clearances from both ZAS and the UCU. This phase will, in difficult or controversial circumstances, have had several iterations.

Fourth Phase: Formulation of Final Design

Following the discussion/negotiation phase the project team would finalise the project design, most often on the basis of a sketch plan approval.

Fifth Phase: Final Scrutiny and Approval

Fifth, in the event of an “in principle” approval already having been obtained, the final phase of the scrutiny and approval would be simple and straight-forward, as would those re-designed projects that now satisfied all of the requirements that had been thrashed out during the negotiation phase. However, those cases that still did not satisfy all the requirements of both authorities would have to be referred, in the case of the NMC, again to their Plans Committee, and, in the case of the City Council, to their Planning Committee. Such cases could be subject to a subsequent review by the Committee (as in the case of KPMG) and/or appeal (as we shall see in the case of The Terraces). These instances were, by definition, the most controversial and were the results of failed negotiations.

3.9 Conclusion

It should already be clear that the separation between this and the following chapter is, to a degree, artificial but that the legal framework, which creates the structure of interactions and at least some of the actors (the authorities), must be appreciated and understood before the key actors, their relationships and their attitudes can be analysed.

It bears pointing out, too, that the oft-repeated and often intense periods of consultation, negotiation, controversy and conflict during the scrutiny and approval processes of development proposals were the ideal circumstances for the diverse components of the conservation lobby to develop mutual trust and co-operation and to recognise (even if unconsciously) the benefits of continuing such co-operation. Indeed, the successes in the control of development, because they were frequent and tangible, because they were the most visible and tangible manifestation of the *effectiveness* of the conservation lobby and, because effectiveness is the single most important factor in urban governance regime formation (described as the ‘iron rule’ of regime formation by Clarence Stone; but more about this in the next chapter), they had a more significant impact on the conservation lobby than has previously been recognised. It is contended, therefore, that these many interactions over conservation-oriented development control helped to consolidate the conservation-oriented urban governance regime in Cape Town in the late 1980s to a greater degree than any other factor.

Chapter 4 The Key Actors, Their Relationships and Their Attitudes to Conservation and Development

4.1 Introduction

In the United Kingdom, in particular, a number of researchers have given considerable attention to the agents of change in the development and management of towns and cities. For example, Punter (1985;1990) and Booth (1989) have described the roles and parts played by the different actors in very considerable detail, and Whitehand (1981; 1984; 1989; 1992) and Larkham (1986a and b; and 1996) have given more attention to the provenances of the actors and to the effects of these differences on the townscape. These researchers, focussing on changes in the urban landscape and the agencies of such change, have identified two groups of actors as "direct agents" and "indirect agents of change" (see, for example Larkham, 1996, pp133-144). This study has, however, identified the characteristic of *insider* or *outsider* (inside or outside the conservation lobby) as the primary factor determining the influence that each actor was able to exert in the context of conservation-oriented development. This chapter will describe the roles and the positions of (relative) influence of each of the most significant key actors, the establishment of a conservation-oriented "urban governance regime" in Cape Town, and their attitudes to conservation and development.

Urban Regime Theory

This study assumes and adopts the ideas of "urban regime theory" regarding the dynamics of urban politics and governance as an appropriate conceptual framework for understanding the interpersonal relationships between the key actors in the conservation lobby in the exercising of conservation-oriented development control in Cape Town. This theory argues:

"The way in which popular control operates in contemporary cities is largely a consequence of the division of labour between state and market as that is manifest in cities" (Elkin, 1987, p18, quoted from Stoker, 1995, p55); and that such control is effected by the myriad of contextual forces, labelled "systemic power" by Stone (1980, p979, from Stoker, 1995, p56).

It is argued further that:

"Complexity is central to the regime perspective (Stone, 1986). Institutions and actors are involved in an extremely complex web of relationships. Diverse and extensive patterns of interdependence characterize the modern urban system. Lines of causation cannot be easily traced and the policy world is full of unpredicted spillover effects and unintended consequences. Fragmentation and lack of consensus also characterize the system" (Stoker, 1995, p58).

Indeed, we shall see in the case studies precisely how fragmented the regime often is, even though the participants/insiders within the regime clearly share wide-ranging agendas with numerous common objectives.

Given this general conception of urban politics and dynamics, it is argued that the state (in its several forms) can still impose its will and can, through pluralist negotiations and bargaining, come to decisions that reach fruition, but (and most importantly) this is only

a part of how things get to be done:

“(T)o be effective, governments must *blend* their capacities with those of various non-governmental actors” (Stone, 1993, p6, quoted in Stoker, 1995, p58, emphasis in original).

The agency through which this accomplished is an “urban governance regime”, which is defined as follows:

“(A)n informal yet relatively stable group *with access to institutional resources* that enable it to have a sustained role in making governing decisions” (Stone, 1989, p4, quoted in Stoker, 1995, pp58-59, emphasis in original); and

“(T)he informal arrangements by which public bodies and private interests function together in order to be able to make and carry out governing decisions” (Stone, 1989, p6, quoted in DiGaetano and Klemenski, 1999, p14).

Stoker emphasises the *network* as the chosen mode of urban regimes for co-ordinating and effecting action:

“The network approach ... sees effective action as flowing from the cooperative efforts of different interests and organisations. Cooperation is obtained, and subsequently sustained, through the establishment of relations premised on solidarity, loyalty, trust and mutual support rather than through hierarchy or bargaining. Under the network model organizations learn to cooperate by recognizing their mutual dependency” (Stoker, 1995, p59).

It has also been emphasised by most of the researchers in the field, including Stone, Stoker, DiGaetano and Klemenski, and Healey that the power sought and wielded is, in these circumstances, “a capacity to act - *power to*, not *power over*” (Stone, 1989, p227). In other words, what brings the “regime” together and what sustains it is *effectiveness*. Indeed, the “iron law” (Stoker, 1995, p61) of regime formation (and its sustainability) is the ability to effect decisions and actions that are consistent with its primary goals and objectives.

In their comparative analysis of four cities, two American and two English, DiGaetano and Klemenski have developed an explanatory three-component frame of reference of *modes of governance* (1999, pp6-9).

The first is *urban political economy*, which refers to the context of economic cycles of the economy (which are not dealt with in this study), the institutional structures of bureaucratic and political power, development rights and the legal framework (which are all dealt with here). These factors could be described as the structural factors or framework which all actors and events must take into account.

The second of these modes of governance, the concept of *urban governing agendas*, is a product of the dynamics within the governing process and the socio-political context, and both embodies and reflects the strategies, policies, goals and objectives of the governing parties, coalitions and regimes and the tools they have for implementing such goals and objectives. DiGaetano and Klemenski have identified four types of governing agendas, one of which, the *growth management governing agenda* which, with its *governing strategies* and *programmatic tools*, is readily apparent to be congruent with those of the conservation lobby in Cape Town from the mid-1970s to the present.

Typically, the *growth management governing agenda* has *governing* or primary *strategies* of growth control and environmental improvement and their *programmatic tools* are land use planning, powers to regulate the kind and rate of development, and development programmes and policies that facilitate improvements to the built environment. This is precisely congruent with the implicit agenda of the conservation lobby in Cape Town in the 1970s and 80s.

The third of DiGaetano and Klemenski's modes of governance is the concept of *urban governing alignments*. The *alignments* comprise the informal arrangements and structures, the networks and coalitions that set and successfully implement their own goals and objectives, thus transforming them into *governing agendas*. Typically, the composition of an urban governance regime with a growth management agenda includes elected officials (in South Africa only politicians are elected), employed officials within the bureaucracies, built-environment professionals and middle-class preservationists. The insiders of the conservation lobby in Cape Town described in some detail below clearly fit this profile and have, at least since the mid-1970s, formed an urban governance regime that has been effective in the creation of conservation-oriented policy and the imposition of urban conservation-oriented controls until today.

Before we turn to the description of the key actors and to the success of the conservation lobby in Cape Town in forming an effective urban governance regime, it is necessary to consider the appropriateness of urban governing regimes in democratically organised or governed societies and the parts played by both elected officials (politicians/councillors) and by the officials in the bureaucracy in any urban regime. As Jones points out (1995, p72-95), a central problem for modern democratic theory is effective control of the non-elected bureaucracy, the employed officials; and he argues that the simple notion of the bureaucracy implementing the policy of elected officials and, thus, carrying out the 'will of the people' (*overhead democracy*) is a simplistic view, and "is not supported by the day-to-day facts of government" (Jones, 1995, p72). This raises a particularly interesting set of questions in the context of heterogeneous and polarised societies, as in South Africa. Jones concludes that the question "who controls" is a misplaced question and that:

"The proper question is: how do bureaucracies, as active agents adjusting to a changing political and economic environment, adapt, and how can the ... structure be modified to encourage bureaucrats to adapt to the proper objectives?" (Jones, 1995, p93).

Indeed, the very concept of "proper objectives" is the subject of continual debate and will vary from time to time in the same place, as the political power and influence ebbs and flows:

"As a consequence, a government's solution-set is a function of both objective conditions and the process of issue definition in public (or elite) debate" (Jones, 1995, p91).

Flyvbjerg, in his *Rationality and Power: Democracy in Practice*, argues that the dominant urban regime (he does not describe it as such), comprised primarily of shopkeepers in Aalborg's city centre, were able to counter democratically and rationally established planning goals:

"During implementation, however, when idea met reality, the play of

Machiavellian princes, Nietzschean will to power, and Foucauldian rationality-as-rationalization resulted in the fragmentation of the project. It disintegrated into a large number of disjointed sub-projects, many of which had unintended, unanticipated, and undemocratic consequences. The grand, unifying, and prize-winning policy and plan degenerated into the string of petty incidents ... Planners, administrators, and politicians thought that if they believed in their project hard enough, rationality would emerge victorious: they were wrong. The Aalborg Project, designed to substantially restructure and democratically improve the downtown environment, was transformed by power and *Realrationalitat* into environmental degradation and social distortion. Institutions that were supposed to represent what they themselves call the 'public interest' were revealed to be deeply embedded in the hidden exercise of power and the protection of special interests. This is the story of modernity and democracy in practice, a story repeated all too often for comfort for a democrat. The problems with the Aalborg Project do not derive from Aalborg being especially plagued by corrupt policies or incompetent planning and administration. Most people know one or more 'Aalborg stories'" (Flyvbjerg, 1998, p225).

This study is not designed to answer these questions about the appropriateness (or otherwise) of urban regime formation directly, although the reader will inevitably form an opinion in this regard, and it is certainly suggested that in this case the urban governance regime, while central in the creation of public policy, was and is still acting in a manner consistent with publicly and democratically established policy (unlike Flyvbjerg's "Machiavellian Princes"). The study does attempt to come to conclusions about the *effectiveness* of the controls; and, in order to do this, it must describe and analyse the actions of all the parties in the arena of conservation-oriented controls, in particular the actions of the two authorities involved, the National Monuments Council and the Cape Town City Council. But it is expected that the frequently made accusations that the politicians and/or the bureaucracies are controlled or influenced by big business (in this context, by either or both a property-owning "cabal" and the development industry), or that they take the part of interested parties (in this context, the conservation lobby) in a biased manner, or that they pursue their own personal or professional agendas with too great a vigour will be answered in each case, even if only by inference. Indeed, it is clearly difficult to have an opinion about the effectiveness of the controls without having an opinion about the capabilities and the efficiencies of the authorities and the roles played by the officials and their political masters. During the 1970s and 80s it was held by many local commentators that a property-owning "cabal" controlled the inner circles of the City Council (for example, Cameron, 1986); but it will become apparent how their influence on development in the city centre appears to have declined in the 1990s.

It is necessary to understand the powers and interests of the parties involved in the imposition of the controls *and* the interests of the developers and their agents. But, as Punter has pointed out (1985, p105), it is rather more easy to uncover the roles of the authorities and their officials (and politicians) and of the progress of each application through the scrutiny and approval process, than to describe with any real confidence the processes followed within the development teams and other interested parties. This is because the authorities are required to keep a proper record, because this record will

be consolidated in a (relatively) small number of files, and because this record can be subject to very detailed scrutiny. On the other hand, private enterprise in general, and property developers and their agents in particular, are not required to do so and, even if they were willing to afford access, it is unlikely that their records would be very complete. Because this study is directed very deliberately at understanding the workings of the urban conservation-oriented *controls*, that is, in essence, the endeavours of the authorities and, by extension, of the conservation-oriented urban governance regime, the difficulty in accessing other records should not present an insurmountable methodological difficulty.

4.2 The Key Actors

The key actors involved in urban conservation-related development control in South Africa throughout the period being discussed were inevitably the two authorities, the National Monuments Council and the applicable local authority, the development teams (including the developers themselves, their architects and professional teams), and various interested and affected parties (in Cape Town's city centre these included the Cape Institute of Architects' and its Heritage Committee, the Simon van der Stel Foundation and the Cape Town Heritage Trust). In order to understand the nature of decision-making in this regard it is necessary to describe the internal workings of the two bureaucracies, their capacities and capabilities in sufficient detail to understand the logistical difficulties faced by them and, as a consequence, some of the practical difficulties faced by the other key actors in each individual drama, which each individual development project is.

The National Monuments Council

During the period under discussion the *National Monuments Council itself* was comprised of members appointed by the national Minister of Education or, more recently, of Arts and Culture. The number of members appointed to the Council has ranged from 17 in 1986 to 13 during much of the 90s and was 16 in 1998 (see the NMC's Annual Reports for these years). During the 1980s and until 1994 the minister was, by definition, a cabinet minister in the apartheid government and, accordingly, the appointees were dominated by sympathisers of the government and were largely Afrikaans speaking: during the 20-year period from 1969 to 1989, 80% were Afrikaans-speaking (see Frescura's analysis of the make-up and interests of the NM Council in his influential 1991 paper, particularly p21; and its sequel in 1992). The city centre of Cape Town has a number of significant monuments of Dutch colonial history, but these have long been identified and are effectively protected. Indeed, most of them are declared national monuments and, perhaps more importantly, many are state- or church-owned. As a consequence, the preservation of these buildings is seldom contested; and this study is not concerned with their occasional renovation or restoration. The interest of the Afrikaner-dominated NM Council in the conservation of the city centre was, therefore, minimal and their influence slight except in those cases where Afrikaner interests or those of the then current government were raised. This is best demonstrated in the Rosenhof Court case at 20-22 Kloof Street (Chapter 6, section 6.5). In this case the core building, although much altered, dated from c1790 at the end of the Dutch colonial period *and* it was discovered during the negotiations regarding its redevelopment in 1989 that the then current president, PW Botha, had courted his wife in the building during the 1930s. Extraordinarily, this was enough to animate the NM Council to

demand a reconstruction demonstrating the worst aspects of the historicist *historical restoration* approach.

During the early 1990s the state initiated a process of drawing disaffected groups into the agencies and mechanisms of governance and, accordingly, increasingly a number of representatives of interest groups other than white Afrikaner interests were appointed onto the NM Council; and, of course, from 1994 the members were appointed by the new Minister of the ANC-dominated "government of national unity". This new membership of the NM council, however, did not have a significant or direct effect on conservation in the city centre of Cape Town during the period being analysed in the study. It is also true that the NMC exerted its influence indirectly through its Council members, several of whom were active and influential participants in Cape Town's conservation lobby. It is, of course, often difficult to separate cause and effect, and it is true that several of these members had been appointed to the Council precisely because they were active and influential in the conservation lobby of Cape Town; in other words these individuals were part of the conservation-oriented urban governance regime in Cape Town.

The National Monuments Council's administration has, since 1977, been organised into a Head Office with regional offices across the country (only two initially, but six by 1988). The regional offices were each directed by regional committees of from five to nine members made up of the NM Council members and "co-opted members" (see the NMC Annual Reports from 1980 to 1998). These regional offices, of course, became necessary after the 1986 amendment and as the number of applications that the NMC was required to deal with increased exponentially. Several of the regional offices were established or consolidated by Ashley Lillie, "who would just begin to get an office running effectively and then be transferred somewhere else, to start again" (Penny Pistorius, e-mail communication, 7/12/2002). Each of the regional offices was initially staffed by only one or two officials. During the period under discussion, the NMC's staff complement ranged from barely twenty in the head office and a total of four in the then two regional offices in 1986 to twenty-five in the head office and a total of twenty-five in the six regional offices in 1998. Indeed, throughout the 1990s the total staff complement numbered about fifty, of which no more than a dozen were professionals (mostly architects, historians and archeologists). Throughout this period the NMC's head office has been located in Cape Town (since 1962) and it has had, under the same roof, a Western Cape regional office since 1986 (NMC Annual Report, 1986). This Western Cape regional office was, with Head Office secretarial and other support, staffed by one professional and one assistant in 1986 increasing to, at best, four professionals and two assistants during the first half of the 1990s (David Hart, personal communication, 11/12/2002). It must also be pointed out that only one professional and one assistant were responsible for the greater Cape Town metropolitan area (and they both had many other responsibilities) during most of the period. It bears noting that such a small staff complement eased, even obliged, the development of closer understanding and co-operation between the NMC officials and the Cape Town City Council's Urban Conservation Unit.

Nevertheless, this is a very small staff complement for the state agency which was required:

“(T)o preserve and protect the historical and cultural heritage, to encourage and to promote the preservation and protection of that heritage, and to co-ordinate all activities in connection with monuments and cultural heritage in order that monuments and cultural treasures will be retained as tokens of the past and may serve as an inspiration for the future” (National Monuments Act, Section 2A).

The fields covered include the built environment generally, all aspects of archaeology and palaeontology, historical shipwrecks, cultural treasures (movable museum objects) and military graves. This is an enormous task and it is self-evident that capacity will have been and will continue to be a primary difficulty for anyone interacting with the NMC (or, today, with SAHRA or the provincial heritage resource agency).

Between 1989 and late 2001 all development control decisions made by the NMC were taken by so-called “Plans Committees” in each regional office (NMC Annual Report, 1991). These committees commonly included regional committee members, professional staff and volunteers, most frequently from the heritage committee of the local regional institute of architects, and occasionally from other interest groups. Volunteer assistance has taken various forms. The Western Cape plans committee, that is, the committee that dealt with Cape Town, met every three weeks during most of the period under discussion. A volunteer specialist conservation architect (usually also a member of the Cape Institute of Architects’ Heritage Committee) attended each meeting; and relatively frequently the Plans Committee would ask an expert known to specialise in related building types or periods to make an on-site inspection and to advise them on specific important cases. In addition to such assistance, the NMC has frequently asked the CIA’s Heritage Committee to comment formally on more controversial proposals (in writing). All of these forms of advice were and are unpaid. This plans committee made 45 decisions on average at each of its meetings (David Hart, NMC and SAHRA official, personal communication, 27/1/2003). The creation of the Regional Committees and their Plans Committees was a pragmatic response of the NMC to the growing number of matters they were required to deal with:

“(I)t was obviously impossible - and fundamentally unsound - to carry on doing it all centrally, and there was not sufficient expertise in the regions to delegate the function to the regional staff (none of whom were architects, and some of whom at any one time were learning heritage management ‘on the job’ in fairly isolated circumstances). So we had to make do with the resources available; and frankly, I think conservation-oriented architects in the regional institutes saw that it was in their own interest, and certainly in the interest of our architectural heritage, to ‘muck in’ and help out” (Penny Pistorius, previously an NMC official, e-mail communication, 7/12/2002)

Appeals against the decisions were first to the Regional Committee, then to the NMC itself in Cape Town and, finally (if the appellant had the stamina), to the relevant national Minister (usually of Education, or of Arts and Culture).

Local Authorities and the Cape Town City Council

The responsibilities of local authorities and the legal basis for the control of development have been described in the previous chapter. It is the intention here to give a general idea of the nature of local authority administration in South Africa and a more detailed understanding of the functioning of the Cape Town City Council’s bureaucracy that dealt

with development control and conservation-oriented controls between 1986 and 2000.

The structure of local government in South Africa has been modelled on the British system, that is, local authorities are comprised of a town council of elected councillors, headed by a mayor and executive committee (also only politicians), and an administration of employed officials, headed by a Town Clerk or City Manager (or similar title). In principle, all decisions are taken by the town council, but in practice most decisions are delegated either to committees of the council (for example, to the Executive Committee or Town Planning Committee made up of councillors, that is, elected politicians) or, under certain circumstances, to officials.

In medium to large local authorities all *building plan approvals* are granted by officials under "delegated" authority. There is, as noted earlier, no opportunity for public consultation; and there is also no provision for an appeal *except*, in the case of a decision to refuse, an *aggrieved applicant* (but not an objector) may appeal to a Review Board created in terms of the NBR and BS Act. There is, therefore, very little public examination of the processing of building plans; though, increasingly frequently, disaffected neighbours do demand to have the reasons for approval explained to them. This is, by definition, *post hoc*, and very difficult to question further. During the past five years between 1997 and 2002 in the Cape Town administrative area between 9000 and 12000 building plans have been approved each year (such variations are due to rises and falls in the national and regional economy and, consequently, in the fortunes of the property and building industry). Of these straight-forward building plans perhaps two or three per year have been referred to the Town Planning Committee, though not because this was required by law or by the delegations, but because the officials declined to exercise their delegated power in the face of very public conflict between applicant and neighbours.

In medium to large local authorities, as in the Cape Town City Council, most *planning approvals* were and still are granted by officials under "delegated" powers in cases where *no objections* to the proposal have been received. Almost all of these applications will have been advertised for interested and affected party comment, that is, they will, in the main, have been advertised at least to the neighbours closest and, therefore, the most likely to be affected. During the past five years in Cape Town there have been an average of around 2500 of these approvals granted per year.

In those *cases where objections have been received* the officials do not ordinarily have the authority to approve the applications. All of these cases have been referred to the Planning Committee (or, since early 2001, to the Executive Committee Member for Planning and Environment). There have been about 200 of such cases each year during the past 15 years in the Cape Town City Council's area of jurisdiction. Of these, about 10 percent were appealed to the provincial government by the disaffected party.

The necessity of a formal planning approval for *work in a conservation area* has been discussed above. Two significant aspects of these applications must, however, be pointed out: first, these applications are not advertised for public comment, though contentious cases are usually referred by the local authority to the heritage committee of the local regional institute of architects and, in certain cases, to other expert

conservation bodies or amenity societies for their advice; and, second, such decisions were during the period being discussed not appealable (the right of appeal against such decisions has recently, in mid-2002, been recognised both by virtue of a new interpretation of the law in the light of the Constitution and other new legislation).

The *Cape Town City Council's administration*, one of the biggest local authorities in the country, comprised more than 10 000 employees during the period under discussion, that is, from the mid-1980s to 2000. The City Engineer's Department had been, in 1988, separated into two departments, the City Engineer's and the City Planner's Departments. This change does not have significance in this study, but it does signal a change in the hierarchy of professional influence within the bureaucracy which follows changes in society and its views of the environment, of planning and of conservation. The set of responsibilities being discussed here, that is, the control of development, was shared between several branches, primarily the Town Planning Branch and the Building Survey Branch until mid-1997 when local government was radically restructured country-wide (this restructuring was legislated in 1996, but the changes in the administrations were not effected until late-1997); as a consequence, the Environmental Management and the Land Use Management Branches (with 12 and 70 staff members respectively) have carried out these responsibilities since 1997. Central to this study is the Urban Conservation Unit (previously a part of the Town Planning Branch, but currently within the Environmental Management Branch and recently re-named the Heritage Resources Section) which was presaged by the employment in 1984 of the first trained specialist conservationist and a second in 1985 (this researcher). The Unit was formally established in early-1987 in the old Town Planning Branch and ranged in strength from eight (all professionals or professional assistants) in 1988 to only three professionals with some shared logistical support in 1998. The Unit has, on average during the past five years, approved a little more than 50 applications per month for work in conservation areas (see the record of UCU decisions in the Environmental Management Branch).

It is clear from the earlier chapter on the law and its administration that the National Monuments Council/South African Heritage Resources Agency and the local authorities have considerable over-lapping interests and that the local authorities are inevitably better resourced. Notwithstanding the opinions of the NMC officials referred to earlier, Hall and Lillie (1993), several commentators have for many years argued for the integration of physical planning development control and conservation-oriented controls and the necessity of assigning many of these responsibilities to local authorities (Townsend, 1991 and 1993; Japha and Japha, 1991 and 1993). Indeed, the new National Heritage Resources Act of 1999, which became effective in April 2000, makes provision precisely for such assigning and delegation of responsibilities. (This should not be surprising as three of the drafting team of six or seven, Pistorius, Todeschini and the late Vivienne Japha, had for years recognised this necessity.) Also, more recently, several commentators have argued that the increasing over-lap of differing laws, primarily those enabling the regulation of land use, environmental and heritage resource management, and the over-reaching of the national and regional environmental management agencies has become endemic and needs to be integrated into a rational and properly integrated system (Gasson and Todeschini, 1997; Claasen, 2002; Townsend, 2002b and c).

The Planning Committee was during the period of the case studies, 1986 to 2000, the City Council's most significant decision-maker in the realm of planning, development control and urban conservation. During this period Cape Town's Planning Committee, like the planning committees of the local authorities in Britain, was composed of elected politicians. Larkham has described British planning committees as follows:

"... the Planning Committee of the local authority ... is composed of elected public representatives, amongst whom any aesthetic or technical knowledge or training is rare" (Larkham, 1996, p135); and he quotes the opinions of a past president of the RIBA regarding such committees:

"... cultural pariahs operating out of their depth, with extraordinary arrogance, and frequently destroying the efforts of some of the more imaginative architects. Their role should not be the making of aesthetic and planning judgements" (Michael Manser, in 1980, quoted in Larkham, 1996, p135).

Although such criticism has been frequently made by the disaffected and disappointed, be they proponents or antagonists of development, this researcher's experience of Cape Town's Planning Committee over 18 years is rather different⁸. The two chairmen of the committee during much of the period under discussion, Councillors Muir and Keegan, were and are deeply cultured men with a genuine interest and insight into the history and making of cities⁹. Both gave considerable support to the urban design and conservation ideas and endeavours which were being developed in the town planning branch and the Urban Conservation Unit, particularly during the earlier part of this period in the late-1980s before the section of the town planning scheme creating urban conservation areas was finally promulgated in 1990. Furthermore, for much of this period, the Planning Committee had at least one architect in its ranks who also gave significant support to these endeavours¹⁰. Indeed, the committee always gave careful attention to the matters before it; and, while it was often led and informed by the officials and the officials' reports, it usually developed its own independent view, even if often dominated by the opinion of one or other of the councillors (usually one of those named). A number of other councillors including Joan Kantey and Owen Kinahan (in different periods), who were/are particularly interested and influential in these and related issues, also contributed to an ethos of informed support for urban design and conservation-oriented endeavours. This independence is demonstrated in several of the case studies where the committee took informed positions that were also quite distinct

⁸ These 18 years included a six year period from early 1995 till the end of 2000 during which I attended almost every single meeting of the committee.

⁹ Keegan, in particular, was decisive, extremely articulate and effective in his support for conservation and urban design goals; and his interest in, knowledge of and commitment to conservation is reflected in his paper presented to the important national conference on Conservation of Culture in Cape Town in 1988 (Keegan, 1988); he was also mayor and chair of the Executive Committee in the mid-1990s. Muir, earlier a writer of popular histories, has recently chaired the Cape Town Chapter of the Simon van der Stel Foundation.

¹⁰ Councillor Llewellyn van Wyk, on the Planning Committee from 1990 to 1997, was also Deputy Mayor briefly, and was president of the regional Cape Institute of Architects and later president of the national South African Institute of Architects; and Councillor Revel Fox, on the Planning Committee from 1997 to 2000, is also a past president of the regional Cape Institute of Architects, and is internationally renowned as a designer and nationally respected as a conservationist.

from that of the officials (see, for example, the Heritage Square and the KPMG cases; sections 6.3 and 6.7 respectively in Chapter 6), and in certain other cases where the committee or the chairman played a particularly active and supportive role (for example, *vis a vis* the creation of the urban conservation regulation and in the case of The Terraces)¹¹. It is also true that the Planning Committee and Councilor Keegan, in particular, gave considerable support to the urban design-led pedestrianisation of the city centre from the mid-1980s to the mid-1990s.

During most of the period in which the case study development projects were scrutinised, that is between 1986 and 1998, the administration of the planning controls of the Zoning Scheme was the responsibility of the *Zoning Administration Section (ZAS) of the Building Survey Branch*. The officials responsible for the city centre were all architects and town planners. However, given the very considerable rights in the city centre, architectural and/or planning skills could very seldom be brought to bear: in essence, the scrutiny usually consisted of no more than confirming that the proposal conformed to the constraints of the Zoning Scheme. In other words, the power of these officials to influence the shape, form and/or nature of development was, and remains, limited. Furthermore, during the earlier part this period, the branch and departmental heads were extremely conservative in their approach to rights. The only one of the case studies in which these ZAS officials did have a real role was The Terraces which was negotiated in 1988-89, and which required several departures from the Zoning Scheme. In this case the ZAS officials did attempt to have an influence over and beyond the successful amendments regarding the preservation of some facades and the very significant changes in the configuration of the proposal negotiated by the Urban Conservation Unit and the Town Planning Branch. However, ZAS's attempts to determine the external finishes and to require a colonnade came to nought when the regional government overturned these requirements on appeal. This reflected the extreme conservatism of the regional government in intervening in development and, therefore, the conservatism of the system. Punter has pointed out that the effect, and perhaps even the intention, of appeal *systems* is to *define the limits to the controls* and, thus, to set bench marks for the subordinate authority (1987, p54). While this may be an important underlying intention of the appeal system, in South Africa the effectiveness of such an intention has been very largely determined by the political affiliations of the two authorities: in circumstances where the two authorities have been controlled by the same political party, the benchmarks have been respected; and when the authorities have been controlled by different parties, precedent setting through appeal decisions has been resisted by the local authority. This distance between the levels of government has recently been confirmed and made law by the Constitution which deliberately created *spheres* (rather than levels) of government with quite separate areas of authority and sets up a different appeal system (through the Development Facilitation Act which, as discussed in the earlier chapter on the law, is not effective in the Western Cape), and explicitly giving only monitoring powers and responsibilities in planning matters to the regional and national spheres.

¹¹ It must, however, be said that the influence of certain councillors (for example, but not only from the progrowth regime referred to by Cameron) was and is still experienced within the Planning Department's bureaucracy more directly through more or less compliant senior officials.

In other words, the powers of the planning officials who were responsible for the administration of the zoning controls were very limited and constrained by their superiors and by the regional government for much of the period under discussion, though this did begin to change in the early 1990s under officials more determined to ensure good design (first Steve Boshof from 1993 and then this researcher from 1995). These officials' effectiveness was also affected by the proposal to declare the entire city centre as a conservation area in 1994 and its eventual designation as such in 1997.

The Urban Conservation Unit was established at the beginning of 1987, and was soon able to make a meaningful impact on development in the city centre, particularly in proposed conservation areas, in cases involving fifty-year old buildings and in cases involving proclaimed national monuments. This was both because the system of urban conservation controls was then in the process of being promulgated and, more particularly, because the Unit (with this researcher at its head) was able to establish an effective working relationship with the NMC by sharing responsibilities in the policing of the "fifty-year clause" which had been created in 1986. It must also be pointed out that at that time, in the late-1980s, the UCU, within the Town Planning Branch under Peter de Tolly, operated under considerably more enlightened guidance in architectural, urban design and environmental terms than the Zoning Administration Section in the Building Survey Branch discussed above. As a result of this progressive intellectual climate and management, the very considerable political support given to urban design and conservation goals by two successive chairs of the planning committee from the early 1980s to the early 1990s, and the effective working relationship with the NMC, the officials in the Urban Conservation Unit were able to "punch well above their weight" in development control negotiations until 1990 when the conservation area regulation was finally promulgated, thus consolidating and legitimising the influence of the Unit.

However, no clear explicit written guidelines regarding either procedure or physical form to guide conservation-oriented control in the city centre were drawn up (except, as we shall see, for the area surrounding Greenmarket Square drawn up in early-1982 and for Long Street drawn up in 1987; although several residential conservation areas did have guidelines drawn up for them). This is not inconsistent with the findings of a 1992 review of design guidance given by local authorities in England that the "coverage of advice is extremely low in the majority of areas" (Larkham and Chapman, 1992, p29). As a consequence, the Council and, therefore, the UCU officials had almost absolute discretion and almost absolute power. In these circumstances, where the only criteria for decision-making were the vague "architectural, aesthetic and/or historical significance, as the case may be, of the area" (Zoning Scheme, Section 108) or the even more vague "aesthetic, historical or scientific interest" (NM Act, Section 10), the authorities and their officials had enormous discretion and, therefore, power. This state of affairs still pertains to this day.¹² On the face of it, local planning authority officials in the Britain appear to have much the same discretion, but the rather more sophisticated and complete system there, continually adjusted through the system of DoE

¹² Sadly, procedures and outcomes are even less certain today in 2003: officials in SAHRA and in the local authorities' heritage management sections can, and do, often demand exhaustive research and assessments for no better reason than that they are uncertain, unwilling to make a decision or definite recommendation, or simply because they are over-whelmed by their work-load.

circulars/guidance notes, appeals and enquiries, ensures that power is *not* absolute. It is difficult, therefore, to accept Larkham's conclusion that local planning authorities' officials and their planning committees, and local amenity societies, all described as "indirect agents", are ineffectual:

"In general, though, indirect agents have little visible effect upon the *form* of development"; although he concedes that indirect agents "in some cases ... may have a decisive influence on the *appearance* of new buildings" (Larkham, 1996, p138; emphasis added).

Indeed, the study demonstrates precisely the very considerable influence that the officials of both the NMC and of the UCU have had with the support of their superiors and of the political leadership.

The power and responsibility that officials who are engaged in development control wield also underlines the necessity for particular skills. As Punter puts it:

"Development control demands many skills. The managerial and communication skills of time management, administrative efficiency, interpersonal communication and negotiation have to be combined with knowledge of the legal and policy context, the techniques of financial appraisal, knowledge of market forces as well as of urban processes and morphology, environmental and architectural quality" (1993, p10).

Design skills and experience, in particular, are necessary; and if the development control is conservation-oriented, then specialist conservation training and experience too is, self-evidently, essential. In Britain the training and skills of development control officials has been given considerable attention: Punter found in the earlier Reading study, during the period 1981-85, that "none of those currently employed in the control section would claim to possess the architecture or landscape architecture skills necessary" (1985, p179); while in 1990:

"Bristol has what is probably the largest urban design section of any non metropolitan local planning authority in Britain staffed by up to six fully trained architect planners. Those who have been in the front line of central area development control and conservation have all had a strong sense of what is required in various situations, sometimes derived from plans and policies ... but more often based upon intimate knowledge of the city's fabric" (1990, p369).

Larkham and Chapman came to a similar conclusion in their 1992 review referred to earlier:

"Our research indicates that, in many cases, the staff of local authorities possess considerable local knowledge and design sensibility, but that this is rarely made explicit and may be vulnerable to personnel changes. This expertise is often used to provide advice on individual applications, rather than formulation of policy or assessment of priorities" (Larkham and Chapman, 1992, p36).

The Cape Town City Council's Urban Conservation Unit did, from its inception, include architects, design professionals and historians with post-graduate conservation training and experience throughout the period under discussion but, as will be seen, insufficient

in number for the task at hand¹³. It is also clear that, during the 1980s before the urban conservation area provision was included in the Zoning Scheme in 1990, the authority of these officials was, in large part, reliant on the legislative muscle of the National Monuments Council. Given this, it was appropriate that the UCU officials were tentative in their interactions with developers, however frustrating that may have been for the developers and their architects.

The National Monuments Council, on the other hand, as is demonstrated throughout the study, has been criticised universally, including by individuals within the authority. But it must be recalled that many of the officials and the state-appointed members of the NM Council itself were integral members of the city's conservation-oriented urban governance regime. These parties will have been both self-critical and critical of the NMC for not being a more efficient component of the regime, and for not being more effective in conservation terms. It has been emphasized that the NMC is a profoundly under-resourced agency both in terms of numbers and the apposite training: although the officials responsible for development control in the NMC's Western Cape regional office (which deals with Cape Town's city centre) have included, for the most part, architects and historians, none has had specialist training in conservation or post-graduate training in their own disciplines. It was also clear that many of the difficulties and the criticisms were, in large part, self-induced. Although several of the key actors involved in the case studies criticised the NMC and its officials for their "arrogance", "their impossible demands" and "their refusal to negotiate", it is this researcher's opinion that this is a mistaken perception: to a man (and woman) the NMC officials involved in the management of the city centre during this period have been modest and self-effacing. It is also true that the NMC's Council gave very little encouragement or authority to the officials except during the short period from c1994 when Vivienne Japha, the much respected teacher and professor of architecture and president of the Cape Institute of Architects in 1996-98, chaired the Western Cape regional plans committee until her death in 1998. It appears that the very reticence of the officials was interpreted as aloofness and their uncertainty as a refusal to communicate.

This last point does suggest that the temperament of an official engaged in development control should, of necessity, be direct and robust: assertiveness may be perceived as dogmatism and may be intrusive in negotiations, but it does lead to clarity, which is the primary objective of any enquiry from a developer. Reticence and reserve, on the other hand, result in confusion, uncertainty and mis-understanding. But it is also true that disempowered officials who have been instructed not to give definitive opinions or who are unable to because they are uncertain of the ultimate outcomes are the products of inadequate training, poor management and/or a system that is, at bottom, reliant on subjective and unsubstantiable judgements.

In many towns in South Africa, advisory "aesthetics" or conservation committees have been established to assist the town councils in making the necessary judgements regarding both the conservation-worthiness of buildings proposed to be altered or demolished and the appropriateness, or otherwise, of proposed new works in

¹³ Sadly, in recent years, the Planning Department has reduced the strength of the UCU and at present there is only one official (working half days) in the UCU with conservation training.

conservation areas. In Cape Town, however, given the training and the acknowledged expertise of the officials of the Urban Conservation Unit, both the Planning Committee and the bureaucracy argued that all *approvals*, excluding only the most controversial matters, should be granted by the Conservation Unit officials and that refusals only should be referred to the Planning Committee. This too, of course, contributed to the influence/power of the UCU. It bears noting that during the period 1986 to 1994 the Unit included four officials (two architects and two historians) with post-graduate specialist conservation training (in Italy, Britain and the USA) as well as other professionals. This group, although with different backgrounds and different training, and often with different points of departure, was usually able to develop a well-founded position consciously based on internationally accepted practices that could be, and was, imposed even on unwilling project architects. Depending on the circumstances of the conservation-worthiness of the building, site or surroundings, the position adopted almost inevitably adhered either to the *conservation of the building as document* approach reliant on the international charters or to the *critical conservation* approach with its analytic methodology and its more ready acceptance of modernism in urban conservation areas.

The Developers

The property owner is often the developer, but, as will be seen in the case studies, there are a variety of alternate possibilities: these include the property owner who is developing for own-use (the NBS, Protea and KPMG projects), the speculative developer who will sell on as soon as possible (like The Terraces and Rosenhof Court projects) or, indeed, may have already sold a "turn-key" project (the Fed-Life project), and the long-term property owner who is investing so as to improve the returns (like the Boston House and Park-on-Long projects). This factor is possibly the most significant in understanding the behaviour and attitude of the developer in negotiations: the property owner designing for own-use will be inclined to consider advice from the authorities to satisfy goals not initially considered in order to get a better or more contextually appropriate result. This kind of developer intends to occupy the building (and the environs) for a long time, they identify with the environs, the site and the proposal, and often feel even more strongly about identity and character than the project architect or the authorities. At the other extreme, the speculative developer is inevitably primarily interested in a *timeous* approval - cash flow, the cost of money (particularly in times of high interest), and development cycles are more significant than the architecture or the environment to this sort of developer.

Booth has given attention to the universal need for predictability both regarding what can or will be permitted and how long the process of scrutiny and approval will take (Booth, 1989 and 1996); and he draws some interesting conclusions:

- Absolute certainty is unobtainable, but any applicant in any set of circumstances should be able to define the limits of uncertainty both regarding outcome and delay;
- Even entirely open-ended systems of control depend on standards and criteria, which must be clearly articulated so as to ensure consistent decision-making and, therefore, a degree of predictability;
- Negotiation is an essential part of any development control system, and the parameters for the decisions and the processes to be followed must be clear;
- Some degree of discretion is always present: the criteria for such decision-

- making must be clear;
- The basis for decisions and the process leading to decisions must be accessible to the users/applicants; and
- Decision-making must be accountable and open to question and/or to appeal (Booth, 1996, p149).

Also, several researchers including Whitehand (1984), Larkham (1986) and Freeman (1986) have investigated the effects of the provenance of the developer on the nature of the development and on the architectural style of the proposal. Their findings that outsiders (that is, developers and architects from out of town) were less inclined to be sensitive to local character, however, have no bearing or parallel in the case studies investigated here. Indeed, in the first instance, all the architects in the case studies were Cape Town architects and, in the second, the developers from out-of-town behaved very differently from each other: for example, the Natal Building Society (head office in Durban) responded very appropriately to local conditions, whereas Federated Life Assurance (head office in Johannesburg) were not at all interested in knowing about the approval or development process. Indeed, the developer has pointed out that Fed-Life had, as a policy, purchased or developed B-grade properties only during this period (Gary Moore, interview, 4/5/2001). Given this, it was extremely unlikely, to say the least, that the recipient of a "turn-key" project would have considered getting involved in discussions about aspects of the proposal that could affect the ultimate result.

Project Architects

The project architects in all of the case study development projects were local Cape Town firms and they ranged in size and type, as did the size of the projects. In South Africa, the architect is usually the agent of the developer responsible for the conceptual basis of the proposal and, almost inevitably, is responsible for negotiating agreement with the authorities. Occasionally, however, the developer will take a closer interest if the negotiations do not proceed easily. This did happen in several of the case studies, but in two of them the developer became the primary negotiator, that is, in the Stuttafords redevelopment and The Terraces projects.

In South Africa during the 1980s and early 1990s, and in some quarters to this day, the very concepts of architectural and urban conservation have been questioned by certain architects and developers. Indeed, this is still so frequent a difficulty that this is one of the issues that the study sets out explore: is the very notion of urban conservation accepted or recognised as appropriate?. It is, however, clear that the difficulties and the resultant conflict with the authorities result as much from the effect that conservation-oriented controls may have on the perceived property rights as the perceived slight on their professional abilities that many architects imagine. It is also quite clear, and this was borne out in the interviews in the development project case studies, that certain architects present their clients' views, on occasion, regardless of their own professional or expert views. In other words, they are inclined to endeavour to attain the objectives of their clients regardless of the impact (within limits) of the project on the environment or any other aspect of public interest. Indeed, as was demonstrated in one case, the architect may even hold to a different opinion from that of his/her client (see the Stuttafords case). This may be reassuring for their clients, but it does often bedevil the negotiations with the authorities which are reliant on mutual trust and, therefore, on the

credibility of the architect (Townsend, 2002a). By way of contrast, Loew makes the point about the credibility of French architects who act as campaigners for architecture and as negotiators, often acting as middle-men between their clients and the authorities:

“As a result of their strength, architects do not have to submit to all of the demands of their clients ... They can defend their professional integrity and refuse to modify a scheme purely to increase a developer’s profit margins, if the quality would thereby be compromised” (Loew, 1995, pp184-5).

Interested and Affected Parties

A wide variety of interested and affected parties have significant roles created by law in both development control and in conservation-oriented control in South Africa.

In land use management this has long been the case and, in the case of the Western Cape and Cape Town, the Land Use Planning Ordinance requires, in the case of all planning applications, advertising to parties who *may be adversely affected* and to any party who may *be interested* (LUPO, Section 2: Definitions). Although this is a very significant aspect of South African planning law, given the very considerable extent of the development rights in the city centre of Cape Town, it was not an important factor in the controversies examined in the case studies. Indeed, as already noted, only one of the cases required a formal planning application for departures from the zoning scheme (The Terraces), and this case was widely advertised and commented on by both nearby neighbours and interested parties like the Cape Institute of Architects and the Simon van der Stel Foundation.

With regard to applications for consent to do work in declared conservation areas, the Cape Town City Council has had the explicit policy *not* to advertise such applications to *nearby neighbours* on the grounds that neighbours should not have the ability to influence ‘aesthetic’ decisions of this sort. However, contentious proposals are referred to expert or other appropriately interested and appropriately qualified bodies like the Cape Institute of Architects’ Heritage Committee for their comment. In certain cases comment from expert historical or special interest bodies like the Simon van der Stel Foundation or the Vernacular Architecture Society will be sought. The Cape Town City Council has also on occasion, in a few particularly contentious and large developments involving particularly significant conservation-worthy sites and environments, engaged consultant expert teams to make assessments of the impact of the proposals on the significance of the site or environment¹⁴.

In the case of the city centre of Cape Town it has very often been difficult to identify appropriate expert or even interested parties to comment on conservation-oriented aspects of development, although recently the Cape Town Partnership (a City Council-property owners’ partnership created to manage aspects of the city centre) has shown

¹⁴ Examples are the seven-person “Fox Commission” employed in 1997 to assess the visual impact of the proposal by Table Mountain Aerial Cableway Company to enlarge the Upper Cable Station on the iconic view of Table Mountain, and the “Three Wise Men” group of professors (of architecture, planning and historical archaeology, Professors Cook, Todeschini and Hall respectively) employed in 2000 to assess the visual impact of the very large proposed Board of Executors office building on the environs of the Victoria & Alfred Waterfront.

an interest in such matters. This body was, however, created in late-1999 only and was, therefore, not available as a potential consultee during the period being discussed. It is also true that this 'quango' has concentrated its attentions on "crime and grime" matters and it is unlikely to have the resources to develop an independent view not already presented through the Heritage Committee.

On the other hand, the *Cape Town Heritage Trust* (a property owning trust created by the City Council and the Provincial Government in 1987) has occasionally commented on development proposals in the city centre since its creation. This agency has, however, had an ambivalent relationship with the authorities in this regard for a number of reasons: first, each of the three directors who have held office since its inception have also been members of the Institute of Architects' Heritage Committee; second, a very large proportion of the more than twenty trustees were and are well-known conservationists, mostly architects, who were also members of the Heritage Committee; and third, it has often been unclear whether a comment given in the name of the Trust was that of the individual director or the position of the Trust itself, developed jointly between the trustees. As a consequence, comments from the Heritage Trust have often appeared to be a repeat of an input already received. Given this, the officials of the authorities have baulked at giving special credence to a view already given by the same individuals on the Heritage Committee.

The Simon van der Stel Foundation, an historical society formed nationally in 1959 with local chapters created simultaneously throughout the country, was a particularly active force in conservation circles in the 1970 and 80s and it was clearly one of the significant constituent groups forming the urban governance regime in Cape Town in the 1970s. It did also take a particular interest in Cape Town's city centre. Indeed, in the late-1960s the Cape Town chapter of the Foundation gave considerable attention to the drawing up of a list of conservation-worthy buildings in the city centre, and ultimately completed by the architect Dirk Visser in 1970. The list was then presented to the City Council with the request that the Foundation be consulted in the event of applications being received for the demolition or alteration of any of the identified buildings. This request was initially refused but then in 1971 acceded to, though with reservations. But the list (and its under-lying reasons) was clearly the fore-runner of the inventory promoted by the Cape Institute of Architects five years later and published in 1978 (more about this inventory or "Catalogue" in Chapter 5, section 5.9). It does also bear noting that a number of people active in the Foundation in the 1960s and 70s were also influential either in the NMC or the Cape Institute of Architects or both: for example, two past presidents of the Institute, Douglas Andrews (CIA president 1947-49) and Hannes van der Merwe (1966-68), jointly chaired the Cape Town branch through the 1970s; two other architects renowned for their conservation expertise and highly respected within the architectural profession, Gabriel Fagan and Dirk Visser, together chaired the Foundation through the 1980s; a senior NMC official, Brian Bassett, and a City Council Councillor, Joan Kantey, were also active in the late 1970s and early 80s; as were three other architects who were to make influential contributions to the Catalogue, John Rennie, David van der Heever and Graeme Binckes. However, notwithstanding the significant part that the Foundation played in the initiation of the Catalogue, it did not play a particularly active role in city centre matters after the publication of the first phase of the Catalogue in 1978, although the Foundation has occasionally given its comments on individual

controversies.

It is perhaps something of a disappointment that of all the potential agents in civil society only the Cape Institute of Architects has sustained an interest in development and in conservation-oriented control in the city centre. This is particularly in view of the experience in many other countries, the USA and Britain in particular, where wider popular support has underpinned the rise of conservation ideas: indeed, the renowned American scholar, Vincent Scully, has remarked that conservation is “the only mass popular movement to critically affect the course of architecture in our century” (Scully in 1991; quoted in Brand, 1997, p88). But this is, given the nature of the townscape, given the nature of property rights in the city centre, and the nature of both governance and of civil society in South Africa, perhaps not surprising. It is also true that, as the city centre has had almost no residential population for several decades, there have been no natural “owners” of the public realm whose lives are affected when the spatial matrix of the city is affected by development. Indeed, it has become apparent that the gradual occupation of historic European city centres by office uses and service industries has forced residential populations out, thus substantially changing the dynamic in the pressures regarding urban conservation, and several commentators on conservation and facadism in city centres have blamed both the change of use and the absence of a local community for those difficulties (cf. several of the papers at the 1999 conference on facadism in Paris, Loyer and Schmuckle-Mollard, 2001).

The Cape Institute of Architects and Its Heritage Committee

The body that has played *the* leading role (and consistently so) in conservation-oriented endeavours in the city centre has been the Cape Institute of Architects¹⁵ and its Heritage Committee. This will be clear from the discussion of the transportation planning, the urban design interventions and the conservation-oriented planning in the city centre in the next chapter, Chapter 5, and in the detailed development project case studies in Chapter 6. Indeed, it will already be clear that the Cape Institute of Architects, its Heritage Committee and its members, have played a number of roles in advising both of the authorities, the NMC and the Cape Town City Council, on conservation-related matters since the mid-1970s.

Its Heritage Committee, formed in c1965 and initially called the Urban Vigilance Committee, has had a very considerable influence on every aspect of conservation in Cape Town during the past four decades, which is demonstrated throughout this study. The Heritage Committee is, by definition, made up of architects, though it has always included invited non-architects and, since the mid-1980s, members of the NM Council itself, officials from the NMC, officials from the City Council’s Town Planning Branch and, after its formation in 1987, from the Urban Conservation Unit (some of whom were architects, some not). The committee has had between 12 and 16 members throughout the period which is the focus of this study, that is, from 1986 to 2000 (see Table 2: CIA

¹⁵ The Cape Institute of Architects was formed in 1898; it was renamed as the Cape *Provincial* Institute of Architects in c1971; it then reverted to the Cape Institute of Architects in 1988; and it has recently been renamed *again* in late 2002, now as the Cape Institute *for Architecture*. There may be some uncertainty resulting from this name-changing, but “Cape Institute of Architects” has been preferred in all cases except where *that* would have been misleading; for example, its publications, the two phases of the catalogues, CPIA, 1978 and 1984, are credited to the Cape Provincial Institute of Architects.

Heritage Committee Members, 1986-2000, on pages 93 and 94 for the names of those who served for two years or more during this period). Many of its members have been and still are also active and influential in other conservation-oriented historical societies like the Simon van der Stel Foundation and the Vernacular Architecture Society of South Africa (Vernacs), and a number of the committee members are trustees of the Cape Town Heritage Trust. In other words, the Heritage Committee was ideally constituted to become, as it did, the hub of a conservation-oriented urban governance regime: it was, and is clearly still, the ideal meeting place of a number of different though over-lapping networks; also architects, while often characterised as artistic (read 'unrealistic'), are essentially practical makers of things and are driven by the need to be effective (which is *the essential raison d'être* of an urban governance regime).

At the beginning of the period the approach to conservation favoured by the majority of the Heritage Committee members was clearly that of *historical/stylistic restoration*, and differences between members seem to have been limited to the debate about relying on exhaustive historical research (Gabriel Fagan) or designing by analogy (Dirk Visser), that is, historical or stylistic restorations, both *historicist* approaches to conservation. South Africa had, since the early 1960s, gradually and increasingly been cut off from all cultural, academic, scientific and other forms of interaction with other countries; and, as a result of this cultural isolation, conservation theory did not develop or keep up with international trends *and* the white Afrikaner establishment increasingly felt obliged to emphasise its heroic past, and thus increasingly demanded *historical* and/or *stylistic restorations*, in particular of buildings showing Dutch stylistic characteristics. However, from the mid-1980s the younger officials from the NMC and the City Council promoted the approaches of *conservation of the building as document* and of *critical conservation* (see Townsend, 1988; Freedman Townsend and Pistorius, 1988) and an associated group of architect/academics promoted the integration of conservation planning and physical planning (see Japha and Japha, 1991 and 1993; Todeschini, 1991 and 1993; Townsend 1991 and 1993). Accordingly, between 1986 and 1998, the preferred approach of the Heritage Committee changed from *historical and/or stylistic restoration* to *conservation of the building as document* or, particularly in urban conservation matters, to the *critical conservation* approach which enabled a contextually- or analytically-based approach based on assessment of the significance of the site and environs and the impact of the proposal on that significance.

The Heritage Committee has been, and is still, an unusually influential body in conservation matters and, therefore, in all endeavours in or touching on development and planning in Cape Town. Its members do not, however, share opinions on all matters. This is demonstrated in several instances recounted in this study, most sharply in the case studies discussing The Terraces, Heritage Square and the Rosenhof Court project in Kloof Street. But notwithstanding the many differences, its members share a passion for the city, for its conservation, and for its continued re-invention. It bears mentioning that, precisely because they are architects, the greater majority of the members of the committee were and are concerned with the *making* of the city, with its *improvement*, with the *creative process* in city-making and conservation. As a consequence, even if the first response to a development proposal has often been conservative or preservationist, the Committee has later more often wavered between a preservationist view point, a conservative "keeping in keeping" view, and a view

favouring inventive creativity. Indeed, in several of the case studies this ambiguity, creative versus conservative, has resulted in uncertainty and indecision within the committee and, as a consequence, within the conservation-oriented urban governance regime in Cape Town.

Cape Town's Conservation-Oriented Urban Governance Regime

It is, however, clear that the CIA's Heritage Committee is the hub of the network which forms the conservation-oriented urban governance regime in Cape Town. It is, self-evidently, central to this regime:

“(A)n informal yet relatively stable group *with access to institutional resources* that enable it to have a sustained role in making governing decisions” (Stone, 1984, p4, quoted in Stoker, 1995, pp58-59; emphasis in the original).

It is further contended that the effectiveness and, therefore, the very existence of this urban regime was reliant on four factors:

- First, *the regular meetings* of the significant partners in the regime in the monthly Heritage Committee meetings;
- Second, the *presence and commitment* of the UCU and NMC *officials* (and, of course, their recognition of the contribution of the regime to their own professional and bureaucratic effectiveness);
- Third, an appropriate balance or mix of the matters discussed in the committee of theoretical and/or *policy items* with the more conflictual (even within this group of like-minded professionals) and time-consuming *development control* project items that had been referred to the Committee by either NMC or City Council for comment; and
- Fourth, the recognition of all of these parties that their *actions and co-operation was necessary to produce results* consistent with their own institutional and individual objectives.

The date of 1975 has been suggested as the effective date of the formation of the regime because it is the moment at which, as we shall see in the following chapter, a small group within the Cape Institute of Architects, seizing on the 1975 City Engineer's report, *City for the People*, was able to persuade the City Council first, and then the National Monuments Council and the Provincial Government, that an inventory of conservation-worthy buildings should be funded and drawn up jointly by these parties. The outcome of this agreement, the first Catalogue, published in 1978 (CPIA, 1978), was to be the basis of all the conservation-oriented endeavours and successes in the following years.

All of the successes were predicated on the identification of significance in the Catalogue; and all of them were reliant on the continued and dogged efforts of a relatively small number of people. Table 2: CIA Heritage Committee Members, 1986-2000 on pages 93 and 94 shows that ten people each sat on the CIA's Heritage Committee for at least ten years during the period 1986 - 2000 and another 12 for between four and ten years during this period. While the number of people who sat on the Heritage Committee during this period totals almost twice this number, this group of 22 is particularly significant because each of them was influential in at least one other, if not two or three, of the relatively small number of conservation-oriented bodies that

TABLE 2: CIA HERITAGE COMMITTEE MEMBERS 1986 - 2000

	Cape Institute of Architects Heritage Committee members for at least two years		Simon v.d. Stel Foundation	Catalogue Technical Comm.	Cape Town Heritage Trust	Cape Town City Council	NMC		
	Period of Membership of Heritage Committee	President of CIA, SAIA or special award	Member of local executive committee	Members	Trustees and/or directors	Councillors or UCU officials	Officials	Council members and/or advisers	Plans Comm. Members
Aikman *, Henry	1999-post 2000								
Baumann, Nicolas	1994-post 2000								✓
Binckes, Graeme *	pre 1986-post 2000		✓	✓	✓				✓
du Preez, Hanneljie	1986 - 1992						✓		
Fagan, Gabriel *	pre 1986 - post 2000; Chair 1986-1989	Gold medal-1988	✓	✓	✓			✓	✓
Floyd, Hugh *	pre 1986 - 1995	CIA president 1962-64							✓
Fox, Revel *	pre 1986-87 1997-post 2000; Chair pre 1986-1989	CIA president 1974-76; Gold medal-1977		✓	✓	✓		✓	
Giannelos, Grace	pre1986-87		✓						
Goddard, Greg *	1986-1991					✓			✓
Harris, Stewart *	1996-1999								
Jacobs, Graham *	1989-post 2000			✓		✓			✓
Japha, Vivienne *	pre 1986-1998; Chair 1989-1996	CIA president 1996-98; SAIA vice-pres. 1999			✓			✓	✓
John Rennie *	pre-1986-post2000		✓	✓	✓			✓	✓
Kantey, Joan	pre1986-91		✓			✓			
Lillie, Ashley	1993-1998				✓		✓		
Picton-Seymour, Desiree	pre-1986-90							✓	✓
Riley, Pat *	1986-1995 (intermittent)						✓		✓
Robinson, Laura *	1994-post 2000				✓		✓		✓
Roux, Anton	pre1986-87								
Schoeman, Chris	pre1986-89					✓			✓

	Cape Institute of Architects Heritage Committee members for at least two years		Simonr v.d. Stel Foundation	Catalogue Technical Comm.	Cape Town Heritage Trust	Cape Town City Council	NMC		
	Period of Membership of Heritage Committee	President of CIA, SAIA or special award	Member of local executive committee	Members	Trustees and/or directors	Councillors or UCU officials	Officials	Council members and/or advisers	Plans Comm. Members
Thorold, Trevor *	1994-post 2000; Chair 1999-2000				✓			✓	✓
Townsend, Stephen*	pre 1986-post 2000; Chair 1997-1998					✓			✓
v. Graan *, Andre	1999-2000								
v. Wyk, Llewellyn *	1988-1998	CIA president 1994-96; SAIA vice-pres. 97-98; SAIA pres. 1999-2000				✓			✓
v.d. Heever, David*	1991-post 2000		✓		✓			✓	✓
Visser, Dirk *	pre 1986-post 2000		✓	✓	✓			✓	✓
Smuts, Boet * (from out of town)	1992-1999								
Robertson, Alex *	1987-1989	President 1987-1989							
Ritchie, Bill *	1985-1987	President 1985-1987							
Pike, David *	1989-1991	President 1989-1991							
Groenewald, Trudy*	1991-1993	President 1991-1993							

Note: This list includes all the members of the Heritage Committee who attended the meetings regularly for at least two years during the period 1986-2000. Individuals who attended the monthly meetings infrequently have not been included.

Thirty-one individuals are listed: ten served on the Heritage Committee for ten years or more during the period 1986-2000; twelve served for between four and ten years; and four served for only two years each. The four last named did attend the Heritage Committee meetings relatively frequently during their terms as President and Vice President of the Institute, but did not maintain involvement after that period, and have, therefore, been excluded from summaries included in the text. Boet Smuts, from Knysna, is also excluded from the summaries.

Architects are indicated with an asterix *

have been influential in conservation matters in Cape Town. Indeed, it appears that just four over-lapping groups have comprised Cape Town's conservation-oriented urban governance regime: the CIA's Heritage Committee, the Cape Town Chapter of the Simon van der Stel Foundation, a group of Councillors and officials (including the Urban Conservation Unit) from the City Council, and the NM Council members, their advisers and officials of the NMC.

In effect, this group of 22 from the four groups have implemented the regime's agenda through the Heritage Committee meetings, through the Catalogue's Technical Subcommittee, through the Cape Town Heritage Trust's efforts and, perhaps most importantly, through the decisions made and actions taken by the City Council and the NMC. While it is readily apparent that the Heritage Committee has been the core of the regime, it does also appear that the NMC's Plans Committee and the City Council's Town Planning Branch until about 1990 and its UCU since its inception in early 1987 have been the principal *agents* of the regime; and it is significant that as many as 20 (four as NMC officials, and 16 as voluntary advisors) of the 24 key members of the Heritage Committee have assisted in the NMC's decision-making for a shorter or longer period in the Western Cape Regional Plans Committee meetings from 1987 to 2000.

It is also interesting, but not surprising, to note that 16 of the 22 are architects, four of whom had been president of the CIA (signifying a high degree of personal influence), and eight of whom are (or were) officials of the City Council or the NMC; two of the four who had been president of the CIA have also been City Councillors at some time (signifying an even greater degree of influence); and of the six non-architects in the group of 22, two were NMC officials, one an NM Council member, one a UCU official, and one a City Councillor. It also bears mentioning that two of the architects have received the highest honour that the profession can offer: a gold medal (given to Fox and to Fagan). This is, self-evidently, a group of considerable and congruent influences, made up of influential figures in civil society and supported by determined and committed officials in the two authorities responsible for conservation-oriented policy and decisions. It hardly bears mentioning that each of these individuals have been supported by and have influenced the bodies they represent; for example, the most influential individuals from the City Council during this period, the chairs of the Planning Committee (Councillors Muir and Keegan), were not ever members of the Heritage Committee and could not be described as being a part of the urban governance regime, but they did certainly have considerable influence in the effectiveness of the regime. It is also true that there were and are a number of people who, although they may have sat on the Heritage Committee only very occasionally or not at all, but who are yet influential members of the conservation-oriented urban governance regime. These include people like David Jack, Peter de Tolly (both of whom have been referred to several times already), Penny Pistorius (one-time NMC official and much respected conservationist), David Hart (an influential NMC official), Hans Fransen (renowned historian), Fabio Todeschini (professor of architecture and planning, a renowned conservationist, and a partner of Japha and Todeschini partnership). Also, since the mid-1990s, a group of archaeologists at the University have had an increasingly significant impact on the conservation lobby and the regime: the establishment of the University's Archaeology Contracts Office in the late 1980s, led initially by then Professor Martin Hall and later run by Dave Halkett and Tim Hart (brother of the Dave

Hart, just referred to as an NMC official) and the influence of Professors John Parkington and Antonia Malan (who has become a member of the Heritage Committee since 2000), has gradually raised the profile of historical archaeology and its potential to contribute to architectural and urban conservation endeavours. Indeed, as we shall see in Chapter 6, the scrutiny of each of the last four of the case studies was significantly impacted on by requirements of the NMC regarding archaeological research (not, however, in all cases usefully).

Be that as it may, with hindsight, it is not surprising that this group, this conservation-oriented urban governance regime, was so effective.

4.3 Attitudes of the Key Actors: Insiders and Outsiders

Attitudes and expectations inevitably affect and condition behaviour. Likewise, roles and responsibilities inevitably affect and condition attitudes and stances. It was at the outset of the study expected that the roles and responsibilities of the key actors in the design, scrutiny, negotiation and approval of conservation-related development projects in the city centre of Cape Town would be likely to significantly influence the position that they would adopt and, therefore, the attitude that they were most likely to hold *vis a vis* the several aspects of each development project and, in particular, the controls themselves.

Accordingly, in each of the development project case studies approximately ten of the key actors in that particular drama were interviewed, and they were asked first about their attitudes to and opinions of the *existing system of development rights* and the scale of those rights in the city centre, the objectives and success (or otherwise) of *conservation-oriented controls* generally and regarding both architectural and urban conservation, the *system of identification of conservation-worthiness* currently in place, their opinions of the *authorities' efficiency*, the *effectiveness* of the controls, and their opinions of the *benefits of conservation* generally. Following these general questions each of the key actors were asked the same question, but now pertaining to the details of the individual development project. Thus the questions asked about each project followed or paralleled the general questions, so that the general questions asked were enlarged on or explored further through parallel questions relating to each individual case study. For example, the general question, "what do you think about property rights in general and more particularly in the city centre?" was followed by "what is your opinion of the rights attached to this particular property?" In other words, the answers regarding each individual case tested and enlarged on the answers regarding the general.

It appears, not surprisingly with hindsight, that the role or responsibility of each key actor within the drama of each individual development affected their attitude and behaviour only to a limited extent. Representatives of the authorities, regardless of their position within the authority (elected political representatives, appointed quasi-political NM Council members, or employed officials) or their training, were inclined to hold similar views; and developers and their representatives certainly take very similar positions (which are inclined to be rather at odds with the positions of the authorities' representatives). The professionals for the most part, however, are either "insiders" or "outsiders". The insiders were all, in one way or another, part of the conservation lobby in Cape Town, and they were inclined to hold views and take positions akin to the

representatives of the authorities.

Not all of the parties I have described as insiders, however, were party to the conservation-oriented urban governance regime discussed above. The core of this regime was and is the membership of the CIA's Heritage Committee, and the effectiveness of the regime is in part reliant on its ability to persuade its close and natural allies, these other insiders, to take up and support or make decisions consistent with its (the regime's) agendas. The outsiders, however, are all professionals (the developers, project management professionals, their architects and other professional representatives) who only periodically are involved in conservation-related projects; and they are inclined to take positions similar to those of their clients and of the development industry as a whole.

Accordingly, the key actors/interviewees have been categorised into four groups: "Insiders: Authorities' Representatives", "Insiders: Conservation Lobby", "Outsiders: Developers" and "Outsiders: Professional Representatives". This categorisation reflects several interesting and revealing divisions within the development industry in Cape Town (and probably elsewhere) (see Table 3: List of Persons Interviewed: Insiders and Outsiders, and Table 4: List of Persons Interviewed and the Development Projects on the following pages).

An interesting, if incidental, exploration within the study is an examination of the intersection or overlapping of two communities, namely, the development lobby and the conservation lobby. Not surprisingly, there are relatively large number of architects in both these groups. Accordingly, although it was not the intention of the study to focus on or to give emphasis to the architectural profession, it is not surprising that half of the 56 key actors in these development projects and who were interviewed are architects. Of the 56 key actors interviewed, 14 have been categorised as Insiders: Authorities and their Representatives (six are architects); 15 as Insiders: Conservation Lobby (eight architects); eleven as Outsiders: Developers (no architects); and 16 have been categorised as Outsiders: Professional Representatives (14 are architects).

4.4 The Findings of the Attitudinal Survey:

It should be noted that although the interviews were structured by a list of questions that had been sent to the interviewees in advance, most of the questions were open-ended and invited the interviewee to speak broadly about each subject. The analysis of what was often simply a structured conversation has presented several difficulties: the principal of these has been the difference between the responses of parties who answered briefly or in a very focussed manner and the responses of those who spoke at length and ranged across or around a question. However, given the cross-referencing of the different view-points by virtue of the internal logic of each of the ten¹⁶ case studies and the checks created by the over-lapping questions referring first to a general question and then to that question's resolution in the case study, it would appear that these findings can be regarded with some confidence to reflect the attitudes generally

¹⁶ Although only nine case studies are reported in Chapter 6; and, for reasons already explained, a tenth (the NBS) is discussed more briefly in Chapter 5. However, the responses from the participants in all ten case studies are included in these findings.

TABLE 3: LIST OF PERSONS INTERVIEWED: INSIDERS AND OUTSIDERS**INSIDERS:****The Authorities:**

Cape Town City Council:	Aikman, Henry	Official, Urban Design Section
	Attwell, Melanie	Official, Urban Conservation Unit
	de Tolly, Peter	Director of Planning
	Jack, David	City Planner
	Jacobs, Graham	Official, Urban Conservation Unit
	Richards, Clive	Official, Design Services
	Snelling, Chris	Official, Urban Conservation Unit
Solomon, Shahid	Official, Zoning Administration	
	Keegan, Clive	Chairman, Planning Committee
	Walker, Belinda	Councillor, Planning Committee

National Monuments Council:	du Preez, Hannetjie	Official
	Hart, David	Official
	Pistorius, Penny	Official
	Robinson, Laura	Official

The Conservation Lobby:

Architects:	Fagan, Dr Gabriel	Adviser to the NMC; and rep of Simon vd Stel Foundation
	Fox, Revel	City Councillor, member of the Planning Committee; and CT Heritage Trust member
	Munnik, Mike	MVBF Architects
	Rennie, John	Member of the NMCouncil and Adviser to the NMC
	Thorold, Trevor	Trevor Thorold, Architects; and CIA Heritage Committee
	van den Heever, David	GAPP Architects
	van Wyk, Llewellyn	Chair, Cape Town Heritage Trust
Conservationist:	Visser, Dirk	Adviser to the NMC; trustee to CT Heritage Trust; and MVBF Architects
	Lillie, Ashley	Director, C T HeritageTrust
Engineers:	Fagan, Henry	Adviser to the NMC; and Structural Engineer
	Retief, Jacques	Structural engineer
Archaeologists	Halkett, Dave	Archaeology Contracts Office
	Hart, Tim	Archaeology Contracts Office
Amenity Societies	Hall, Dr Martin	Archaeology Department, UCT
	Claasens, Hettie	Simon van der Stel Foundation

OUTSIDERS:**Property Owners and Reps:**

Breskal, Geoffrey	MD, Bostrust Consortium
Davenport, Tony	Montsi Properties
Hirschon, Ian	MD, Equikor
Loney, Kingsley	Regional Manager: Cape, NBS
Mackay, Murray	Vision Homes
Marais, Petrus	KPMG
McAlister, James	Vision Homes
McVitty, Alan	MD, Blue Mountains Properties
Mitchley, Peter	MD, Protea Assurance
Moore, Gary	Concor Property Developments
Wilson, James	Shaps Properties

Professional representatives:**Architects:**

Berman, Michael	Fabian and Berman, Architects
Burmeister, Bruce	Bruce Burmeister, Architect
Fabian, Dennis	Fabian and Berman, Architects
Head, Vernon	Meyer Louw Partnership
Horne, Andrew	Horne Lutz, Architects
Karol, Louis	Louis Karol, Architects
Lutz, Fredrich	Horne Lutz, Architects
Paddon, Christine	Fabian and Berman, Architects
Robertson, Alex	MLH and Orme, Architects
Schwartz, Jonnie	Louis Karol, Architects
Sharfman, Mo	MVBF, Architects
Simpson, Warren	Warren Simpson, Architects
Smuts, Evon	Louis Karol, Architects
Whitton, John	Stauch Vorster, Architects
Quantity surveyors:	D'Arcy, Fergus
Lawyers	Wheelan, Peter
	Findlay and Tait, Attorneys

Note: Twenty-nine persons are described as insiders; and twenty-seven as outsiders.

The persons listed here are listed just once although many of them were interviewed in connection with more than one project and, in some cases, in more than one capacity, for example, Dirk Visser was interviewed in three capacities: as an adviser to the NMC, as a trustee of the CT Heritage Trust and as an architect. This is because this list is ordered by the characteristic of "insider" and "outsider" which did not change regardless of the capacity in which the person acted. The capacities described are the capacities in which the individual acted in the particular development project regarding which they were interviewed (the projects and the interviewed actors are listed in Table 4).

It has been difficult in some cases to decide whether an individual is an "insider" or not. For example, I am hard pushed to explain why I see Mike Munnik as an insider and Alex Robertson as an outsider; both have been president of the CIA and both are clever and sensitive architects. Ultimately, in these difficult cases, the differentiation has been determined by the stance of the individual *vis a vis* the conservation lobby and the controls in development control circumstances.

TABLE 4: LIST OF PERSONS INTERVIEWED AND THE DEVELOPMENT PROJECTS

THE DEVELOPMENT PROJECTS AND THE YEAR APPROVED

Representatives of:	NBS 1985	Stuttafords 1987	Protea 1988	Terraces 1989	Fed-Life 1990	22 Kloof St 1990	Heritage Sq 1997	Boston Hse 1997	KPMG 1997	Park On Long 1998	No of times each individual interviewed
THE AUTHORITIES											
Cape Town City Council:											
Aikman, Henry	✓	✓	✓		✓						4
Attwell, Melanie							✓				1
de Tolly, Peter	✓		✓	✓							3
Jack, David	✓	✓	✓								3
Jacobs, Graham						✓	✓	✓	✓	✓	5
Richards, Clive										✓	1
Snelling, Chris								✓	✓	✓	3
Solomon, Shahid				✓							1
Fox, Revel *									✓	✓	2*
Keegan, Clive				✓							1
Walker, Belinda									✓		1
National Monuments Council:											
du Preez, Hanneltjie						✓					1
Hart, David							✓	✓	✓	✓	4
Pistorius, Penny		✓	✓	✓	✓	✓					5
Robinson, Laura							✓	✓	✓	✓	4
Rennie, John		✓		✓		✓					3
Fagan, Dr Gawie *								✓			1*

Representatives of:	NBS 1985	Stuttafords 1987	Protea 1988	Terraces 1989	Fed-Life 1990	22 Kloof St 1990	Heritage Sq 1997	Boston Hse 1997	KPMG 1997	Park On Long 1998	No of times each individual interviewed
Fagan, Henry		✓									1
Visser, Dirk *						✓					1*
THE DEVELOPMENT TEAM											
Property Owners:											
Breskal, Geoffrey								✓			1
Fox, Revel *							✓				1*
Hirschon, Ian		✓		✓							2
Loney, Kingsley	✓										1
Marais, Petrus									✓		1
McVitty, Alan						✓					1
Mitchley, Peter			✓								1
van Wyk, Llewellyn							✓				1
Visser, Dirk *							✓				1
Wilson, James										✓	1*
Developers:											
Davenport, Tony							✓				1
Lillie, Ashley							✓				1
Mackay, Murray										✓	1
McAlister, James										✓	1
Moore, Gary					✓						1
Architects:											
Berman, Michael								✓			1

Representatives of:	NBS 1985	Stuttards 1987	Protea 1988	Terraces 1989	Fed-Life 1990	22 Kloof St 1990	Heritage Sq 1997	Boston Hse 1997	KPMG 1997	Park On Long 1998	No of times each individual interviewed
Burmeister, Bruce										✓	1
Fabian, Dennis								✓			1
Head, Vernon					✓						1
Horne, Andrew									✓		1
Karol, Louis			✓								1
Lutz, Fredrich									✓		1
Munnik, Mike				✓							1
Paddon, Christine								✓			1
Robertson, Alex	✓										1
Schwartz, Jonnie			✓								1
Sharfman, Mo				✓							1
Simpson, Warren						✓					1
Smuts, Evon			✓								1
Thorold, Trevor *							✓				1*
van den Heever, David							✓				1
Visser, Dirk *		✓		✓							2*
Whitton, John		✓									1
Quantity Surveyors:											
D'Arcy, Fergus										✓	1
Engineers:											
Retief, Jacques									✓		1

Archaeologists:											
Halkett, Dave					✓		✓		✓	✓	4
Hart, Tim					✓		✓		✓	✓	4
Representatives of:	NBS 1985	Stuttafords 1987	Protea 1988	Terraces 1989	Fed-Life 1990	22 Kloof St 1990	Heritage Sq 1997	Boston Hse 1997	KPMG 1997	Park On Long 1998	No of times each individual interviewed
Lawyers:											
Wheelan, Peter						✓					1
OTHER INTERESTED PARTIES:											
Professional Institutes:											
Hall, Dr Martin							✓				1
Thorold, Trevor *									✓		1 *
Amenity Societies:											
Claasens, Hettie				✓							1
Fagan, Dr Gawie *				✓							1
No of Interviews for each project:	5	8	8	11	6	8	14	9	13	13	95

Note: Several individuals were interviewed in more than one capacity. Their names are repeated in each of the capacities in which they were interviewed, and their names are indicated with an asterisk in each category

of the conservation lobby and of the development industry *vis a vis* conservation-oriented controls. In other words, it is contended that these findings are an integral and reliable component of this detailed and rich "context bound account" (Watson, 2002, p7), but it is recognised that the findings cannot be regarded with confidence *numerically*.

Attitudes to Development Rights in the City Centre

Of the 29 insiders (authorities' representatives and conservation lobby taken together), twenty-six or 90% believe that *the development rights* in the city centre of Cape Town are *inappropriate and excessive*. However, of the 27 outsiders (developers and professionals taken together) 23 or 85% believe that they are *appropriate*. Given the difference in interest, a difference of opinion between the two groups is not surprising; but the very extent of this difference indicates the very hard lines between conservation and development communities (even though almost exactly 50% of each group are architects). Indeed, this difference alone would seem to illustrate or pre-figure the conflict between rights and constraints.

It is of particular interest to this researcher that certainly the most cogent arguments regarding the extent of the rights were made by two of the three dissenting conservation lobby insiders:

First, David Jack, a highly respected architect, development manager, and past City Planner,¹⁷ pointed out that notwithstanding the rights attached to property, assemblies of small sites within the old city centre were difficult and that, as a result, the rights were often extremely difficult to access (David Jack, interview, 20/6/2001). He also pointed out that most of the over-scaled buildings in the city centre had been built by the local, provincial or national government and, therefore, without proper assessment and evaluation (this point had been made previously by this researcher in Townsend, 2000, and will be discussed in section 5.7 in the next chapter) and that, by contrast, a number of very good, contextually appropriate and well-designed buildings in the city centre had achieved 100% of the permitted bulk (for example, of the projects examined in detail, the NBS and the Protea Assurance projects both achieved 100% of their permitted bulk; indeed, these two buildings are probably the most admired of all the post-War buildings in the city).

Second, Professor Martin Hall, an equally highly respected academic,¹⁸ argued, from a national developmental point of view, that the rights should be "in sync" with the city's (and the region's) development needs and that they should enable and encourage development and investment. Speaking from within his discipline and internationally recognised expertise, he also pointed out that the great historical cities of the world are palimpsests where more recent creations continuously over-write and enrich the

¹⁷ Dave Jack was Cape Town's first City Planner from 1986 until 1988 (and Assistant City Engineer since c1980), the first MD of the extraordinarily successful redevelopment of Cape Town's Waterfront from 1989 until 2001, a past-president of the Cape Institute of Architects (1984-6) and a SAIA gold medalist (2001).

¹⁸ Professor Hall is a renowned and much published historical archaeologist; and has recently been appointed as a Deputy Principal of the University of Cape Town.

historical city (Dr Martin Hall, interview, 18/4/2001).

Several highly respected outsider commentators also made extremely cogent and persuasive remarks regarding the relationship between rights and land value, and the sheer volume of development rights necessary for a centre to be truly a centre (interviews with, for example, both Evon Smuts, 1/12/2000, and with Louis Karol, 30/11/2000).

The significance of *perceptions* is, however, demonstrated by a careful analysis of the case study projects: as we shall see in Chapter 6, only two of the nine case study development projects were problematic because of the development rights attached to the sites. The two were The Terraces and the Federated Life Assurance building, which were both subject to considerable pressure from the authorities during the scrutiny and approval process to reduce their scale and impact. Both of them did respond to the negotiations and both were considerably reduced in size; although both are still criticised by most commentators for their scale and impacts. However, both buildings used only a part of the floor area permitted: The Terraces used 76% of its permitted floor area and Fed Life used only 51%. These two buildings were, however, the first large buildings to be constructed in the city where the increased demand for *on-site* parking significantly increased the size of the building; both included considerable volumes for parking which is not included in the "bulk" calculation (The Terraces includes 200 bays and Fed Life 230). Incidentally, six of the 56 interviewees made specific and un-prompted reference to this very curious anomaly in the Zoning Scheme and suggested that it should be changed.

In conclusion, of the 30 parties (26 insiders and four outsiders) who believe that the rights are excessive, 21 or 70% (38% of all interviewees) either argued or implied that in the historical city centre the rights should be limited to the existing built envelopes and that all additional bulk should have to be negotiated.

Attitudes to Conservation-Oriented Controls

Surprisingly, 54 or 96% of the 56 interviewees *concede that conservation-oriented controls are necessary*. In view of the distance between conservation and development communities suggested by the differences over development rights, this is a most unexpected finding. Most interestingly, it implies that almost all of the parties who believe that the development rights in the city centre are appropriate also accept that those rights should be mediated or moderated by conservation-oriented controls under certain, even most, circumstances. It also suggests that the criticisms of conservation-oriented control are directed not at the controls *per se* or in principle, but rather at the way in which the controls are administered in Cape Town (and perhaps elsewhere). It bears mentioning in this regard that *the only* two parties who are resistant to the notion of conservation-oriented controls implied that their resistance was because the authorities and their officials were not good enough; and that they wanted "enlightened authorities" who would "debate things" with them (Louis Karol, interview, 30/11/2000). It has been suggested that the increasing commodification of heritage explains the general acceptance of conservation-oriented controls but, given the profile of the key actors/interviewees who have ventured this opinion in favour of the controls in this study, this is unlikely. Indeed, given the profile and their position in the development industry,

it reflects rather a concern about the urban quality of the city centre and its performance as *the* centre of a much loved city.

This finding does parallel the findings of other researchers in other parts of the world: Loew found in France that, although architects complain about the rules and regulations, they do generally accept that they are necessary: "to avoid disasters" and none of the architects in private practice interviewed in his study thought that either "rules or gatekeepers should be abolished" (Loew, 1995, p185). Indeed, he argued that sometimes the architects use the rules and the authorities to improve their proposals in the face of demands from their clients:

"The gatekeepers were sympathetic ... they knew how to transform absurd regulations into a clearer framework. The constraints then help to give structure to the work" (French architect quoted by Loew, 1995, p186).

Twenty-three (distributed evenly between the four groups) or 41% of the 54 who accept the need for the controls, were clear that the environs generally or the townscape should be the primary subject of attention. All but one of the rest, that is, 32 of the parties either did not state a preference or they stated that both individual buildings and the environs should be equally subject to the controls. Only one thought that individual buildings should be the primary subject of attention. This is a significant conclusion, too, because it suggests that the townscape, the environment, should be the primary object of attention of the conservation controls rather than individual buildings only, although a significant number clearly recognise that authentic carefully conserved individual buildings that have been given the appropriate attention have a significant affect on the environment.

As many as 35 or two-thirds (distributed fairly evenly between the groups with a slight preponderance of insiders) of all the interviewees were concerned that the authorities be adequately resourced in terms of numbers and skills, that they carry out the appropriate research and identification of conservation-worthiness, and that they give the necessary guidance.

Twenty-two or 40% of the 56 (including 14 or half of the 28 architects) voiced concerns about the ideas, values and approaches that underpin any system of conservation-oriented controls. Almost all of these parties explicitly argued for or implied a preference for conservation ideas and approaches that enabled flexibility, negotiation, multi-valency of values, imaginativeness and modernism. These opinions are, even if not necessarily consciously so, consistent with the theories of critical conservation described in Chapter 2 and the notions of the city as a palimpsest.

Attitudes to the Identification of Conservation-Worthy Buildings and Areas

During the period under analysis and until the present day, the basis for the identification and categorisation of conservation-worthy buildings and sites in the city centre has been the Catalogue of *The Buildings of Central Cape Town* (CPIA, 1976). This identification and categorisation is, in turn, the basis of the gradings (Townsend, 1996) and as the basis for the authorities' conservation intentions, policies and plans in the city centre both regarding the conservation of individual buildings of the greatest significance and the delimitation of conservation areas. The questions asked of the key

actors/interviewees were designed to test the degree of acceptance by both the conservation lobby (including the authorities) and by the development community of the Catalogue as a standard.

Marked differences between insiders and outsiders were found: 18 or 62% of the 29 insiders were positive about the Catalogue, although seven of them had caveats. Five or 17% were critical. Five of the six who either had no opinion or simply did not express an opinion are not architects (and probably were therefore less likely to be involved in debates about the relationship between conservation-significance and development rights). The seven with caveats and the five parties critical of the Catalogue expressed similar reservations, arguing that the Catalogue needed to be up-dated, that it was "too building-focussed", and that it did not deal with or allow for the contribution made by buildings to the townscape. Several of these also referred specifically to the fact that the Catalogue ignored *art deco* buildings. It is clear that these reservations are not dismissive or denigrating of the Catalogue in principle, but criticised it for its perceived inadequacies.

As many as eight or 28% of the insiders, however, said unprompted that they believed that the Catalogue had had a far wider impact than simply to identify conservation-worthy buildings: for example, "from the moment that it was published it changed the climate in the CBD, and added authority to conservation" (Henry Aikman, interview, 21/11/2000) and that "being done under the auspices of the CPIA gave it status and it was taken seriously" (Dave Jack, interview, 20/6/2001). Several also pointed out that although it did not deal with area character or contribution to the townscape, it had served as a basis for conservation area identification.

It is interesting (and surprising) that of the outsiders not one of the developers knew of or showed any interest in or awareness of the Catalogue and its import; and only five of the 16 outsider professionals were aware of the Catalogue. Of these, only one accepted it, "as our Bible" (Mo Sharfman¹⁹, interview, 13/2/2001), and four were critical either for it being out of date or for being inaccurate. This does suggest a distinct lack of professional diligence on the part of these architects who should have made it their business to know the basis of the identifications of conservation-worthiness; but it did also imply that these architects thought that information of this sort was difficult to access, implying that the authorities, the NMC and the UCU, should be more aggressive in publishing the information and in ensuring that their own assessments are consistent with or reliant on the Catalogue.

Opinions of and Attitudes Towards the Authorities

Twenty-eight or half of the 56 parties interviewed were critical to the point of being derogatory about the NMC, while six or seven were critical of the City Council in the same way (this latter figure may be under-stated because the interviewer's position in the City Council may have discouraged overly direct criticism).

These criticisms or derogatory remarks do not include straight-forward differences of

¹⁹ This is not surprising because Sharfman was a partner of Dirk Visser, one of the primary movers of the Catalogue, and of Mike Munnik, a past president of the CIA and also an insider.

opinion or criticism of a decision taken; they were, for the most part, an explicit expression of frustration primarily with ambivalence, indecision, prevarication and/or the reversing of positions previously held. The cases referred to most frequently in this regard include Stuttafords, The Terraces, the Rosenhof Court project and Heritage Square; but Fed Life, Protea (or rather the associated project to put parking under Greenmarket Square) and Park-On-Long were also referred to in this regard. It bears mentioning that these remarks were made equally by insiders and outsiders.

The Efficacy of the Controls

Directly related to the almost unanimous acceptance that conservation-oriented controls are necessary is the general agreement that, of the ten projects studied, only two were not improved by the controls and the attentions of the authorities. The differences between the two are interesting.

Of the two, the first is the Rosenhof Court development at 20-22 Kloof Street about which, with two exceptions (the architect and an adviser to the NMC), there is general agreement that the completed project has no conservation significance or meaning whatsoever. It is further agreed that the controls, through the wrong-headed hopes and demands of the NM Council itself and its advisers, were the direct cause of the erosion over years and ultimate loss of any conservation-worthiness.

The second is the "high-tech" intervention for KPMG on a pair of conservation-worthy buildings in Keerom Street which is not regarded to be a success *for the controls* for quite different reasons. The project was received with considerable enthusiasm by all the parties in the first instance and, by definition, was not influenced by the controls. That the City Council's Planning Committee later reversed the initial approval (which was itself subsequently reversed again) had no effect on the project other than to underline the ambivalence of the conservatively-minded with regard to modern high-tech interventions.

There are, however, some minority views on whether the controls themselves were instrumental in contributing to the admitted conservation success of several of the projects. The dissenting voices in these cases were the developers or their architects who contended that the projects would have been conservation successes without the controls. These projects include the NBS, Protea, Stuttafords and Heritage Square. In all four of these cases, these dissenters ignore or disregard the pressure created by the controls prior to their project. They also disregard the on-going scrutiny and pressure from the authorities during the scrutiny and approval process that led to more detailed research and to more careful design.

There were also, of course, minority views on whether certain of the projects had been successful at all. The dissenting voices in these cases were all from the insider groups, that is, the authorities and the conservation lobby: and the projects were the Terraces and Boston House. In these cases, however, the dissenters do for the most part concede that significant gains were made through the controls even though the projects were failures in their (the critics') terms.

This is an extremely significant finding as it, in large part and on its own, justifies the

controls.

The Benefits of Conservation-Oriented Controls

The almost unanimous acceptance and recognition of the benefits of the controls is consistent with the almost unanimous belief of the interviewees that conservation-oriented controls are necessary and that the controls are efficacious. Not surprisingly, the same 54 parties believe that conservation-oriented controls do bear real benefits.

Thirty-seven or two thirds of the 54 believe that the environs generally, the character of the environs, and the public realm as a whole are or should be the primary beneficiaries of the attention of the authorities. On the other hand, 22 or 40% of the 54 (clearly there is some over-lap here) believe that the historical character and nature of the city centre is or should be the primary beneficiary of the controls.

Only six of the 54 believe that there is at least a potential financial benefit that is gained either by each individual developer or by all the property owners in the immediate environs by virtue of the special qualities of the conserved or enhanced significance. The benefits to the tourism industry and thus to the regional economy were also referred to in this regard. It is very interesting (and surprising) that only four of the 56 suggested that financial incentives were a necessity, and only one of these is a developer. We should, however, not make too much of this. It may simply be that, in the current economic and political circumstances, most parties recognise and accept that the authorities are *unlikely* to create financial benefits or incentives for conservation-oriented objectives. This may also reflect the growing awareness in many parts of the world that conservation cannot be sustained by the state: for example, although in the UK considerable funding of conservation is available from a variety of sources, central government has stated that, in essence, conservation in England will be driven by "enhanced property values" (Punter and Carmona, 1997, p266).

A relatively large number, 22 or 39% of the 56, argued that the controls would only be effective if the authorities have the proper resources and they carry out the appropriate research, publish the necessary findings regarding both the history and the reasons for the assessments of significance, and give the appropriate guidance effectively and timeously to every potential developer. It is, however, more significant that of the 22 who enunciated this view, 13 of them are "outsider" architects, that is, 92% of that group. It is clear that the information about conservation-worthy buildings and sites and the criteria applied by the authorities in the scrutiny of proposals is to a large extent not understood or not accepted by the "outsiders". A large number of this group also referred with concern to the approach or "theory" of conservation held by the authorities and the conservation lobby. It is apparent that this area of concern is less about the identification of or criteria of significance, but refers to the architectural strategy or approach to conservation that may or may not be acceptable to the authorities and their officials: for example, is it acceptable to design a modern extension to an ancient core building or should it be "in keeping" and, therefore, probably a pastiche? Or, is it acceptable to replace a missing or demolished part of an ancient building with a modest and architecturally low-key component or should it be "restored"? In other words, will the authorities insist on a historical or stylistic restoration, or will they *demand* conservation-of-fabric-as-document and, therefore, will every piece of ancient walling or timber have

to be retained because of its age or authenticity?

4.5 Conclusions Regarding the Attitudinal Survey

The findings described above give a reasonably clear picture of the attitudes and expectations of both the conservation community and of the development community *vis a vis* the workings of conservation-oriented controls in Cape Town during the past two decades. This picture will be further completed and coloured by the description of conservation and planning in the city centre of Cape Town during the past few decades which follows in Chapter 5, and by the accounts of the actions of these same key actors discussed here during the scrutiny and approval processes of the development projects described and analysed in Chapter 6.

We can, however, conclude here that there is a very clear difference of opinion between conservationists and developers about the scale of the development rights in the city centre, which the conservation lobby holds to be the primary limiting factor in effective conservation-oriented control. On the other hand, it is also already quite clear that the rights *per se* have seldom been the primary cause of conservation-related failure; and this will be demonstrated clearly in Chapters 7 and 8.

We can also conclude that both groups, insiders and outsiders, almost unanimously agree that conservation-oriented controls are necessary, that they are effective and that measurable positive benefits for the environs are derived from the controls. There is also general agreement that prevarication in decision-making is a frequent failure of the authorities, particularly of the NMC/SAHRA; and that the authorities must be adequately resourced and must carry out the necessary research and identification of conservation-worthiness, and that they must give the necessary guidance timeously. It is unexpected, though with hindsight less so, that as many as 92% of the outsider architects are particularly concerned about the conservation approach preferred and demanded by the authorities.

Chapter 5

Changing Values and Practices: Planning and Conservation in the City Centre of Cape Town

5.1 Introduction

The city centre of Cape Town is the geographical locus and the physical context of the study. Given that the study relies on a multiple-case study involving nine conservation-related development projects set in the city centre of Cape Town, the history of the city's growth, the townscape, and the planning, development and conservation of the city centre over the last three decades require fairly detailed description. This chapter describes the origins of the physical form of the city centre and its extent by the end of the 19th century, early preservation and restoration endeavours in the city centre at the beginning of the 20th century, the planning of the land reclamation between the city and the sea in the 1930s and 40s thus creating the Foreshore, the effects of transportation planning immediately after WWII and the construction of the motorways in the 1950s and 60s, the development of tower buildings in the 1960s, 70s and 80s, the gradual change in attitude in response to these destructive impacts on the city, the creation of an inventory of conservation-worthy buildings, a pedestrianisation plan in 1975 and its implementation from 1986, several public controversies regarding over-scaled and insensitive proposals in the city centre during the 1980s, the relationship between transportation planning and conservation in the West City from the late 1970s and the resultant creation of the Cape Town Heritage Trust and its successes, the 15 year process of designating conservation areas in the city centre from 1979 to 1994, and the final approval of the entire 'historical' city centre as a conservation area in 1997. This is not so much a history of planning in the city centre, as a background to the conservation-oriented development control endeavours carried out between 1986 and 2000, that is, during the life of the final form of the National Monuments Act.

Although this study was not specifically designed to examine the relationships of power between the key actors and the other role players in the planning of the city or in the development project case studies to be described later in the way that Flyvbjerg's study of planning in Aalborg does (Flyvbjerg, 1998), the previous chapter has described the key actors in these dramas and the formation of a conservation-oriented "urban governance regime" which included many of these key actors. This regime was to be increasingly effective in Cape Town from the late 1970s and this chapter will describe their endeavours and successes. Although this chapter simply describes these events, the underlying intention is to reflect on the values of the protagonists, in particular as they are expressed in the arena of development control.

Forty years ago Bonelli argued that the true task of modern man was the restoration and recovery of the city itself, both in its physical form and as a living organism (Bonelli, 1959). It will already have become clear how many of the key actors in Cape Town have during these past three decades endeavoured, sometimes apparently unconsciously and sometimes consciously and determinedly so, to protect or restore the life of this startlingly charming city.

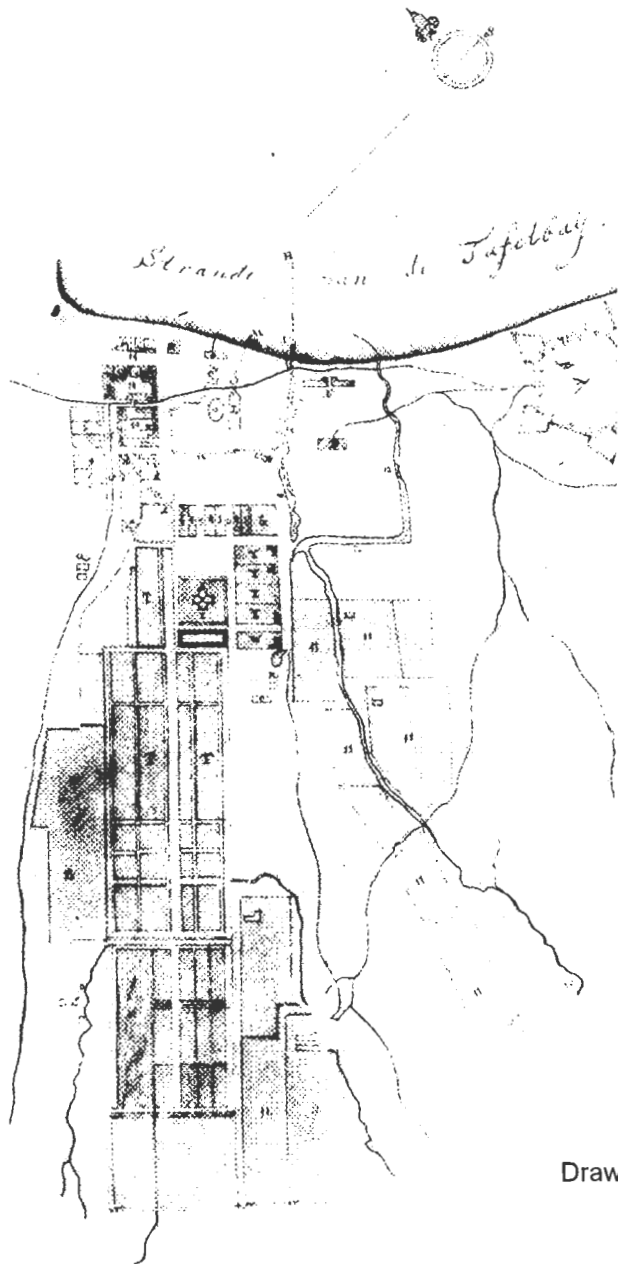
5.2 The Growth of the City Centre of Cape Town

This description of the growth of Cape Town is intended to explain the extant *layout and component parts of the city centre*. It relies mainly on the analysis of a number of maps, panoramic drawings and photographs of the city, and on several well-known secondary sources (for example, Worden *et al*, 1998; Rennie in Volume One, CPIA, 1978).

Although the first colonial settlement at the Cape dates from 1652 when van Riebeeck arrived at the head of three Dutch East Indies Company (VOC) ships, explorers and traders had been passing by and occasionally being wrecked and cast ashore since 1488 when Diaz first rounded the Cape. Early interactions between the Portuguese, English or Dutch explorers and the indigenous Khoi pastoralists, who had occupied the land with San hunter-gatherers for millennia, had often been confrontational. Accordingly, van Riebeeck's instructions were to establish a garden and to develop a station to resist both the indigenous people and European rivals; and the first duty was to construct a defensive fort. The positioning of the fort and the garden adjacent to the streams providing the most vigorous sources of fresh water was to determine the siting of the freeburgers' houses and the position, orientation and layout of the future city.

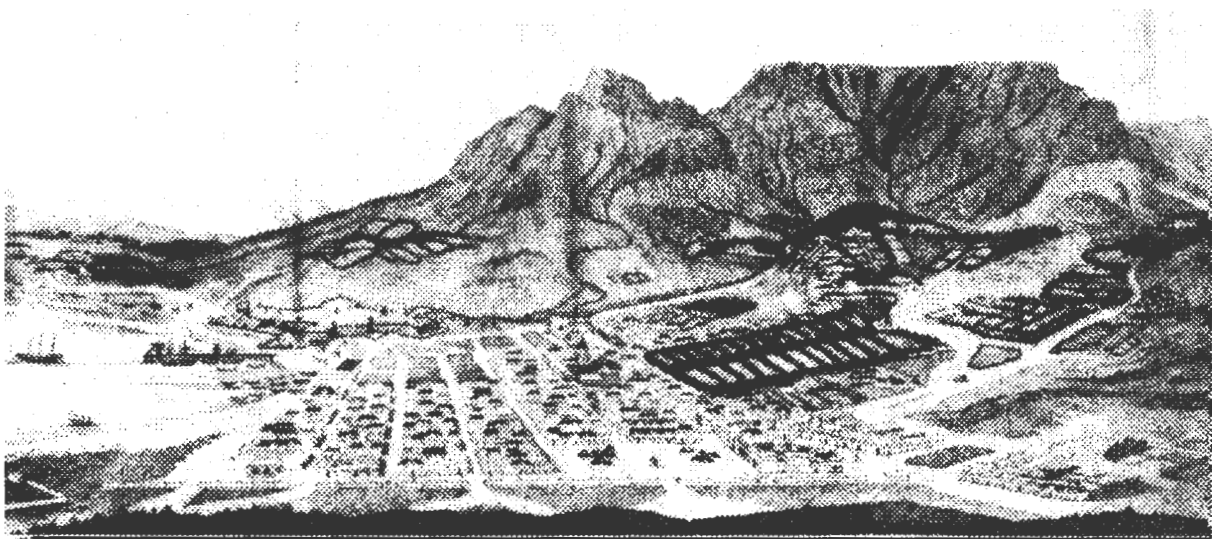
Contrary to the romantic suggestions of many commentators that "nature was bountiful" (Todeschini, 1993, p30) and that the indigenous people "lived in harmony with nature" (Fagan, 1993, p10), the landscape settled by the Dutch was bleak and windswept; so bleak and uninviting that none of the competing powers had in more than a century and a half after Diaz' rounding of the Cape given serious thought to settling here. The floral kingdom of the Cape Peninsula is uniquely rich in species, but is largely xerophytic; the vegetation is slow-growing, hardy and not easily adapted for building purposes (cf. Gerneke, 1993). Indeed, there are very few trees endemic to the Cape floral kingdom that are useful in the urban landscape: indigenous trees are either too slow growing and/or do not grow to a useful size.

By the late-1650s the settlement was already being described as a "town", though in 1658 the population, including the garrison of eighty, totalled only three hundred and sixty (a little more than half were slaves). A plan of 1660 clearly shows the orthogonal arrangement of the gardens and some short streets which established *the orientation and position of the city grid*. Indeed, the positions of Adderley (then known as the Heerengracht), Castle and Hout Streets appear on this plan; the positions of the Heerengracht and the site of the church had been determined by the "rooij lijn" or open space, which determined the proximity of development to the little fort (van Oers, 2000). The simple earthen fort, built in the first year of settlement, collapsed in 1663 and the stone-clad Castle, which still exists (the first national monument, declared in 1936), was started in 1666 and completed with a shallow moat in 1679 a little further away from the gardens and from the freeburgers' houses. A map of 1693 shows further development of the little town on the same lines revealed in the 1660 map: the positions of the Heerengracht, Castle and Hout Streets are confirmed and now the positions of Strand, Shortmarket/Darling, Plein and Parliament Streets are all set, establishing the scale of the city block as well as the orientation of the grid. This map also shows the VOC garden (declared as a national monument in 1937) and the numerous private market gardens in the Table Valley on the lower slopes of the surrounding mountains.



Map of 1693 (CA E3569)

Drawing by Schumacher, 1763 (CA M165)



In the first years of the 18th century the settlement had a clear and simple order: the Castle, separated from the town by its parade ground (declared as a national monument in 1962) which stretched all the way to the Heerengracht, was the most imposing structure by far; near the top of the Heerengracht stood the church with its distinctive tower and steeple (built in 1704 and which still stands; declared as a national monument in 1962), the hospital, and the slave lodge (its remains are embedded within the building re-modelled in 1814 as the supreme court and now the Cultural History Museum; declared as a national monument in 1967), with the VOC garden stretching above (though by this time the gardens had already become ornamental rather than productive). Notably, there were no town walls. The town reflected the imposition of a regular colonial order imposed on these alien and inhospitable environs (cf. Todeschini, 1993, p30).

The surveyor Wentzel's map of Cape Town of 1751 shows that the east side of the town close to the Castle was still undeveloped and used only as gardens; and the panoramic view drawn by Schumacher in 1767 shows the town extending from the Buitengracht ("outer canal") to the Buitenkant ("outer edge") and from the sea to Buitensingel ("outer crescent"), and consisting primarily of modest single- and double-storey buildings (by this time most were flat-roofed, designed to resist fire); and beyond these "outer" limits were numerous market gardens and the first two city-blocks constructed above or north-west of the Buitengracht (several of these houses, built between 1663 and 1668, still exist, now part of the Muslim Quarter abutting the city centre; declared as a national monument in 1966). The eastern side of the town, above the Castle, was at this time still largely undeveloped; though construction of the new hospital was started here in 1772, but only completed decades later as military barracks. This substantial building bounded Caledon Square which, in turn, abutted the Grand Parade. It bears mentioning that during this period, in the 1770s, the first attempt to build sewers was made, though this proved more difficult than expected (Worden *et al*, 1998).

During the second half of the 18th century the greatest impetus to growth was external. Competition between the great powers for control of the trade routes brought prosperity to the colony; and, notwithstanding the decline of the VOC, the use of the port as a neutral supply station and its occupation by re-enforcements brought boom periods to the town. As a result, during the second half of the 18th century gradually more substantial buildings of all types were constructed, often replacing or incorporating the older pre-existing and less substantial buildings. Consequently, apart from the Castle and the Groote Kerk's tower, the oldest extant buildings in the city centre today date from this period; these include the Town House of 1751 (declared as a monument in 1939), the Lutheran Church and the abutting Melck and Sexton's Houses, Koopmans de Wet House and Rust and Vreugd, which were all built in the last couple of decades of the 18th century (declared as monuments in 1948, 1936, 1948, 1940 and 1940 respectively). It bears mentioning that other than these grander buildings from the last years of Dutch rule, the material remains of the earlier years, in particular, those of the under-classes, the slaves and the indigenous people, are almost inevitably too friable and insubstantial to have survived or to be found.

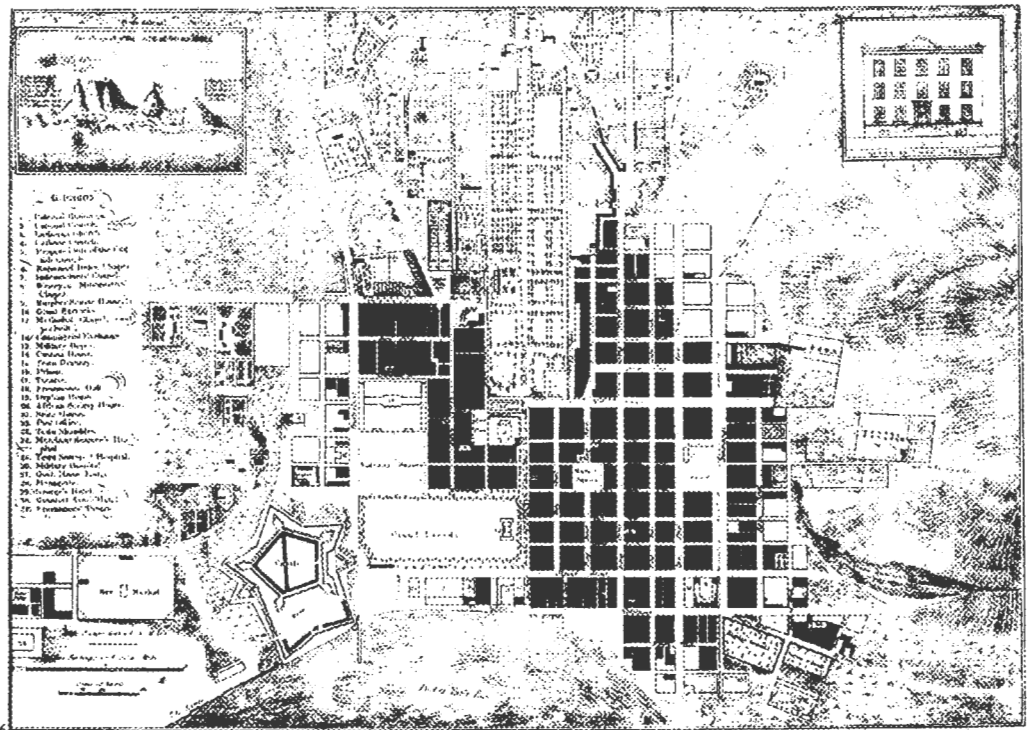
The British occupation, first in 1795 (until 1803) and then permanently from 1806, and

British trading and imperial interests in India, South-East Asia and Australia made Cape Town an important port and crucial to international trade. This growing importance and the development of the colony as an effective supplier of agricultural produce encouraged many immigrants from Britain, in particular, after the Napoleonic wars. Another significant change in the nature of the city's populace was the decline in the number of slaves: in 1806 there were 9367 slaves in Cape Town which was almost halved by 1834 when slavery was abolished. These changes and pressures during the first few decades of British rule had several significant impacts on the shape and nature of the city: first, greater wealth and the availability of better building materials enabled grander houses (an interesting example is the house enlarged by George Thompson in the 1820s, depicted in the top-right insert on Thompson's plan of 1827 shown on the facing page and discussed in the case study of the Park-on-Long development); and second, the large number of freed slaves and new immigrants required small houses (as still exist today in the Bokaap), which also led to overcrowding and tenement slums (for example, those discovered at 108 Shortmarket Street and discussed briefly in the Heritage Square case study); and, third, the British relaxation of the restrictions on forms of worship led to the construction of several new churches and mosques.

Thompson's map shows these still incipient changes: the city had expanded westwards across the Buitengracht, maintaining the street pattern (though with additional lanes creating a finer grain for the smaller houses) and completing the Bokaap which was becoming increasingly Muslim. Also, the city had started to climb southwards and to absorb the market gardens of the Table Valley (discussed in the Rosenhof Court and KPMG case studies); and in the east, the city had expanded across the Buitenkant above the Castle.

During the 19th century the market-gardens in the Table Valley adjacent to the growing town became increasingly dense and more residential: its morphology has a rather less rigid pattern, reflecting its gradual development responding to older pre-existing property boundaries and to the topography (Verschoyle, 2000). The expansion of the city had accelerated both towards Green Point in the north-west and towards District Six in the south-east where the highest densities were being developed, in particular, between the 1830s and the mid-1860s. Snow's survey of 1862 shows the increased density of the city centre and how the city had expanded quickly, if unevenly, into the surrounding areas where permitted by the topography. It is also clear from the maps, drawings, almanacs and street directories that the initially relatively large properties of the first subdivisions of the city blocks had later been increasingly subdivided, and that a relatively large proportion of the properties were still being used for residential purposes, which pertained until late in the 19th century. Maps do not, of course, show the changes in architectural style (or the absence of change), but the drawings of artists like d'Oyly and Solomon Caesar Malan in the 1830s and 40s and the earliest photographs from the 1860s do show that the character of the city had not changed significantly during the early 19th century and that the double storey flat-roofed and parapeted buildings with relatively planar facades still predominated (CPIA, 1978, pp20-22).

Most significant for the city, however, were the improvements to the harbour and the construction of the railways: construction of the breakwater and the new harbour



Thompson's Map of Cape Town, 1827 (CA M453)



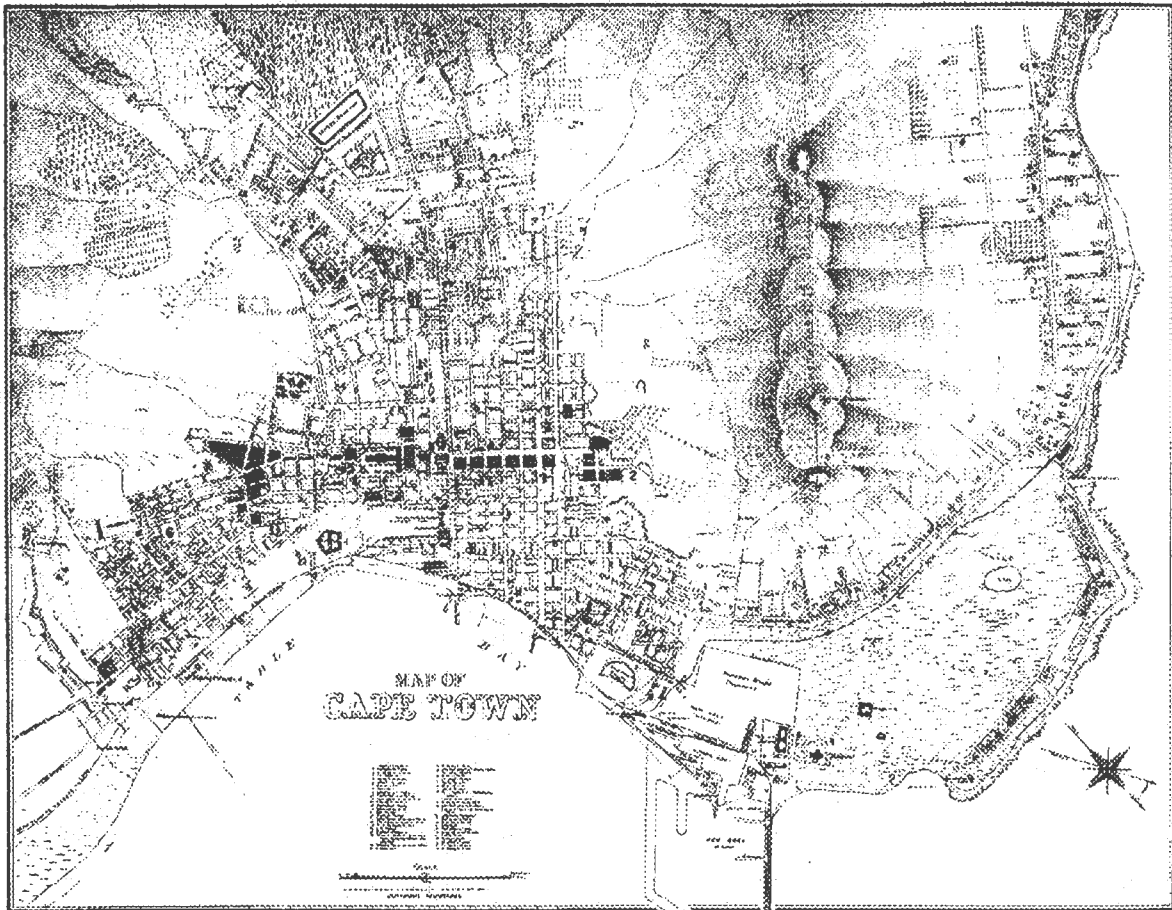
Millard's Panorama: Cape Town in 1859

commenced in 1860, and the first stretch of railway line reached Salt River in 1862 and then Wellington, some 60km away in the hinterland, the following year. The line to Wynberg, 15 km to the south, and which made suburban life in those relatively distant parts a practical possibility, was opened in 1864 and reached Muizenberg 25kms away on False Bay by 1883 and finally, another 15km further, Simon's Town in 1890.

The discovery of diamonds in the interior in 1867 and gold further north in 1886 was to complete the transformation of Cape Town from colonial backwater, even if significant as a port, into a busy and thriving city. By the 1880s the town had become dangerously unsanitary, but the cost of reform led to delays. Eventually, in the 1890s underground sewerage and drainage systems were slowly, haltingly constructed; though a typhoid outbreak in 1898, which killed the incumbent mayor, served to encourage these endeavours (Worden et al, 1998, pp226-7). This and other outbreaks of typhoid and influenza moved the authorities to relocate people of colour living in what were declared as slums in 1901 to the first "location" at Uitvlugt, later to become known as Ndabeni, and to Langa beyond the periphery of the growing city.

Thom's survey of 1896 gives a very clear picture of the city centre at the turn of the 20th century: Adderley Street (formerly the Heerengracht) is the central axis with, in large part, retail and banking uses; at its head are the Dutch Groote Kerk (still occupying the site shown in 1693, though the church had been rebuilt in 1836-41, retaining the original tower and steeple), the Supreme Court (previously the Slave Lodge), St Georges Cathedral of 1840 (then soon to be re-built by Herbert Baker, starting in 1905), the Houses of Parliament (the first phase completed in 1885), and the Public Gardens. South-east of Adderley Street the city is still rather less dense with the Grand Parade, the railway station, Caledon Square and the barracks occupying much of the land. To the north-west of the Adderley Street axis is the heart of the city, densely built, already largely commercial, three blocks by six with electric trams running in the bounding streets, Adderley, Strand, Long and Wale, with Greenmarket Square at its centre. To the north-west of this sector is the west city, then still largely unchanged since the middle of the 19th century, containing small-scale industry mixed with residential; and further west of the west city across the Buitengracht is the Bokaap climbing the lower slopes of Signal Hill, almost entirely residential, largely Muslim with a dozen mosques, most of them built between 1840 and 1900; to the south-west is the Table Valley, increasingly densely developed, often with row-housing and largely residential. Turn-of-the-century photographs show that the character of all of the streetscapes in the city centre had been radically changed as much by the addition of many single and double storey cast iron verandahs over the pavements as by the late-Victorian architecture of the newer buildings (CPIA, 1978, pp20-23).

The development of the city is described here in order to give a background to and the implicit reasons for the conservation-worthiness or significance of, for example, the heart of the city near and around Greenmarket Square, of Adderley Street, and of the West City; and, as a consequence, implicit reasons for the locations of the conservation areas proposed in the earlier phases of the process of identifying conservation areas described later in this chapter, and of the case study development projects examined in detail in the next chapter.



Cape Town in 1885 (CCC)

5.3 Early Conservation Actions in the City Centre

As we have seen in Chapter 2, the impulse to conserve or protect almost inevitably has one of two alternate thrusts: either to maintain or restore the appearance and character of the building environment through "historical" restorations of various sorts, or to protect the building and/or setting as it is, usually by preserving the existing authentic material itself "as a document". It seems that both of these impulses inspired early conservation-oriented actions in Cape Town.

Threats in the mid-1890s by the Cape colonial government under Cecil John Rhodes to demolish a part of the Castle (constructed between 1666 and 1679, and periodically altered and added to over the centuries since) to provide space for railway- and tram-lines provoked a public outcry; and Rhodes was famously invited by Mrs Koopmans de Wet to imagine himself with his nose cut off. As a consequence of the controversy the government was persuaded to amend its proposals and the Castle was preserved intact (Deacon and Pistorius, 1996, p3; and SANS, 1907, p15). The values of the protagonists for the preservation were unself-consciously colonial, and ensured that this symbol of Dutch colonization and military power was preserved. The significance of the Castle to the white colonial establishment is self-evident; and it was, in 1936, to be the very first

declared “historical monument” and has been the subject of an on-going series of restoration projects by Gabriel Fagan since 1969 (see Fagan, 2002, p20).

Incidentally, the preservation of the Castle led to the first reclamation of land on the sea-side of the Castle to satisfy the spatial needs of the railways and began a process of land reclamation that has increasingly and profoundly affected the growth and configuration of the city to this day. Indeed, as we shall see, conservation and growth have been two impulses that have effected the shape and nature of the city centre continually since this incident.

Another significant and acclaimed early “restoration” in the city centre was the demolition in 1926 of the front and main wing of the Old Supreme Court next to Parliament and the VOC Gardens and its reconstruction some 13m further back to enable the widening of Adderley Street. Before Thibault’s remodeling between 1808 and 1814, the Old Supreme Court had been the Slave Lodge, constructed as a single-storey building from 1679 and added to many times. Thibault’s remodeling added the second storey and gave the complex its then current configuration. In the 1920s, however, although it was quite clearly a building and site of deep significance for several sectors of South Africa’s heterogeneous society, it was perfectly acceptable to demolish its front wing “on the condition that the old facade be re-built as it appears today” (SANS, 1921, p5; my translation from the Afrikaans) in a new position. The building was particularly significant in architectural, historical and political senses; and it has served as a model for “restorations” in Cape Town ever since. After the demolition of the front wing and its re-construction it had various state uses, although in the 1930s and 1950s it was again threatened with demolition to improve traffic flow in this part of the city, and saved only after considerable public controversy (Te Water, 1953; Geysler, 1982; Laponder, 1997). It has been used since 1966 as the South African Cultural History Museum and was declared a national monument in 1967.

A third early restoration that was to serve as a frequently referred to model (see, for example, Fagan, 2002, p20) and that has influenced conservation endeavours in Cape Town ever since was the restoration of the Groot Constantia homestead in the Constantia Valley on the outskirts of Cape Town (some 15 km from the city centre) by Kendall¹. The homestead had all but burned down in 1925, “the gables and parts of the outer walls” only remaining (de Bosdari, 1971, p33). The land had been first granted in 1685 to the then governor, Simon van der Stel, who owned it and lived there until his death in 1712. The homestead had, however, been radically re-modeled in several phases between 1778 and c1860 by the Cloete family:

“The house has been re-built on the ground-plan as it was before the fire, the elevations being derived from photographs: it is the Cloete house, therefore, and not the van der Stel house, which is reproduced” (de Bosdari, 1971, p35).

Photographs in Kendall’s book on the restoration shows the complete destruction of the house with only masonry remaining; and he describes the works, advised by the Cape

¹ Kendall had been Herbert Baker’s partner, was the president of the CIA in 1913-16, was president of the SANS in 1926, and was very well known and influential; and his *Restoration of Groot Constantia* (the source of these quotations) has guided architectural conservation in South Africa since its publication in 1927.

Institute of Architects, the South African National Society and the Historical Monuments Commission, as follows:

“A complete restoration of the original building’ was the first suggestion, but it was explained that this would involve pulling down the gables and reducing the house to a severely simple barn-like structure. Then, ‘as it was immediately before the fire’. This again was open to objections, as it would mean immortalizing a lean to roof at the back with a modern excrescence obviously out of harmony with the original conception. Then finally, ‘*Constantia at its best*’ was the formula eventually agreed upon as most effectively meeting the real end in view” (italics in the original; Kendall, 1927, p12).

Notwithstanding its atypical dimensions and proportions and the incontrovertible evidence that the house took its current appearance during English rule, the house is regarded as a significant *Cape-Dutch* relic rather than as a *colonial hybrid*. That this still pertains today is significant in itself. It also bears noting that Groot Constantia was in the first group of seven buildings to be declared as historical monuments in 1936 (with the Castle).

It hardly bears mentioning, however, that these three cases signal a very straightforward, even simplistic, historical and stylistic approach to architectural conservation in Cape Town.

5.4 The City Centre in the Early 20th Century

Between the turn of the 20th century and WWII, the city centre experienced several significant changes, although all of these changes took place without altering the existing rectilinear grid layout. The previously unoccupied parts of the east city were developed during this period, in large part, by the state in its various forms: the municipality built the new City Hall (completed in 1905; declared as a national monument in 1985) and municipal offices, the provincial government built the Technical College (1923), and the national government itself completed the Magistrates’ Courts (1920), the Caledon Square Police Station (1928), the Labour Bureau (c1930) and the Receiver of Revenue offices (1941; now used as courts).

The true heart of the city, the 18 blocks immediately west of Adderley Street, was being gradually re-developed with increasingly taller buildings: between the turn of the 20th century and the early 1930s a number of very fine five, six and seven storeyed office buildings, many of them stone-clad regional variants of traditional styles, were built in the upper parts of St Georges and Adderley Streets. Over-lapping with this trend, in the 1920s and 30s, most of the properties close to or abutting Greenmarket Square were re-developed in *art deco* or hybrids of traditional styles (see Freschi, 1998). Most of these buildings were eight, nine and ten storeys high; and by the 1930s the upper reaches of St Georges Street and the area surrounding Greenmarket Square (declared as a national monument in 1961) had become a very fine environment, both rich in varied architectural forms but with sufficient consistency in height to produce a uniquely special city centre. Indeed, so special an environment that, when the town planning scheme was being created during the 1930s, the dimensions of these buildings were adopted as the model for the future city. It bears mentioning that, although the town planning ideas then dominant relied exclusively on modernism, in Cape Town

architectural modernism was not received with enthusiasm.

By this time the city centre contained very little residential accommodation except in the west city, although some previously residential buildings remained, given new uses (for example, the two storey late-18th century Cape Dutch Melck and Koopmans de Wet Houses referred to earlier) and others more radically altered (like the mutilated relic discussed in the Boston House case study).

The shallowness of Table Bay had always limited the size and nature of the harbour, but after the construction of the breakwater had commenced in 1860, the harbour had been gradually moved as more docking and sea-based activities were accommodated north-west of the city. The very shallowness of the bay also presented an opportunity and early reclamations after c1905 enabled the construction of a new fish market and later, on the same site, the construction of the power station (completed in 1936). This set the stage for the reclamation of a considerable area which would enable an unprecedented enlargement of the city and the creation of a truly modern "Gateway to Africa".

5.5 Early Planning in the City Centre: The 1930s and 40s

Two significant actions were taken in the 1930s that were to have considerable importance for the city centre. First, formal planning in Cape Town (and in the region) was initiated through the provincial Townships Ordinance No 33 of 1934 which required local authorities to prepare town planning schemes. As a result the Cape Town City Council created a town planning branch in 1935 and began a comprehensive survey of land uses in the municipality (Shorten, 1963; de Villiers, 1985); and the town planning scheme was approved in principle by the Cape Town City Council in 1941. The rights conferred through the town planning scheme have been discussed earlier, but it bears mentioning that, once conferred, these rights limited the ability of the municipality to create new plans or to respond to changes in circumstances.

Second, in 1935 the Foreshore reclamation plan proposed the reclamation of some 480 acres (194 hectares) of land from the bay; part of this land would be reserved for dock and railway extensions, but, more significantly, some 270 acres (109 hectares) would be available for an extension of the city centre itself, to be known as the Foreshore. Planning began in 1936, but differences of opinion between the City Council and the national government soon resulted in the parties engaging separate planning teams (CTFJTC, 1948; Shorten, 1963). In 1940 the Cape Town City Council, with the support of the government, engaged a French town planner and chief architect to the French government, EE Beaudouin (Beaudouin, 1940) and the Minister of Railways appointed Longstreath Thompson of London and Professor Thornton-Whyte of the University of Cape Town (CTFJTC, 1948, pp20-25). It is interesting and significant that, throughout this period of planning the Foreshore, very little attention was given to the existing historic city. The South African National Society had been concerned about the impact of the railway lines and an enlarged station on the Castle and the Grand Parade, and as early as 1932 Kendall and Glennie, both well-known and influential architects, had represented the SANS in discussions with the Minister of Transport (SANS, 1931-32), but subsequently none of the parties seem to have taken any account of the relationship between the historical city and the brave new world being planned on the

Foreshore.

Relying on Beaudouin's design, in 1943 the City Council disagreed with the Minister of Railways and Harbours about the position of the station which, in the position insisted upon by the Minister, would both hem-in the Castle and Grand Parade and, more importantly, separate the new Foreshore from the existing city. As a result of this disagreement the Cape Town Foreshore Joint Technical Committee (CTFJTC) was appointed by the Minister in 1945 to plan the Foreshore. The interim report of the CTFJTC in June 1946 (CTFJTC, 1946) clearly relied in large part on Beaudouin's concept (indeed, the Committee had taken over Beaudouin's contract with the City Council), but the position of the station proposed by Beaudouin (on the Foreshore, where today's Civic Centre stands) was amended and proposed in its now current position (the old station had been on the other side of Strand Street where the Golden Acre development now stands). Curiously, the SANS had in 1944 concluded that the scheme would "make provision for a suitable and dignified setting for The Castle of Good Hope" (SANS, 1945, p11). But the 1946 plan ignores the effect of the station on the principle feature of the design, that is, a monumental space reaching from the proposed new civic centre (occupying the site of the old City Hall, the Drill Hall and the block between Corporation and Plein Streets) across the Parade, extending over the station, and reaching all the way to the proposed Maritime Terminal on the new Duncan Dock (CTFJTC, 1946). Other than the significance given to the Parade by placing the proposed colossal new Civic Centre along its edge and the occasional references to its and to the Castle's importance, no other reference was made to the existing city.

Subsequently, the 1947 Foreshore Plan, in large part still following Beaudouin's plan, proposed a simple extension of the city grid, though with considerably larger blocks, and three "boulevards" into the city from the southern, northern and Atlantic suburbs. The Public Gardens/Adderley Street axis was extended into a grand central city boulevard on the Foreshore; and a second parallel axis and "Monumental Approach" was proposed extending from a new Civic Centre (on the old City Hall site), across the Grand Parade, a raised deck above the station (connected to the Parade by stairs for its full width), and a series of public gardens to the proposed Maritime Terminal in the docks (CTFJTC, 1948) (see page 127).

It bears pointing out that these planning intentions very closely paralleled those of many English (and other European) cities in the 1930s, 40s and, particularly, post-War (Ravetz, 1980; Escher, 1981; for more detailed accounts of such town plans see Larkham, 2000 on Wolverhampton, and Woodward and Larkham, 1994 on Chester and Worcester). But, importantly, because the Foreshore reclamation created additional land, Cape Town's plans did not require the large scale demolition and reconstruction of the historic townscape proposed in the English towns. However, it is quite clear that planning and urban design concerns at this time did not include concern about or even interest in historic townscapes. Indeed, only six buildings in the city centre had been declared as national monuments by this time (1948): the Castle, the Burgerwachthuis or Old Town House (the 1751 predecessor to the town hall) facing onto Greenmarket Square, the Lutheran church in Strand Street, its Sexton's House and an adjoining house (the Melck family house), and a third late-18th century house lower down Strand Street (the Koopmans de Wet House). This is a revealing group: the Castle symbolising

the authority of the state, the Old Town House reflecting local authority, the Lutheran Church for religious power/authority, and the three grand seigneurial houses.

5.6 Transportation-Led Planning: 1950-1975

In 1950 Solly Morris was appointed as City Engineer. Morris, who remained City Engineer for 25 years until 1975, was to have an extremely important influence on the shape and form of Cape Town. His first significant contribution to city planning came just a year later with the approval of his *Metropolis of Tomorrow* report of 1951 which proposed significant amendments to the 1947 Foreshore report, most important of which were the creation of a ringroad system around the city centre and the relocation of the proposed new Civic Centre to the Foreshore (see CCC, 1951). Later, in 1958, Morris's ten-year roads scheme proposed the most extensive programme of motorways, freeways and road widenings ever proposed for any South African city (Shorten, 1963) and matched those proposed in many other European and American cities in the post-War period.

In the context of this study, the significant component of this new programme was the mutation of the three "boulevards" proposed in 1947 into freeways which were brought together by the raised Table Bay Boulevard, thus completing the ringroad around the city centre as proposed in the 1951 plan. This separated the Foreshore and city centre from the harbour and the sea in what was, excepting the creation of the Foreshore itself, arguably *the* single most significant and dramatic urban design intervention in the city centre's history.

During the next decade and a half this extensive programme was augmented and amended by several related transportation studies and reports. The most important of these included *Parking in the Central Business District* in 1957, the so-called *Shand Report* of 1962, and the *Interim, Second and White Reports* of March 1964, November 1964 and 1968 respectively (CCC, 1957, 1962, 1964a and b, and 1968). The 1968 report described the proposed elevated freeways in considerable detail and outlined the construction programme to be carried out. Cape Town and Solly Morris received world-wide recognition for the highway system, which was to have a very considerable impact on transportation in the metropole and, of course, on the dynamics of development and investment in the city centre.²

While this study is focussed on the city centre, we cannot ignore the effect of planning on the metropole, nor can we ignore the congruency of modernism and apartheid (Pinnock, 1989), which Dewar and Todeschini describe as follows:

"(T)he growth of South African settlements since the 1930s has been dominated by two overriding ideologies. The one is the ideology of modernism: the central precepts of the urban modernist movement are deeply entrenched in the practices and instruments of town planning in South Africa.

"The modernist movement, for the first time in the trajectory of civilisation, consciously broke with the tradition of millennia of settlement-making to engage

² Interestingly, considering that his reputation to this day relies on his work in transportation, it is somewhat surprising that Morris's doctorate, awarded in 1958, was for his dissertation on the supply of water to the city (Shorten, 1963).

in a brave new experiment: to rethink completely the structure and form of towns and cities, in order to create the 'good' urban life for all" (Dewar and Todeschini, 2002, p8); and

"The second ideology determining urban form and structure in South Africa was the socio-political policy of apartheid. The spatial precepts of apartheid accorded neatly with those of modernism.

"Apartheid embraced, and then grotesquely distorted these. Three dimensions of the modernist model, in particular, were exaggerated. Firstly, the concept of 'desirable use separation' was extended to include race: different race groups were uprooted and relocated in racially exclusive enclaves. Since there was, and is, a direct correlation between race and class in south Africa, it was the poorest people who were moved to the periphery of urban settlements....

"The second distorted concept was that of the neighbourhood unit or cell. On the one hand, under apartheid the open space which surrounded these units was not seen as positive space providing inhabitants with access to nature (as it was in the modernist conception) but as spatial buffers increasing separation....

"The third distorted concept was that of movement. The entire system of apartheid, and indeed, the modernist conception of urban settlements, was dependent on high speed routes linking the fragmented parts of the city together. These routes sometimes took the form of rail systems but, more commonly, they were road-based" (Dewar and Todeschini, 2002, p13).

5.7 The Construction of Tall Buildings in the City Centre

While traffic engineering and motorway construction have had very profound impacts on the nature of the city since WWII, the very scale of modern buildings and, in particular, their heights have had an even more significant impact on the townscape and character of the city centre. Cape Town's Town Planning Scheme, as it pertained to the city centre, had set a permitted height of 37m (120 feet) on street boundaries along wide streets, and with a height of 25m along narrower streets. The maximum heights of buildings were permitted to rise to 60m (200 feet) at the centre of the city blocks. Although considerably higher than the norm for buildings built before the 1920s, the maximum eaves height of 37m along streets did enable large modern buildings without disturbingly dominating the existing historic townscape. However, the very fine *art deco* Old Mutual Building and the Central Post Office (directly opposite each other on Darling Street) had been built in 1939 and 1940 immediately before the creation of the town planning scheme with heights of 84m and 74m (276 and 244 feet) respectively, though neither completely over-powered their neighbours. As a consequence, some twenty years later in 1964, when the Old Mutual Assurance proposed a new office tower just a block away at the very heart of the city on the corner of Adderley and Darling Streets, these two older tall buildings were cited as acceptable precedents; and the new building on the "Cartwrights Corner" site was approved without controversy.

Following this approval the City Council's town planners explored the possibility of adding a provision to the Town Planning Scheme that would enable "tower blocks". It appears that at the time there was very little resistance to this proposal. Both the Cape Institute of Architects and the South African Town Planning Institute were asked for their comments, and both concurred with the proposals; and the well-known

commentator, Neville Dubow³, described a tower building (the Trust Bank) of 34 storeys or 106,5m in height (350 feet), proposed in 1965 on the edge of the historic city, as a “useful addition to Cape Town’s small stock of worthwhile contemporary architecture” (Argus, 26 February 1965).

Consequently, in March 1965 the City Council adopted the City Engineer’s report recommending a new regulation for tower blocks on a trial basis, and making specific reference to the New York planning regulations. The significant components of the provisions were that the maximum height was to be limited to 106,5m (350 feet), the coverage of the tower was limited to a third of the site, and the distances of the tower from the street boundaries were determined by the widths of the surrounding streets. Subsequently, over the years, a number of tower buildings were approved on the basis of these “trial” regulations, although they were never formally incorporated into the town planning scheme. Fortunately, relatively few of these towers were within the historical city centre, but on its fringes. Those towers that were built within the historical city centre were, almost without exception, built by the authorities: national, provincial or local.

As described in Chapter 3, it is the “bundle” of development rights created by the Town Planning Scheme which establishes both the value of land and the balance of power between the authorities and the property owner in every negotiation over development proposals. However, the national and provincial arms of government have, until recently, been exempt from the locally administered planning law. Furthermore, the City Council has been able to persuade the Provincial Administration to approve its own development proposals when it, the Council, has required relaxations from the planning restrictions for such buildings. In other words, the limitations ordinarily imposed on the development of privately owned property have been ignored or relaxed whenever any of the agencies of the state has been the developer. Indeed, each time any of the three levels of government has built in the historical city centre, the result has been inappropriately scaled and injurious to the character of the historical city. It is instructive to observe that every one of the seven most intrusive buildings, the most destructive of the grain, scale and charm of the historic city, without any redeeming characteristic or feature, and not even conforming to the “tower block” policy approved in 1965, are buildings built for or by the local, provincial or national authorities. These seven buildings are:

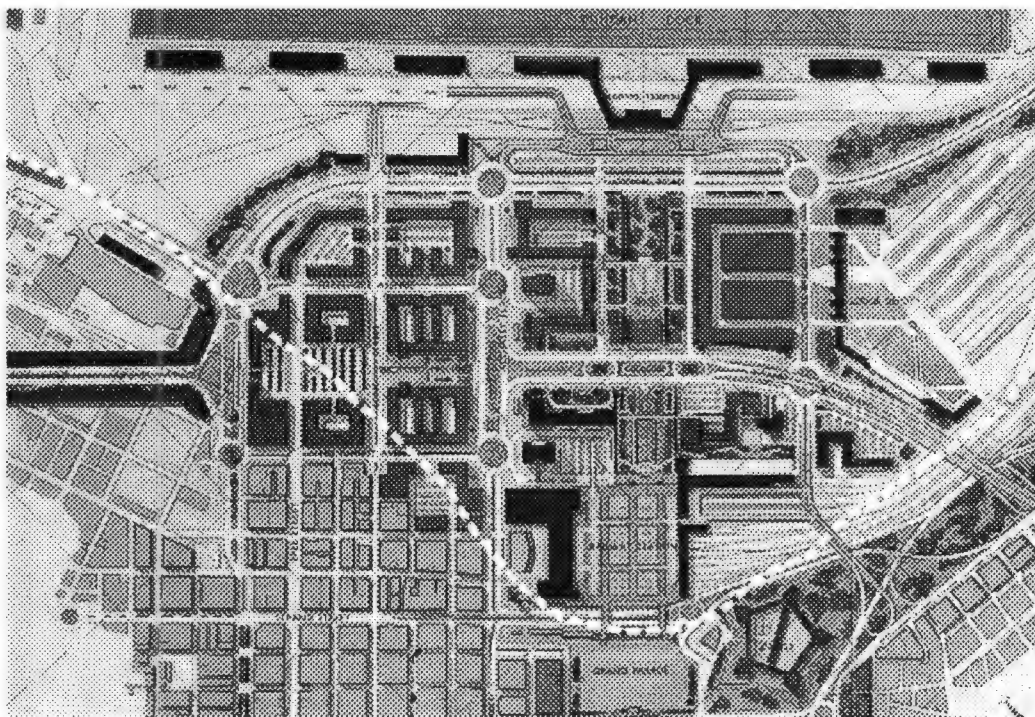
- *City Park* (seven floors of offices for the City Council’s bureaucracy above six floors of parking) completed in 1969 to a height of approximately 50m on an entire city block abutting St Stephen’s Church (declared a national monument in 1965) and Riebeeck Square (declared a national monument in 1961) in the until then still architecturally consistent West City. This building, which required numerous height and setback departures from the town planning scheme, is almost uniquely insensitive and unresponsive to its immediate environs. It is also without any pretensions to any architectural or design excellence, and it was certainly the primary precedent that the promoters of the West City Action Area

³ Dubow, an architect and Revel Fox’s “first assistant” (Dubow, 1998, p44), was then the Argus’ architectural correspondent and one of the editors of *Plan*, the architectural and planning periodical; he was later to become the head of the University’s School of Art.

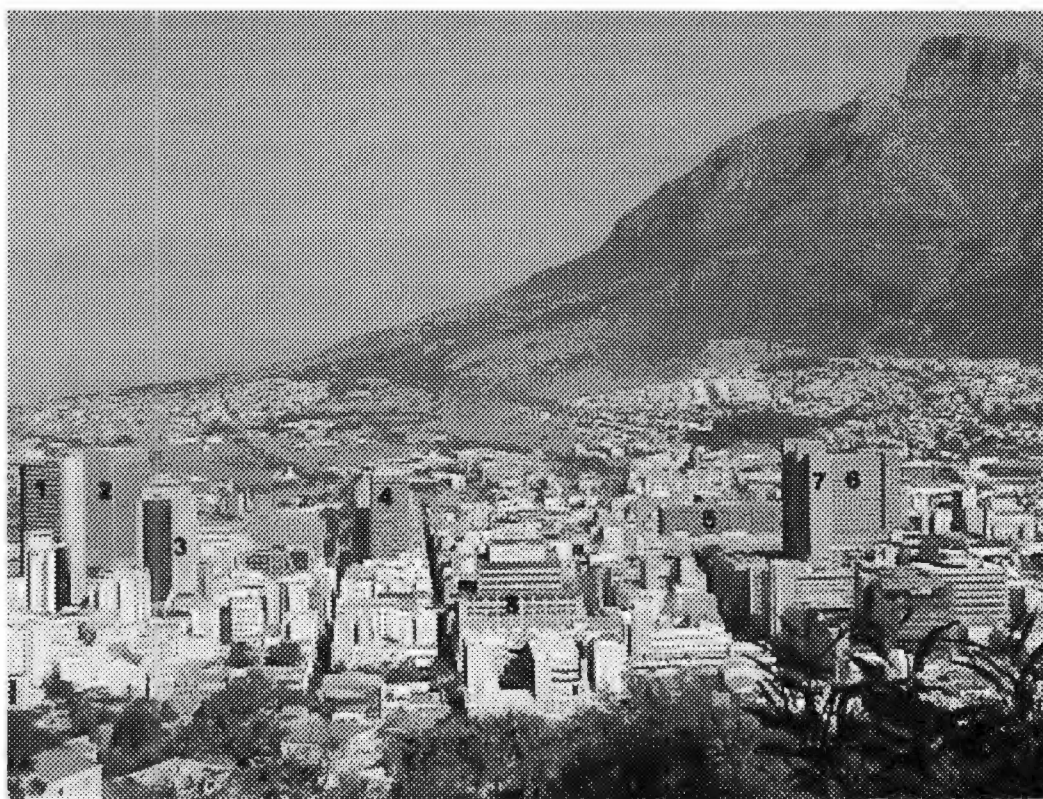
study in 1979 sought to prevent (see below).

- The high-rise extension of 20 storeys to the *Provincial Offices* (for the Provincial Administration's bureaucracy) completed in 1974 with a sheer height of approximately 70m on the charmingly scaled Long Street (the buildings on the opposite side of the street are two storeys high) and looming over the architecturally fine precinct at the top of St Georges Street, which includes St Georges Cathedral (designed by Herbert Baker; the Anglican church has resisted declaring the building as a national monument) and the South African Library (national monument, 1974). This building also required height and setback departures. It is unremittingly insensitive to its environs.
- The *Parliamentary Offices* of 24 storeys (for the State), covering most of a city block to a height of approximately 90m, completed in c1980 and previously known as the HF Verwoerd Building. This building also abuts an important historic square, Stalplein, the historic Governor's House (the Tuynhuis, restored at great cost in 1975; and declared a national monument in 1993) and Parliament itself (also declared a national monument in 1993). This building also required considerable height and setback departures.
- The *Receiver of Revenue Office Building* of a relatively modest 14 floors reaching 50m in height and covering two entire city blocks, completed in c1985 (for the State), singularly insensitively fails to respond to its most significant neighbour, the very fine state-owned Marks Building, Parliament itself, or to its environs generally rising sheer above Plein Street (it does abut, on its short dimension, the State's *Parliamentary Offices* just described). This building too required height and setback departures.
- The *Reserve Bank Office Building* (for the State) of 28 storeys, reaching approximately 90m in height, and occupying three-quarters of a city block was completed in 1976, just one block away from Greenmarket Square, adjacent to the NBS block and at the very centre of the finest city precinct bounded by Adderley, Strand, Long and Wale Streets. This building, although with some architectural pretensions, is singularly inappropriate in its environs: given its position on St Georges Mall and its proximity to Greenmarket Square, there is little doubt that it is *the* least sensitive building in the city centre. It goes without saying that it required height and setback departures. A further disturbing aspect of this development is that, although owned by the Reserve Bank, it is not truly a state building as it is occupied only in part by the Reserve Bank and is, in large part, speculative, occupied by the private sector.
- The 25-storied *Golden Acre* (developed by Sanlam, an insurance and investment company, on land sold to it by the City Council with the rights for this development), its tower reaching approximately 90m in height, completed in 1978, on the old station site. The scale of the rights were planned and approved by the City Council in 1969, but only completed in 1978. The urban design rationalisation for this building is interesting, if ironic:

"Architecturally, the slender tower building would provide an accent and contrast to the low-level Station to the North. It would relate to the Trust Bank Tower to the West and the slab of the Civic Centre Administration Block to the east. The tower, together with the lower buildings on the site, would not only frame and shelter the pedestrian square, but would also form a visual transition between the bulky buildings to the South and the



The Foreshore Plan of 1947 (CTFJTC, 1948)



The CBD Today, viewed from the same position as Millard's Panorama: 1- Southern Sun Hotel; 2 - Golden Acre; 3 - Reserve Bank; 4 - Cartwright's Corner; 5 - Receiver of Revenue; 6 - Parliamentary Offices; 7 - Provincial Offices; 8- City Park (photograph 2003)

new Station" (SS Morris in CCC, 1969, p23).

- The 30-storied *Southern Sun Hotel*, reaching 112m in height, completed in 1983 (by a hotel group in partnership with the City Council on Council-owned land) in lower Strand Street, is similar in several ways to its close neighbour, the *Reserve Bank Office Building*. It too is grossly inappropriate in scale, in the way that it responds (or fails to respond) to its environs, and in its materials and the elements of the building (which include a *gauche* glazed lift shaft and lifts with flashing lights). This building, too, required height and setback departures.

All of these buildings are grossly out of scale with the environs, all of them rise sheer above the abutting streets, all of them fail to respond in any way at all to their environs and, with the exception of the Golden Acre, not one of them has any appropriate activity at ground or street level that contributes to pedestrian life or to the public realm in any way. Each of the buildings does also cause particularly adverse ground level conditions in windy weather; and they should each have been subjected to wind-tunnel testing and been obliged to incorporate mitigating measures. Each of these buildings is shockingly insensitive and inappropriate in its immediate urban context and in the city as a whole. In each of these cases the relevant authority had the power to build these buildings without reference to or taking into account any other authority or interested or affected party and to create buildings of a height, bulk and scale well beyond what any private property owner would (or should) have been permitted. Within the historic city centre now declared as a conservation area, only one privately built building (the 23-storied Santam Building, built in several stages between 1964 and 1978, in Strand Street adjacent to the Southern Sun Hotel, and recently renovated as the Pinnacle) rivals the obtrusiveness and inappropriateness of the seven buildings just referred to.

It is important to note that the last two buildings discussed, the *Golden Acre* and *Southern Sun Hotel*, both designed by Louis Karol in conjunction with the City Council's traffic engineers and its property branch, were integral components of a limited underground system that radically affected the nature of the townscape at the intersection of the two most important streets in the city, Strand and Adderley, forcing all pedestrian activity below ground in the favour of vehicular movement. This move has significantly detracted from life in the city and, although acclaimed at the time (see Neville Dubow, *Argus*, November 1983: quoted in Silke and de Beer, 2002, p15), has proved to be a poor decision, and there are currently moves to truncate this underground system.

While we should not shrink from criticising the impacts of these decisions on the functioning and experience of the city, decisions of this sort are not the sole preserve (or responsibility) of architects. The Wrightian triumvirate of the client, architect and builder referred to in an earlier chapter was the significant set of relationships in city-making from classical times until the end of the 19th century; since the maturity of physical planning and the creation of law enabling the control of all development, particularly since WWII, the key set of actors in city making and, indeed, all development, has been a *tetrarchy*: the authority(s), the investor/client, the architect and the builder.

5.8 Local Attitudes to Conservation

Before we discuss *urban* conservation-oriented actions in Cape Town during the wider period under discussion, that is, from c1975 to 2000, it is necessary to digress momentarily in order to describe, however briefly, some indicators which give insight into the views and opinions of the conservation lobby in Cape Town and some of the precedents on which local conservation practice relied.

The first self-conscious public steps to establish conservation had been taken in 1904 when the South African National Society (SANS) was formed in Cape Town by a circle led by Mrs Koopmans-de Wet with one of the most influential men in South African society at the time, the Chief Justice of the Cape of Good Hope, Sir (later Lord) de Villiers, as the society's president (SANS, 1906 and 1907). Indeed, the approximately 150 founder members across the country included many important figures in South African political and cultural life, for example, Arderne, Bailey, Bolus, Jameson, Merriman, and the architects Baker, Kendall and Masey. The aims and intentions of the society were to foster appreciation of the country's heritage and to publicize the necessity for preservation, in the broadest sense of the word, endeavouring to promote "a conservative spirit towards the remains and traditions of old Colonial life" (Deacon and Pistorius, 1996, pp3-4; see also SANS, 1906-1945 and van Riet Lowe, 1949). It is clear that the ruling ideas in establishment circles during this first period of South African conservation history were the ideas of *historical and/or stylistic restoration*, in which the primary impulses are to re-create a building that is consistent with a particular style or to return it to a previous significant or "best" configuration, usually demonstrating or illustrating a heroic or golden era in the past. The preferred style was most often that of "the old colonial life" of the last decades of the Dutch colonial period, that is, the last decades of the 18th century.

At the same time Rhodes had begun to buy fruit farms in the region surrounding Cape Town (his agents were specifically instructed to buy farms that had grand Cape-Dutch homesteads on them); and, for a range of political, financial and artistic reasons, he employed the young English architect, Herbert Baker, who both "restored" several of the homesteads and initiated a Cape Dutch revival style. The works carried out by Baker, by his partners Kendall and Walgate, and by many other architects on the great homesteads during the early decades of the century were described as restorations (de Bosdari, 1971, pp110-113). Indeed, during the first half of the 20th century, clients and architects alike imagined that they were preserving and restoring, whereas today these works would be described as radical remodelings. Examples of this sort of remodeling include Baker's work for Rhodes on Groote Schuur in the suburb of Rondebosch after a fire in 1896.

Most revealing of such indicators are the examples which the conservation lobby itself regarded to be exemplary: these include the reconstructions in the 1920s of the old Supreme Court and of Groot Constantia described in section 5.3 and the restoration of the Parsonage in Graaf Reinet carried out by Norman Eaton between 1952 and 1956

(Harrop-Allin, 1975, pp64-71)⁴. Eaton was at the height of his powers and he was highly regarded within the profession. Much acclaimed within architectural circles and by the conservation lobby, the restoration was accomplished with relatively little research, reliant on a 1866 photograph and the use of architectural details invented by analogy, copied from Pearce's important book of 1934 (which he, Eaton, had contributed to). Eaton contended that:

"To an amazing degree the best of the 18th and early 19th century Cape architecture has achieved" ... "the ultimate goal is achieved ... complete honesty of purpose, achievement, beauty and 'truth'", and that:

"I do not believe that the aesthetic pinnacle reached by this Cape Dutch work, *in and of its own time and country*, will ever be exceeded" (Eaton, 1968, p39-40).

But, notwithstanding this glowing assessment of Cape Dutch architecture, in his description of the restoration of the front facade, he reports:

"I had all the photographic and other evidence of what existed for analysis, but in careful reconstruction on paper, *I did not like the gable and was sorely tempted to make improvements to its shape*. After some struggle, however, the principle of authenticity was upheld. On completion, I realized that this gable was not only appropriate to the facade as a whole, but was one of the most satisfying gables I had ever seen. So wrong can one be on paper" (Eaton, 1968, p41; emphasis added ⁵).

It is apparent that Eaton, accepting Viollet-le-Duc's admonition to "put oneself in the place of the original architect" (quoted in Price *et al*, 1996, p318), was wrestling with the tension between the impulse to restore what he thought to be the best appearance and, alternately, the impulse to hold to the "principle of authenticity". It is also apparent that his idea of authenticity referred to "correctness" in design or appearance rather than to the presence of authentic original fabric. Indeed, it is precisely this notion that "correctness" in design or appearance that is still often argued by historicist conservationists to be the hallmark of authenticity. If we compare this case with the equally influential restoration/reconstruction of Groot Constantia by Kendall, it is clear that ideas about restoration of historically significant buildings had not changed since the 1920s.

Before the 1950s, publications on the history of South African architecture and on conservation practice had been few and far between. Increasingly, however, well documented and authoritative research was carried out from the early 1950s: Biermann's doctorate on the development of Cape Dutch architecture in 1951 and his short but influential book in 1955, de Bosdari's book on Cape Dutch houses and farms first published in 1954, Lewcock's doctorate in 1961 and its publication in 1963 on 19th century English influences, van der Meulen's doctorate in 1962 on the German (rather than Dutch) influences on Cape Dutch architecture, the innumerable works from the early 1950s by the inexhaustible vernacular researcher, James Walton (see VASSA,

⁴ Revealingly, in a recent brief description of "the issues involved" when he began the restoration of the Castle, Gabriel Fagan refers to Ruskin, Pugin, *Kendall* and *Eaton* because "there was very little available by way of conservation guidelines in English in 1969" (Fagan, 2002, p20).

⁵ This was written for a conference in 1959, but Eaton died in 1966 before the proceedings were published. Eaton's importance is demonstrated by the posthumous award by the Institute of Architects of a gold medal in 1968.

July 1999), and Cook and Fransen's first book in 1965 all had considerable impact (see Fransen's preface to the 1971 third edition of *de Bosdari*, pp1-4; also Biermann, 1968, pp29-35). This body of work both reflected current values regarding history and historical works of architecture, and established an authority and method that required committed, if not always careful, historical research, which future conservation practice would have to take into account.

As a result, works of restoration or conservation of grand or important historical buildings were carried out with rather more careful research than previously and were intended as "authentic restorations". The works of Eaton were certainly regarded as such; and the early works of the architects Gabriel Fagan, Revel Fox and Dirk Visser in the 1960s and 1970s in Cape Town and the Western Cape were part of a new wave of self-conscious restorations of historically significant individual buildings (Fox's earliest restoration work was the Meerlust homestead at Faure in 1959; Justin Fox, Ed, 1998, pp88-89). Most of these works were designed as restorations to "its best form" in the building's history (cf. Hoogenhout⁶, 1969) and were consistent with the ideas and principles underpinning the *historical* and/or *stylistic restoration* approach. For example, during the restoration of Kanetvlei in 1972 "there was complete agreement that we should put the house back as far as possible to its best period" (Revel Fox, 1988, p18).

Furthermore, South Africa's increasing isolation from the international community from the early 1960s had a marked impact on the development of conservation ideas and practice. While the internationally accepted Venice Charter of 1964 led to many like-minded international and national charters (the national charter best known in South Africa is the Australian Burra charter of 1979, amended in 1981, 1988 and 1999) and to an internationally common practice, in South Africa conservation ideas and practice stagnated, entrenched in historicism. By way of example, the national symposium arranged by the Simon van der Stel Foundation in Potchefstroom in 1982 produced guidelines quite at odds with internationally accepted practice: the Venice Charter states that "the valid contributions of all periods of the building of a monument must be respected, since unity of style is not the aim of a restoration" (Article 11) and that "all reconstruction work should however be ruled out *a priori*" (Article 15), while the Potchefstroom charter argues that "Restoration - is the professional repair of a structure and or site as far as possible to ONE stage in its history" (emphasis in the original) and that "Reconstruction - is the recreation of a structure or part thereof, based on reliable and extensive research and documentation" (*Restorica*, October 1983, pp58-59). Indeed, it is clear that, with a few notable exceptions, almost all of the important architectural conservation projects carried out in South Africa before 1994 sought to recapture or emphasize a particular moment in the building's or site's history (inevitably white colonial history). Such a stance was, of course, rooted in the establishment's political and aesthetic predilections and needs (Frescura, 1991, pp12-22).

5.9 Concern about the City's Urban Character

But, notwithstanding these often enthusiastic if old-fashioned ideas about *architectural*

⁶ Hoogenhout was a leading figure in Historic Homes of South Africa, a private company, and became chairman of the Tulbach Restoration Committee (see his *Inauguration* in Fagan and Fagan, 1975, p172).

conservation, by the early 1970s many had become increasingly concerned and critical of the impacts of modern building technologies (the associated heights, in particular), the impacts of the new motorways (elevated motorways in particular), the impacts of traffic and parking demands on the city centre, and the impacts of current architectural ideas on the city itself and on "much loved and familiar" townscapes. This general concern about changes in the nature of the city in Cape Town was clearly signalled by a well attended public meeting chaired by the Mayor, David Bloomberg, in the City Hall in November 1974. Three measures were identified by Revel Fox, the then president of the Cape Institute of Architects, as requiring action in the city centre: the impacts of increasing traffic and parking suggested that the city should be pedestrianised, the zoning rights enabling large scale high-rise buildings needed to be curbed, and the urgency for a proper list of "important buildings and areas ... cannot be overstated" (Mills, 1975). Also significant in this regard was a conference held in Grahamstown in September 1974; and the important papers of Revel Fox (largely reliant on his earlier 1972 paper), Hans Hallen and Tony Barac⁷ were published in *Plan*, the official SAIA journal, in December 1974. Fox's paper, in particular, presages many of the measures initiated in the following years.

It is clear that by 1975 the tenor of public opinion had changed and this was recognised by the authorities. Indeed, the opening lines in the *Cape Town: City for the People* report of 1975 at the end of Morris's career were almost plaintive, almost apologetic in tone:

"Throughout my municipal career my paramount aim has been to make Cape Town a better, happier, more productive and more amenable place ..." (CCC, 1975, p1).

The over-riding impression is quite distinct from that of earlier reports. The report argued that the freeway and ringroad system in association with the recent installation of the computerised traffic signal system had done much to ensure the revitalisation of the city centre, but it was recognised that the needs of the people (or the pedestrian) must now be given priority over the needs of traffic. It was contended, however, that:

"Until ... alternative routing and parking facilities become available it will not be feasible to close existing streets and develop them solely for pedestrian usage" (p2).

The report also pointed out that nearly 170 cities in the western world had excluded vehicles from sections of their CBDs, improving trade and reducing air pollution (CCC, 1975, p2). The pedestrianisation and improvement schemes (pavement widenings) proposed in the report were piecemeal and *ad hoc* at best and would have been enormously costly: and to this day very few of the streets and squares proposed to be pedestrianised in this report have been closed to vehicular traffic.

⁷ It bears noting that Barac, a town planner, argued that the *transfer of development rights* was central to successful conservation planning in South Africa. This argument, however, relies on an erroneous understanding of the relationship between planning, property rights and market forces. This debate was, however, rendered irrelevant, in the Cape at least, when the Land Use Planning Ordinance, relying on *rational planning* to justify the increase of rights rather than the simplistic *purchase* of rights, prohibited the levying of increased or improved rights.

Significantly, a large section of the report is devoted to “urban preservation”⁸: the report contended that:

“The city is a living organism and the CBD, as the centre of business and professional activity, must develop as the population of the city grows. Consequently the CBD must be allowed to expand and buildings to redevelop. Demolition of many old buildings is unavoidable, if the city is not to stagnate and decay; but reckless demolition can destroy the city’s character. A balance must be found, and towards this end it is suggested that only buildings which meet (certain) criteria should be considered for preservation” (CCC, 1975, p 55).

A conservation strategy was articulated which included listing and grading conservation-worthy buildings, introducing legislation to control demolition, expropriation from objecting property owners who resisted listing, creating a conservation fund to fund the expropriations, and giving rates rebates and other incentives to conservation-worthy properties (CCC, 1975, pp56-57), all clearly modelled on English (and, perhaps, Swedish) practice. However, although the conservation elements of the report were notable, it was the very newness of the issues that was significant rather than their substance. It should be noted that the preliminary list of conservation-worthy buildings in the report included the 15 already declared national monuments in the city centre and only 43 other buildings, although these identified buildings are clustered in certain lesser streets like Church and Long rather than St Georges or Adderley (CCC, 1975, pp77-79); and that the contemplated legislative measures referred only to these listed buildings. Indeed, because the number of buildings proposed to be conserved was so small, it is clear that the conservation measures proposed would be applied in a limited or restrictive sense; also, the emphasis given to expropriation, to financial incentives and to capital improvements of what would in Britain have been called “the preservation or enhancement of *outstanding* conservation areas”, all measures that were deemed excessive in South Africa at that time, was to ensure that the measures would not be implemented. Consequently, the measures proposed did not promote conservation significantly, though there is no doubt the report was an extremely important milestone in conservation thinking and planning in Cape Town.

The report was circulated widely for discussion and comment; and subsequently 24 bodies ranging from the several authorities, the Chamber of Commerce, the South African Property Owners’ Association, the Cape Provincial Institutes of Architects and the South African Town Planners’ Institute to the Simon van der Stel Foundation and several ratepayers’ associations responded, for the most part, positively. These comments suggested that the pedestrianisation and preservation measures should be taken much further (CCC, 1985a, pp78-81). However, apart from circulating the report, no actions were taken by the City Council (nor were any formally proposed).

5.10 The Catalogue: Phase One and Two in 1978 and 1984 Respectively

Increasingly in the 1960s and 70s, architecturally-, historically- and environmentally-minded Capetonians had recognised that an inventory of conservation-worthy buildings and sites was necessary. Indeed, at an important symposium on preservation and restoration held in Cape Town as early as 1959 (Immelman and Quinn, eds, 1968)

⁸ This section of the report was written by the Swedish architect and town planner, Jalmer Rudner, who was to move to the NMC a couple of years later in c1978.

several speakers referred to the need for a national inventory; and in the late-1960s the Simon van der Stel Foundation drew up a list, ultimately completed by Dirk Visser in 1970 (Minutes of Cape Chapter of the Simon van der Stel Foundation, 1968-70), which included a "rating" system (CCC, 1975, p80). Accordingly, when the City Engineer's report of March 1975, *City for the People*, echoing Fox's suggestions made at the public meeting chaired by the Mayor the previous November, referred to the need for a local inventory (CCC, 1975, pp56-57), the Institute of Architects approached the Mayor in July 1975 about initiating such an inventory.

This was soon agreed to in principle and during 1976 the necessary funding by the City Council and the Provincial Administration was obtained. Also, a steering committee (including representatives from the NMC, the CIA, the South African Institute of Town Planners, the Simon van der Stel Foundation, the Historical Society of Cape Town, and the Vernacular Architecture Society of South Africa) and a special technical subcommittee were established. The research was carried out during 1977 and 1978 with logistical support from the NMC and the City Engineer's Department, and the first phase of two volumes was published in late 1978 (CPIA, 1978).

The establishment of criteria for conservation-worthiness and the identification of conservation-worthy objects, buildings, places, sites and environments is *the essential first step* in the development of a coherent and rational conservation-oriented planning and development control system, preceding even the creation of the measures for their protection, though these different components are mutually reliant (Townsend, 1993, p29). There was in 1975, however, little guidance regarding the criteria for the identification of conservation-worthy property. The only criteria referred to in the 1969 National Monuments Act (before the 1986 amendment) were extremely vague, namely, "aesthetic, historical or scientific" interest (NM Act, Section 10 (1)); and the only category of conservation-worthy buildings and sites was defined simply as "national monuments" (if "in the national interest"). This was not very helpful in practice.

The Catalogue articulated largely visual criteria and it identified conservation-worthiness through a rather mixed bag of eight categories or criteria: category 1, for example, includes buildings of both "national or local importance"; categories 2, 3, 4 and 5 all refer to architectural or urban contextual merit; categories 6 and 7 include authorship and age (over 100 years); and category 8 simply indicates *potential* archaeological or architectural interest. Although these categories or criteria are not particularly well defined, the Catalogue did identify a large number of buildings in these categories. Indeed, Volume One identified 490 out of 900 buildings or 54% of the buildings in its study area, the city centre, in at least one of the categories and, therefore, of some significance or conservation-worthiness (CPIA, 1978, p44).

The Catalogue explicitly stated that its primary purposes were to provide necessary information to owners and architects, to students and tourists, to "town planners considering modifications to parts of the city where such buildings exist as may merit special consideration", and "for the use of the Cape Town City Council and other authorities determining policy relating to the city" (CPIA, 1978, p2). It is significant that the "criteria for preservation" in the *City for the People* report (CCC, 1975, p55) clearly presaged the Catalogue's "criteria for classification" (CPIA, 1978, p43) in Cape Town

and the proposed national “criteria for identification” (CPIA, 1978, p63). However, now, more than 25 years later, none of the personalities recall this link: indeed, the person credited by the others with having taken the lead in the discussions about the criteria, Dirk Visser, insisted that both sets must have come from a common source, “an RIBA or similar policy” (Dirk Visser⁹, personal communication, 30/9/2002), while Brian Bassett, a senior NMC official in the 1970s, recalls that the criteria were derived by Jalmer Rudner from a Swedish source (Brian Bassett, personal communication, 13/11/2002). A careful comparison between the *City for the People’s* “criteria for preservation”, the Catalogue’s “criteria for classification” and the “principles of selection” for the listing of buildings of special architectural or historical interest in Britain suggests a relationship (see, for example, the Appendix 1 of DoE, 1977); and the two important and influential papers of 1972 and 1974 on *urban conservation* by Revel Fox¹⁰ explicitly rely heavily on British practice. But it is also possible that the criteria were adopted from a Swedish source.

It is curious, however, that the feature of the Catalogue that was to become its most used feature, the classifications of significance, that is the applications of the criteria of significance (CPIA, 1978, Vol.1, p43), was not referred to in either the Foreword or the Introduction. It bears mentioning that several of the parties involved in the exercise, in particular, the leading conservation architects Visser, Fox and Fagan, have over the years since insisted that classification or grading of significance is inimical to the protection of lesser buildings because developers will argue that because they are lesser, they can be sacrificed. This is a curious argument because it is silent on the *positive* effect of higher gradings on the protection of the more or most significant buildings. It was apparently for this reason that the significance of the buildings is identified in the Catalogue by *class* rather than by *degree*. I mention in passing, however, that this argument against grading relative merit has been made in other situations too; for example, Santaolalla, who, in her criticism of the Spanish legislation, condemns differentiated protections:

“(A)ll of the protection is based on cataloguing which is a real trap and a perverse method because of its selectivity since it privileges only a certain part of the city’s heritage and rejects the other, which means that it can therefore can be annihilated” (Santaolalla, 2001, p263).

It appears that the criticism of differentiated or graded systems is underpinned by an expectation or implicit argument that the entire built environment should be preserved. I shall return to this later.

The Catalogue is, therefore, something of a curate’s egg: while the catalogued record of each of the 900 buildings in phase one and the 1700 in phase two is not particularly useful because the descriptions of each building are incomplete (necessarily so, given

⁹ Dirk van der Velden Visser was, as we shall see, a singularly significant figure in the conservation community of Cape Town and the Cape for more than three decades until he died recently on New Years Day, 1/1/2003.

¹⁰ Fox, as chairman of the CIA’s Heritage Committee and of the Cataloguing Committee and the president of the CIA from 1974 to 1976, was probably the most influential actor in these matters at this crucial time.

the size of the task); while the description of the *Formative Influences* by the respected conservation architect who headed the research team, John Rennie (who had then recently trained at the IAAS, York), is an excellent essay (CPIA, 1978, Volume One, pp4-42). However, the third part, the *classifications*, which were the carefully weighed judgements of the technical subcommittee, constitute a very significant and influential body of work. It is true that there were shortcomings (for example, *art deco* buildings were largely ignored and contextual or townscape value is not indicated except in the case of buildings which contribute by their presence to the character of a city square) and there are occasional errors (usually because of the incompleteness of the information available). However, the value and impact of the Catalogue cannot be overstated. From the day of its publication it has been referred to by the authorities, by the conservation-minded and by developers; and it has been accepted as *the* authoritative yardstick.

Although the Catalogue was singularly influential as a model for similar catalogues compiled in other towns and has been, since its publication in 1978, *the* primary yardstick for determining conservation-worthiness in the city centre, its greatest importance was its effect on the *profile* of conservation in Cape Town and, perhaps even more importantly, the sense of accomplishment and effectiveness engendered in the conservation lobby. The financial contributions of the NMC, the City Council and the provincial government and their imprimatur gave the Catalogue considerable status amongst other interest groups and the Catalogue's value as a tool in debate about conservation was immediately apparent. The shared accomplishment of the NMC officials like Brian Bassett and members of the NM Council, respected conservationists like John Rennie, Visser, Fox and Fagan, the significant role of Dave Jack as a senior official in the then City Engineer's Department, the contribution of historians like Hans Fransen, Mary Cairns and Frank Bradlow (these latter three had all contributed to the 1970 Simon van der Stel list completed by Visser), clearly consolidated the mutual interests of these individuals and representatives of the authorities and established this group as a conservation-oriented urban governance regime. It is suggested that these several parties became an incipient urban governance regime in 1975 and a self-consciously effective one in 1978, the date of the publication of the first phase of the *Catalogue, Volumes One and Two*.

5.11 Pedestrianisation and Conservation at the Heart of the City after 1975

The tentative *City for the People* report of 1975 and the publication of the first phase of the Catalogue published in 1978 had signalled a distinct change in the intellectual climate surrounding ideas about the city centre. This change was demonstrated further over the following decade by a number of controversies over the likely impacts of the freeways and parking garages proposed during the Morris-years and certain proposed developments.

At the heart of the city centre, that is the 18 blocks west of Adderley Street and surrounding Greenmarket Square, attention was directed at the pedestrianisation proposals referred to earlier, at *enhancement* of the environs, and at the adverse impacts of inappropriately scaled development. During the 1980s much of this concern was directed specifically at the protection of Greenmarket Square and its environs.

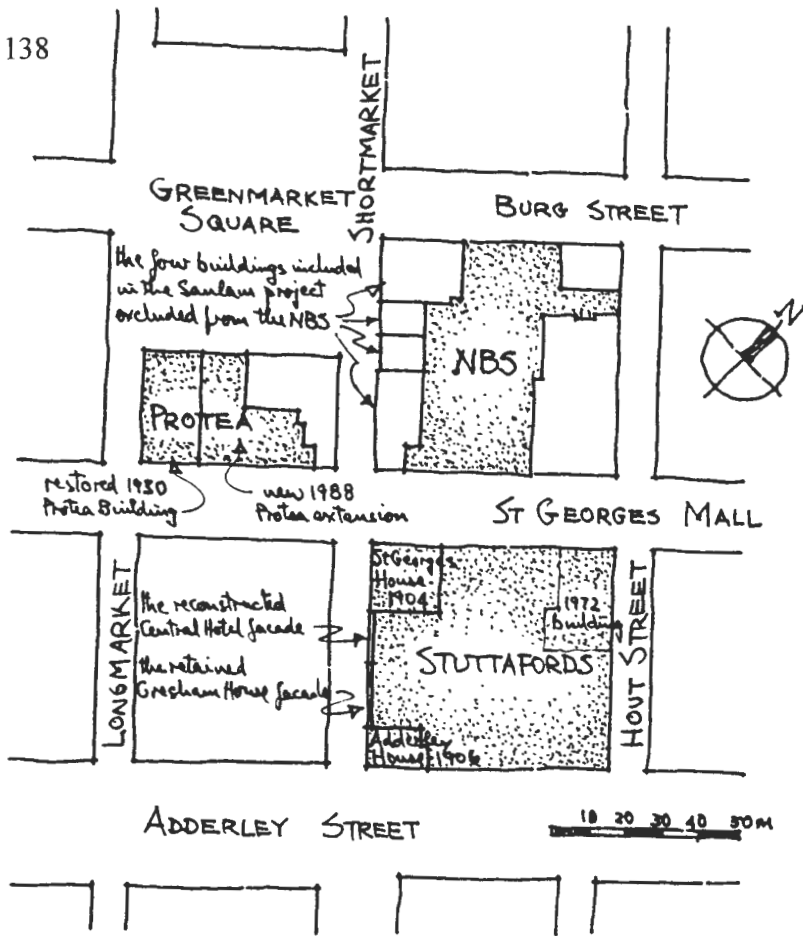
During 1980 one of the big insurance companies, Sanlam, had assembled a large site, almost an entire block bounded by St Georges, Shortmarket, Burg and Hout Streets and adjoining Greenmarket Square. This site included four conservation-worthy buildings facing onto Shortmarket Street and Greenmarket Square, built in the 1920s and 30s, with another five properties behind them. In late 1981 Sanlam proposed a very substantial building of 14 storeys and covering the entire site. This generated considerable controversy initiated by the ordinarily uncontroversial Property Editor's column in the Cape Times in which the journalist reported:

"A giant company has decided to develop the north side (of the Square) with a set of high rise buildings" (Cape Times, 22 August 1981, "Greenmarket Square in danger of ruin").

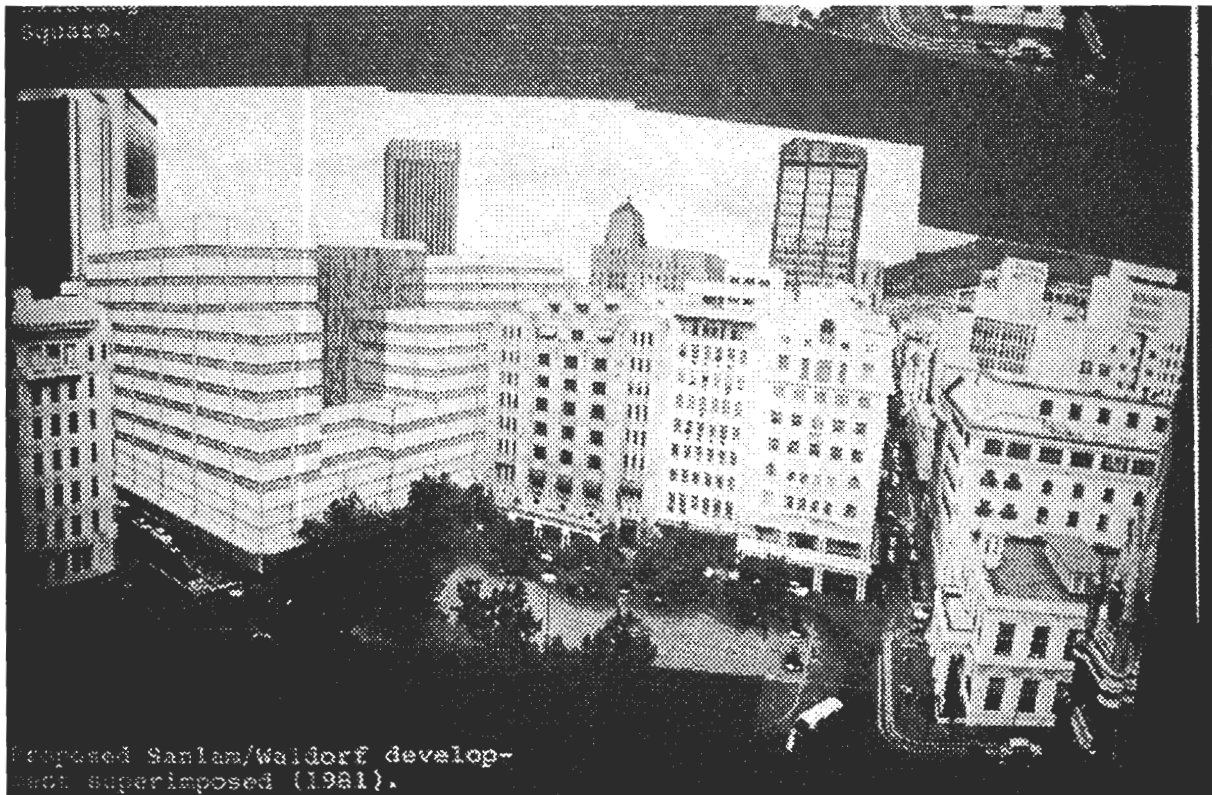
Subsequently, in December the temperature of the controversy increased; and on 9 December the architects made a presentation to the City Council's Town Planning Committee (Argus, 10 December 1981, "Firm presents Greenmarket Square plan"). The chairman of the committee, Councillor John Muir, attempting to be neutral, emphasized that the proposal had not been officially submitted and that this was "a sincere attempt from Sanlam" to negotiate. But Sanlam, frustratingly, on 11 December announced simply that "details would be disclosed early next year"; and a leader the next day, again in the Cape Times, warned readers that this "should be viewed with suspicion".

As a result a group of University of Cape Town architectural students circulated a petition opposing the still undefined project. This petition, started in the busy period just before Christmas on 19 December, attracted "quite phenomenal public support" (Cape Times, 21 December), obtaining 5 000 signatures in only three days (Argus, 22 December) and totaling 8 000 by 28 December. The students, aware of the project, had during the 1981 academic year proved to themselves that the four buildings lining the Square could be saved by designing a building of 25 000 sqm with parking for 200 cars (apparently Sanlam's requirements) (Argus, 26 December, "These buildings can be saved: UCT architecture students design alternative to Waldorf block scheme"). Several leading architects were quoted during the next few days arguing for the protection of the character of the Square and that conservation did not preclude development; and numerous letters and many leader columns in both the Argus and Cape Times during these few weeks promoted "Saving the Square".

On the other hand, a past president of both the CIA and of the Simon van der Stel Foundation, Hannes van der Merwe (he was also the designer of the Reserve Bank, the building described earlier as the most insensitive building in the city) as well as an architect from Paarl writing under the pseudonym of Vitruvius, contended that the buildings were not worth saving, and promoting "good architecture in the form of a modern and attractive design" (letter from Vitruvius, Argus, 31 December 1981). The Cape Institute of Architects was clearly not undivided in its opinions; and Etienne Bruwer, the student at the head of the petition, recalls how he was invited (or summoned) to the Institute's chambers for an interview with a group of senior architects including van der Merwe (past president, 1966-68) and Jack Barnett (past president, 1976-78), who suggested that he and his fellows should adopt a more moderate approach to the tension between conservation and development (Etienne Bruwer, personal communication, 18/10/2002). It bears noting that van der Merwe was Sanlam's architect.



The NBS, Stuttafords and the Protea Buildings: Location



The Sanlam proposal, 1981, viewed across Greenmarket Square
Photographic montage (CCC)

During this same period, and linked to the Sanlam furore, the newspapers also carried numerous reports referring to a new provision proposed to be included in the town planning regulations, giving the City Council the power to refuse the demolition or construction of any building that could harm the character of any identified "area of special architectural, aesthetic or historical significance". This provision, first proposed in 1979, had been approved in principle by the town planning committee in July 1981 and, even though the Sanlam proposal had not yet become controversial, the first newspaper reports regarding the new regulation in July 1981 had referred to the Sanlam proposal (Cape Times, Staff Reporter, 7 July, "City needs powers to save old buildings"). Indeed, as the furore developed during December 1981 and January 1982, news reports referred to the Sanlam development as being the first major development to be scrutinized under the new regulation.

On 10 February 1982, however, Sanlam suddenly announced that they had sold the site to "an undisclosed buyer" (Cape Times, Chief Reporter, 11 February 1982, "Sanlam sells controversial city block to mystery buyer"). The controversy did not, however, end immediately because the nominal purchaser, a company named Burg Street Properties, continued for some months to try to have the four buildings lining the Square demolished; but without success (Argus, 16 June 1982, "Waldorf: Council digs in"). But the debate about conservation and the regulation of development, not surprisingly, continued unabated. As a consequence of the Sanlam furore, the Council's planning officials, under Dave Jack and Peter de Tolly (Derek Jacobs, Henry Aikman and Jason Collett, all architects), developed guidelines and criteria for development both for the properties surrounding the Square and for the "Waldorf" block as a whole (one of the buildings facing onto St Georges Street was then still occupied by the well-known restaurant, "The Waldorf"). These guidelines and criteria were approved by the City Council's executive committee in mid-March 1982 (CCC, 1982). The good sense of these measures proposed before the new owners of the properties made any proposals was recognized by all concerned (Argus, Municipal Reporter, 17 March 1982, "Square: Building conditions proposed").

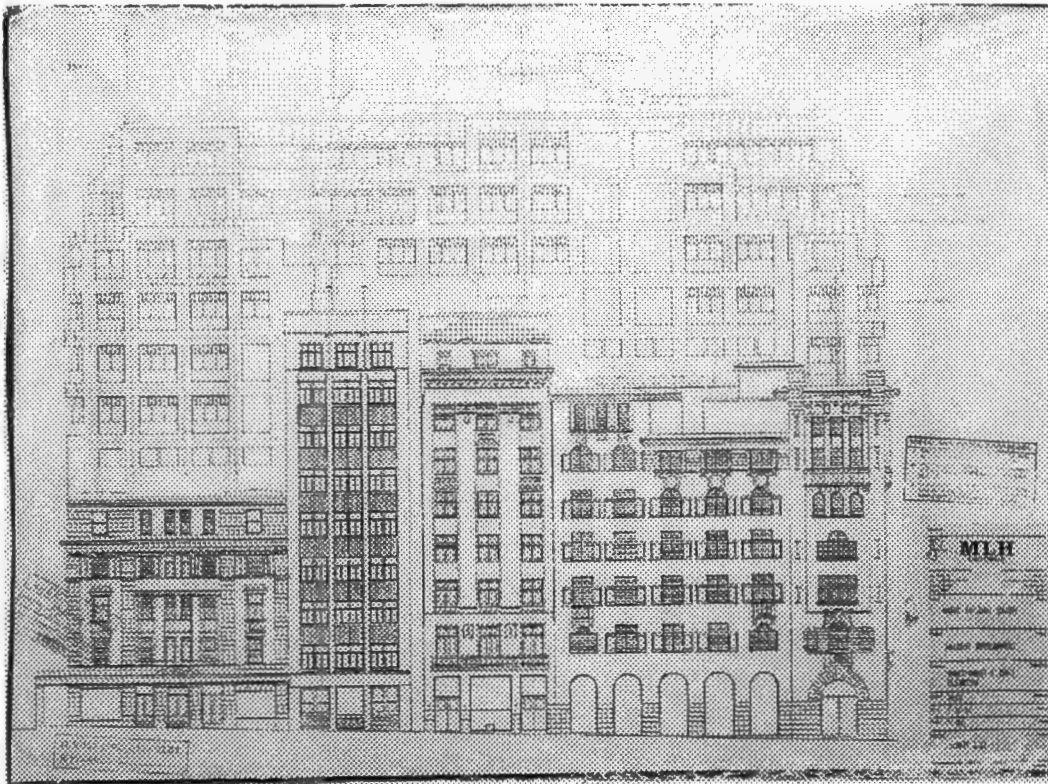
More than a year later, in June 1983, a savings bank, the Natal Building Society (NBS), announced that they had purchased the central section of the Waldorf block from Burg Street Properties (Cape Times, Tom Hood, Property Editor, 25 June 1983, "R20-m plan for Waldorf block"); and during 1983 new architects, Mallows, Louw, Hoffe and Orme with Alex Robertson as the partner-in-charge, negotiated with Council officials under Dave Jack and Peter de Tolly regarding a new proposal. This new proposal, on a smaller site, excluded the four conservation-worthy buildings facing onto Shortmarket Street and Greenmarket Square and stepped up above these buildings. A few months later newspaper reports reflected public acceptance: Revel Fox, now chairman of the CIA's heritage committee, and other leading architects including Gabriel Fagan were quoted saying that "the present scheme would retain the scale and texture of the Square" and commending both the architects and the City Council officials, Peter de Tolly in particular (Cape Times, Staff Reporter, 6 September 1983, "Waldorf

development an environmental compromise")¹¹. It is also apparent that both the attitude of the NBS and the trust and close personal friendships between the architects and the senior City Council officials made the interaction co-operative and easy (Henry Aikman, interview, 21/11/2000).

The ultimately completed building is a remarkable achievement: a very large and bulky building of 18 236 sqm (97% of the permitted bulk) carefully built within, even threaded into, the dense historical fabric of the immediate historical environs, and at the same time very visible from Greenmarket Square. The faceted building forms, clad in pink granite and reconstructed stone with lush planting stepping back from Greenmarket Square, are both distinctive and fitting. The arcade running through the building at street level (though not particularly successful either commercially or architecturally) and the metal and glass colonnade fronting the St Georges Mall and Burg Street facades (criticized by some as unsubtle) make very positive contributions to pedestrian life and to the success of St Georges Mall. The eight storeys of offices around an internal atrium have been particularly successful with excellent tenancy returns, even though the parking ratio is a fraction of what would be demanded today (Kingsley Loney of NBS, interview, 23/11/2000). It has been generally acknowledged to be appropriately unobtrusive and "a very good background building, but with its own distinctive presence" (Henry Aikman, interview, 21/11/2000) and that "it was quite an achievement to have three floors of parking (just up from street level) that no one is aware of" (also Henry Aikman).

It is clear that this development was negotiated without any difficulty; and it could be argued that there was no need for conservation-oriented controls. However, it is equally clear that the furore raised by the Sanlam proposal had created a shared mindset that obviated the need for over-stated control and that the guidelines formulated in 1982 had made the requirements of the authorities explicit. Furthermore, the most sensitive part of the site proposed to be developed by Sanlam, that is, the four properties lining Greenmarket Square, was not part of the NBS proposal and, most importantly from the owner's point of view, a building using almost 100% of the permitted bulk and including 190 parking bays was realized. In other words, the essential components of the development rights were exploited, the controls gave sufficient guidance to ensure that the ultimately proposed design could be easily negotiated and approved *and* the controls had ensured that the most significant components of the environs (the buildings facing onto Greenmarket Square and the Square itself) were protected. It must, however, be emphasized that the support for such control was always qualified; and Peter de Tolly recalls that some of his colleagues had been very critical of these guidelines for being "overly prescriptive" (Peter de Tolly, personal communication, 19/12/2002).

¹¹ It is important to point out that although Fox and Fagan have been referred to in several places earlier with regard to their work and reputations as conservationists and as insiders within, even as founder-members of the conservation-oriented urban governance regime, they were and are still very highly regarded as modernist architect-designers. Fox had been president of the CPIA in 1974-5 and had been given the national Institutes's highest award, the gold medal, in 1977 and Fagan was to receive the same award in 1988.



NBS: Approved Plan, 1985; Greenmarket Square Elevation
(MallowsLouw, Architects; CCC 290598)



The NBS today: Photograph from Greenmarket Square: note the preserved buildings between it and the Square (photograph 1994)

It must also be emphasized that the public furore that gave the authorities and their officials the confidence to take this clear growth management stance was aimed at protecting the scale and character of what is certainly the most attractive public square in Cape Town; and that the controversy and the desired controls were directed at *both* the preservation of the four threatened buildings lining the Square and giving it its character *and*, more importantly, at controlling the scale and visual impact of the new buildings to be built so close to the Square. It is apparent, from this account of the "saving" of Greenmarket Square, how the tide had changed since the rather tentative nods towards conservation in the *City for the People* report of 1975. Indeed, this controversy signals a distinct change in attitude in civil society regarding the built environment; and it is clear from this incident that the character of the town scape and the significant city spaces had become a generally held and widely recognized public good in Cape Town by this time, in the early 1980s.

As a consequence, the *Pedestrian Network for Central Cape Town* report produced in 1985 by Peter de Tolly under Dave Jack (CCC, 1985), had a very different flavour from the *City for the People* report of 1975 produced under Morris. Rather than the piecemeal and *ad hoc* pedestrianisation proposals and limited conservation ideas of the 1975 report, the *Pedestrian Network* report proposed, first, an integrated network comprising a mile-long pedestrianised St George's Mall/Anreith Arcade and several allied east-west malls off this principal spine with a comprehensive open space system making the existing squares pedestrian-friendly and more usable; and, second, an integrated set of conservation-oriented actions including the introduction of an appropriate town planning regulation, the designation of additional conservation areas, the development of design guidelines, and the creation of a revolving fund (CCC, 1985a, pp.ii-iv and 50-57).

The programme of improvements to the public realm and the direction given by the *Pedestrian Network* report enabled all private sector development in the city centre during the next decade to respond in concert, contributing to and enriching the environs. Of these, the Stuttafords Town Square redevelopment and the Protea Assurance extension, designed and approved in 1987 and 1988 respectively and, following the nearby NBS building, both responded to and took advantage of the pedestrianisation and urban design improvements taking place. Both of them abut St George's Mall and the Protea building also faces Greenmarket Square; and both were subject to the City Council's and the NMC's conservation-oriented scrutiny and control (both are case studies discussed in the following chapter). In both cases the development intentions of the property owners were consistent in general terms with the requirements and expectations of both the conservation authorities and the planners and urban designers.

In the case of Stuttafords, despite the conflict over the collapse of one of the 'historic' buildings, the buildings were, in the main, restored or remodelled, and improvements were made to the canopies and colonnades, and to pedestrian life, thus contributing significantly to the environs. In the case of the Protea Assurance extension, although the Council's urban designers would have preferred an arcade running through the building linking St George's Mall and Greenmarket Square, the design was so subtly clever and appropriate that today it is generally recognised to be the best in-fill building in Cape Town. However, due to the requirement to retain the old 1931 Protea

Assurance Building, adequate parking could not be included in the proposal.

As a consequence of the parking shortage in the area and in the Protea proposal, a consortium, including Protea Assurance as a partner, suggested in May 1988 that a solution would be to provide parking under Greenmarket Square (the Protea extension proposal was submitted at the same time). It had also been established that insufficient parking in this quarter of the city was the greatest threat to the high percentage of conservation-worthy buildings in the immediate environs (which typically have no parking of their own) and to the struggling retail sector. Accordingly, a proposal to construct approximately 450 bays under the Square (150 for Protea and 300 for public use) was presented by the proponents to the officials of the NMC and CCC in early June, 1988. This was discussed by the NMC's regional committee who asked for the CIA's advice. Subsequently, re-assured by the CIA's conditional support, the NMC confirmed that they too would support the proposal. However, once the potentially interested and affected parties, flea-market stallholders, shop keepers and surrounding property owners, and the general public learned of the proposals a public furore erupted and a petition objecting to the proposal gathered several thousand signatures.

At least in part as a result of the controversy, but also because of the very high cost of excavation due to the hard layers of shale very close to the surface, the proponents of the underground garage proposal withdrew in February 1989. Public opinion had once again expressed itself clearly and dissuaded potentially damaging development of the environs (this is discussed in more depth in the Protea case study in the next chapter).

5.12 Transportation-Led Planning and Conservation in the West City

While attention at the heart of the city centre focussed on the pedestrianisation proposals and the protection of the character of Greenmarket Square and its precinct, in the West City the potential impacts of the proposed elevated Buitengracht Freeway and parking garage proposed as components of the Morris transportation-led planning and over-scaled new development attracted the greatest attention and provoked controversy. It is now clear, however, that historicist preservation/restoration of the West City was, if subliminally, the primary objective of the incipient urban governance regime in the early 1970s. The West City was in the 1960s and 70s a part of the city still largely 19th century in scale and fabric, run-down, still with some residential life of its own, and abutting the charming and vital residential Muslim Quarter. The Simon van der Stel Foundation's 1970 list was drawn up with the intention of protecting the fabric of this specific West City quarter of the city because of its consistency and age; and the frequent reference in the 1970s to the models of preserved Italian cities like Bologna and Rome reveal the notions of preservation held by the conservation lobby (see, for example, Mills, 1974).

The first of the West City controversies concerned the Buitengracht Freeway, which had simmered away for a decade but came to a head in late-1978 and early-1979. The Buitengracht Freeway was an important element in the ringroad system proposed in the *Metropolis for Tomorrow* report of 1951; and it was given greater significance in the 1958 ten-year roads programme, at that time proposed as an elevated freeway with associated parking garages (CCC, 1958). These proposals were confirmed in the definitive 1968 White Report (CCC, 1968). However, from as early as 1972

considerable resistance to the elevated freeway and, in particular, to the parking garage proposed adjoining Riebeeck Square was expressed (see the drawing by Dirk Visser showing the impact of the freeway and proposed new buildings on the Lutheran Church complex in Simon van der Stel Foundation Bulletin 28, September 1973, p7). In their responses in late-1975 and early-1976 to the *City for the People* report of March 1975, several parties specifically referred to the impact of the Buitengracht Freeway on the Lutheran Church complex and the intended demolition of an entire city-block adjoining Riebeeck Square, the so-called Bree-Shortmarket block, in order to accommodate a 2000-bay parking garage. These comments were made and articulated most pointedly by the CIA, the NMC and the Simon van der Stel Foundation (CCC, 1985, pp78-81); and over the next few years these objections swelled. The 1968 White Report had described the freeway in considerable detail and included two photo-montages showing the elevated freeway adjacent to the Lutheran Church complex (CCC, 1968, fig. 7-10 and 11). These illustrations were now used by the objectors to demonstrate their argument; and during the period from August 1978 (the date of the *Buitengracht Traffic Study* known as the *Black Report*; CCC, 1978) to January 1979 the pitch of the controversy heightened. The very public disagreement between a City Councillor, Councillor Joan Kantey (a member of the CIA's Heritage Committee and of the Simon van der Stel Foundation), who opposed the elevated freeway and the garage with considerable vigour, and her husband, the director of a well-known traffic engineering consulting firm, whose letter to the press promoting the proposals (Cape Times, 22 December 1978, letter from Basil Kantey) demonstrated the differences between the engineering- and the environmentally-minded. However, in January 1979 the City Council decided that an "interim scheme" at ground level without the parking garage or the street widenings would suffice for at least a ten-year period (CCC, TP1932 and press reports of February 1979). In effect, the decision was deferred, apparently for ten years. It bears mentioning *en passant* that popular resistance to the system of elevated freeways continues to this day, as was demonstrated during 2002 by the widespread and successful objections to completing the still incomplete elevated Table Bay motorway on the Foreshore (see the many newspaper reports during early 2002).

During the furore in 1978 the City Engineer's department under Jan Brand, the City Engineer since 1975, started planning work on the West City Action Area under the direction of a steering committee (which included politicians and representatives of civil society, several of them from the Heritage Committee) and a technical sub-committee (CCC, 1979a). The West City Action Area was defined as an area eight blocks by three and a half, bounded by Strand, Wale and Rose Streets and a line at mid-block between Loop and Long Streets. The intentions of the study were to promote the restoration/re-development of this relatively run-down area (blighted in part by the uncertainty generated by the freeway proposals) by taking advantage of its historical, architectural and locational advantages and so to overcome its environmental and economic decay (CCC, 1981, p11). The first report was completed in mid-1980 and the second in late-1981; and the findings referred in particular to the negative impacts of the proposed elevated freeway and parking garage and they motivated the disposal of Council-owned properties to encourage re-development of the area. In the context of this study, these findings are significant because they indicate a reversal in the thought and practice of the transportation engineers within the City Engineers' department. They should also be recognised as practical and essential steps consistent with the 1979 and 1981

proposals to designate conservation areas within the city centre referred to earlier (two areas, the Riebeeck Square and the Lutheran Church Complex conservation areas, had been proposed within the West City). Indeed, the construction of either the elevated Buitengracht Freeway or the 2000-bay parking garage adjoining Riebeeck Square would have made a mockery of conservation endeavours in the West City.

Subsequently, in 1984, the *Central City Traffic Study* or Grey Report generated revised forecasts for traffic and land use development in the city centre, and of the future significance of public transport; and it recognised that the preservation and recycling of a large percentage of the buildings in the West City would preclude the full development potential of the town planning scheme. Accordingly, the freeway and the 2000-bay parking garage would be out of scale and also unnecessary (CCC, 1984). Later, the *West City Action Area: Report Three* of September 1987 recommended that these conclusions be acted on definitively, that the town planning scheme should be amended appropriately, and that the Council-owned properties that had been acquired for the freeway and garage be sold with appropriate restrictions (CCC, 1987a). However, this report was never approved by the City Council because the recommendations for disposal of Council-owned land were resisted by the department responsible for managing the municipality's property holdings and because the City's transport engineers vacillated in the face of the provincial government's opinion that an alternate site for the 2000 parking bays should be found *before* the block was rezoned or replanned.

With the exception of the execrable City Park building (built in 1969 by the City Council and discussed earlier) and the modest Glaser re-development which revitalised part of the adjoining city block bounded by Loop, Church, Bree and Wale Streets in 1984-5, relatively little development had taken place in the West City for decades. However, in early 1988, a developer assembled the large part of a block bounded by Bree, Waterkant and Riebeeck Streets close behind the Lutheran Church complex and proposed a very large stepped "ziggurat-shaped" office block. This proposal is one of the development project case studies described below and it must, therefore, suffice to say here that the proposal provoked considerable controversy, even fury on the part of those who had since the early 1970s worked towards the historicist preservation of the West City. Furthermore, early in the controversy the City Council proposed to designate a conservation area (which would have been a third conservation area within the West City Action Area) which included the development site in a belated attempt to impose such controls on the proposal. Ultimately, as will be seen, the controversy and the negotiations were successful in that they led to a very differently configured complex, preserving the scale and character of the charming two-and three-storeyed Waterkant Street.

5.13 The Cape Town Heritage Trust and the West City

The creation of a non-profit revolving conservation fund was one of the measures proposed in the 1975 *City for the People* report; and the proposal was repeated in the *West City Action Area: Report Two* of 1981, two lesser reports in 1983 and 1984 and, finally, in the *Cape Town Heritage Trust* report of July 1985 (CCC, 1985b). The eventual formation of the Cape Town Heritage Trust in 1987 was bound up with the West City Action Area both in its origins and because 12 properties the City Council had

expropriated for the road widenings and road improvements of the Hout-Shortmarket couplet associated with the elevated Buitengracht motorway and the parking garage just discussed were given by the City Council (with the Provincial Government's concurrence) to establish the Trust (20% of the costs of the expropriations had been paid by the City Council, while the remaining 80% had been paid by the Provincial Government).

The creation of the Trust and its disposal of the 12 properties during the following year, 1988, had an immediately visible impact on the West City. The properties were sold with restrictions requiring their restoration within two years and, as a result, the West City had 12 buildings upgraded and/or restored relatively quickly. Furthermore, because the properties were all in just two streets, Hout and Shortmarket and running between Greenmarket and Riebeeck Squares, the impact was concentrated and therefore more effective. In addition, the City Council had sold two buildings abutting these properties a little earlier, which were remodelled at the same time.

In 1989 the Trust, under its first director, Graeme Binckes, first proposed that the buildings on the so-called Bree-Shortmarket block adjoining Riebeeck Square also be donated to them. This proposal was at first resisted by the City Council who had intended disposing of the buildings via a proposal call. Also, at that time the block was still designated and zoned for use as a parking garage. It must be conceded now, however, that a proposal call process is extremely unlikely to have produced a better, or even comparable, product. A proposal call is almost certainly to have found a commercially- rather than conservation-minded developer who would have been rather more difficult to guide than the partnership that the Heritage Trust managed to arrange. It is also true that disposals of land via proposal calls in Cape Town have, with only one or two exceptions, been fraught with delay and controversy. However, the Trust persisted with their proposal and, after the rezoning had been approved by the Provincial Government in March 1993, continued to try to find partners in the development. Accordingly, after a series of discussions between the City Council and the Trust, the Council agreed in principle in 1994 to donate the ten properties to the Trust (in partnership with Montsi Properties). The redevelopment of these properties, now known as Heritage Square and completed in mid-1998 under the Trust's second director, Ashley Lillie, is one of the case studies discussed below.

In many ways, the restoration or revitalisation of the Bree-Shortmarket block adjoining Riebeeck Square, proposed for decades as a 2000-bay parking garage, was precisely the historicist urban preservation project that the historicist wing of the conservation-oriented urban governance regime had always had in mind. Indeed, the completion of the Heritage Square project in 1998, after 30-odd years of endeavour, signalled the successful realisation of one of the most significant objectives of the conservation-oriented urban governance regime in the 1970s, then to a man (and woman) preservationist and historicist.

5.14 Areas of Special Architectural, Aesthetic or Historical Significance, Later Known as Urban Conservation Areas

Threaded through this history of transportation planning, public opinion and controversy, development projects, and urban design proposals, is a history of endeavours by the

conservation-oriented urban regime aimed at creating a town planning regulation that would enable the designation of conservation areas and the control of development in the historical parts of the city. This history is, of course, inextricably linked to and even reliant on many of the events already described.

Following the 1975 *City for the People* report and the 1978 publication of the Catalogue, in 1979 the City Engineer's department proposed the promulgation of a new section of the town planning scheme enabling the protection of "areas of special architectural, aesthetic and/or historical significance", echoing the (British) Civic Amenities Act of 1967. Although this proposal had been long in the making, the trigger for the proposal at this time was a fire that badly damaged a significant building, the Old Civil Service Club, in one of the city's prettiest squares, Church Square (see CCC, 1979b and 1980b). However, unlike the earlier proposal in the *City for the People* report suggesting limited powers to refuse demolitions of and alterations to listed buildings only (CCC, 1975, p56), the powers now requested were intended to control both demolitions of old buildings *and* the appearance of new buildings. Indeed, the proposed new section of the town planning scheme was similar in language and in the powers sought to British precedent. It must also be re-stated that notwithstanding the recommendations contained in the 1975 *City for the People* report (and, therefore, consistent with the limitations of those recommendations), conservation-oriented endeavours were at this time regarded as being anti-development and were resisted by planners, legislators and the larger property owners alike. The debate between conservationists and proponents of property rights at this time was conducted in a legal and political context characterised by a profound conservatism regarding property rights derived from the provincial planning ordinance in effect at the time, that is, the Townships Ordinance of 1934, which makes it clear that compensation would have to be paid for the loss of rights. This old ordinance is quite different from the spirit and intentions of its replacement, the Land Use Planning Ordinance of 1985, which explicitly protects the environment and permits rights that are not used within 15 years (recently extended to 18 years) to lapse.

As a consequence, obtaining formal approval of the proposed new regulation from the Provincial Government was to be a lengthy process. It was, however, not until September 1981 that the City Council formally put its proposal to the regional planning authority. This precipitated an almost decade-long dispute with labyrinthine twists and reverses, of which only the most significant developments are reported here:

Two years later in July 1983, the Provincial Government approved the regulation, but on the condition that all decisions would be subject to the right of appeal to them, the Provincial Government. The City Council resisted this for several reasons, but primarily because in the circumstances such an appeal system was not legally possible, because the Council was not prepared to give up the authority to make such decisions, and because of the potential administrative and logistical chaos that would result from numerous appeals. The two authorities then argued about the legalities and necessary administrative procedures until September 1986 when the provincial government eventually conceded that the initially proposed regulation would be accepted. This effectively also ratified the designation of the conservation areas proposed in 1981, that is, five central city areas, the Lutheran Church complex, and Old Wynberg Village,

some 15 kms from the city.

But, instead of proceeding, the City Council then proposed to amend the regulation so as to *clarify* its intentions by re-wording the new regulation, now using the term *urban conservation areas*, and to *extend* the ambit of the controls to include mature trees, hedges and boundary walls. The Provincial Government, in turn, suggested other changes and then, in December 1987, required that the proposed amendments be advertised for public comment. After further debate and delay the proposed re-worded regulation was advertised in late-1988 in the press and by registered post to all of the property owners in the first proposed six central city areas and in the Wynberg Village area. However, by this time several other areas both within the city centre and further afield had been identified as potential conservation areas and were also in the process of being designated. The owners of all properties in these areas were also advertised to, totalling 2250 in all. However, only 41 commented on the proposed amendments to the regulation; and of these only five had any objection at all. This was a resounding vote of support for conservation controls.

During this time, from 1987 to 1989, a general revision of the then Town Planning Scheme was in the process of being publicly discussed and negotiated; and at the end of that process, in June 1990, the new amended provision enabling the identification of urban conservation areas and the control of development in such areas was included in the new revised regulations, henceforth to be known as the *Zoning Scheme and Regulations (Provincial Gazette, 1990)*. At last, after a decade of bureaucratic squabbling, Cape Town had a town planning regulation that would enable it to control or, at very least, to influence the development of conservation-worthy buildings and the design of new buildings in conservation areas. The areas now designated as Urban Conservation Areas in the new regulation, Section 108 of the new Zoning Scheme, included only the six central city areas and Old Wynberg Village.

It bears pointing out now, with hindsight, that the City Council town planning and UCU officials did not recognise the potential of the conservation-oriented urban governance regime in this dispute. It is likely that had either the NMC or the CIA been asked to use their influence, the dispute between City and Province would have been curtailed and the creation of conservation area controls, one of the most significant projects of the regime, would almost certainly have been realised somewhat sooner.

5.15 Identifying and Delimiting Urban Conservation Areas in the City Centre

The identification and delimitation of conservation areas during the past 20 years has had three quite distinct phases: the first phase between 1979 and 1988 relied on the prior identification of individual buildings in the Catalogues and identified small homologous areas of the highest architectural significance in the city centre and in Old Wynberg Village; the second phase between 1986 and 1995 relied on urban morphology studies throughout the historical city (that is, the parts of the city constructed by 1925) and identified more architecturally heterogenous and largely residential areas; and the third phase between 1993 and 1997 and, responding to a wider range of identification methods, pulled together many of the strands initiated in the previous two decades, and, in the city centre at least, concluded the process by unifying 13 previously identified separate areas into one consolidated urban

conservation area covering the entire historical city centre. This process is instructive and revealing in itself (see Townsend, 1996).

The First Phase: 1979 - 1988

The first of the Catalogues published in 1978 enabled the identification and delimitation of conservation areas within its study area, the historic central urban core, which includes both the historic heart of the city centre and the West City. Five of the first six areas, identified in 1979 and 1980 by the City Engineer's Department and initially known as "areas of architectural, aesthetic or historical significance", were relatively small areas within the city centre and included only the buildings facing onto or associated with public squares. These five squares were Greenmarket Square, the Grand Parade, Church Square, Riebeeck Square and Stalplein, all declared as national monuments in 1961 and 62. The sixth area, also in the city centre, comprised a small group of conservation-worthy buildings including and adjoining the late-18th century Lutheran Church complex declared individually as national monuments in 1936 and 1948, although the conservation area also includes the buildings across the road which have no architectural (or other) merit. It is readily apparent that, although the identification and delimitation of the areas relied solely on the assessments of individual buildings in the Catalogue, the intention at that time was to protect only important public places and relatively formal complexes of buildings, and to ensure that these buildings and urban spaces would not be visually overwhelmed by large new buildings designed "to the full potential permitted by the Town Planning Scheme" in their *immediate* vicinity (CCC, 1979b). It was implicit that these controls aimed to protect the recognised grand edifices of political or religious significance or the groups of relatively grand buildings forming important urban spaces. In 1981, Old Wynberg Village was added to this list of proposed conservation areas (CCC, 1981b). These seven areas were those declared as urban conservation areas when the provision was finally gazetted in 1990.

Growing concern about the environs and the public controversy during the period 1978-1981 regarding the impacts of the Samlam proposals on Greenmarket Square and of the Buitengracht freeway and its associated street improvements within the city centre, led to the identification of Long Street in the city centre with its "picturesque building fabric, much of which has a delightful Victorian character", as a potential conservation area in 1982 (CCC, 1982b). The limits of the Long Street area were also determined using the information and assessments of the Catalogue. The proposed designation in this case, however, provoked considerable protest from certain property owners who feared that their rights to develop to the full potential would be affected. This led to several years of debate and negotiation over the details of the proposed design guidelines. Ultimately, however, the Long Street Property Owners Association agreed to the guidelines and the designation in early-1988; and the City Council approved the proposal in late-1988 (CCC, 1988b) and submitted it to the regional planning authority for ratification. This designation was omitted (probably in error) from the revision of the zoning scheme in 1990, but it was eventually approved by the Provincial Government in December 1992 (*Provincial Gazette*, 1992).

Several planning studies during the early and mid-1980s (the *West City Action Area* reports of 1979 and 1981, the *Grey Report* of 1984 on traffic, the *East City Policy Plan* of 1986 and, most importantly, the 1985 *Pedestrian Network* report) had assessed the

functioning of the immediate periphery of the historic heart of the city centre and concluded that five more streets with the buildings lining them should be designated as conservation areas. These were Bree, Hout, Church, Queen Victoria and Buitenkant Streets. This was agreed to in principle by the City Council in late 1987 and the proposals were advertised to all affected property owners (CCC, 1987b). Also, in 1988, when The Terraces controversy arose proposing the demolition of several 19th century buildings and radically affecting a townscape another street, Waterkant Street, was also proposed as a conservation area (CCC, 1988c). For a number of reasons, but primarily because the regulation itself had not yet been promulgated, these proposals were not carried through. It must be emphasised, however, that the limits or delimitations of each of these areas were reliant on the assessments of the Catalogues.

The motivations and designations in this first phase from 1979 to 1988 closely parallels the British practice in the late-1960s and early-1970s which also concentrated on town centres and were often "tightly drawn around particular buildings or monuments" (Larkham, 1996a, p7). In other words, the same developments in the idea and practice of urban conservation control took place in Cape Town, but ten or 15 years later.

The Second Phase: 1986 - 1995

The second phase of identifying conservation-worthy buildings and sites and delimiting conservation areas between 1986 and 1995 over-lapped with the first, but differed significantly from the first phase in that the studies conducted to identify conservation-worthy buildings, sites and areas were specifically designed to identify the *urban* character and understand the *development history* of the environs rather than the architectural or historical significance of individual buildings. This was for two reasons:

- * First, the assessments and classifications of the 1978 and 1984 Catalogues (CPIA, 1978 and 1984) and the 1979 *Upper Table Valley* study (Verschoyle, 2000) had not given adequate information for the delimitation of conservation areas and because those areas that were suggested as conservation areas were tightly drawn groups of buildings of similar age, texture and architectural character; in other words, only small pockets of similar buildings were identified which, it could be rationally argued, would not be permitted to change; and
- * Second, this researcher's (at that time head of the Urban Conservation Unit) then recent training in Italy and that of two other UCU members (one trained at ICCROM, the other at the IAAS, York) introduced the methodologies developed by Muratori and Caniggia in Italy and by Conzen in England which demanded analysis of the environs at several scales and, in particular, of the historical process of the townscape's formation (see Kropf, 1993).

As a consequence of these perceived inadequacies in method and result, 14 conservation studies examining the entire historic city and its suburbs (that is, the urban core of the colonial settlement, the related villages or satellite cores and their suburbs established by the 1920s) were commissioned and completed between 1986 and 1995 by specialist consultants engaged by the City Council's UCU. The first wave of six conservation studies, which were carried out at the same time in 1986-87, was designed (by this researcher) to do three things: first, to draw in the expertise already developed in the city through the research for the Catalogues; second, to develop new pools of expertise in the field; and third, to change the focus of such research from a

building-focus to an area- or morphology-focus. Accordingly, the work was divided between six teams of consultants who were required to work in concert, using similar methods and criteria for the identification of both individual buildings and of areas, thus unifying the work (to a degree) and, more importantly, drawing the teams together, reinforcing and consolidating the city's conservation-oriented urban governance regime. Indeed, this project appears to have had a marked impact on the regime: it created a rather wider pool of expertise available to carry out conservation-oriented research and of effective participants in the regime; it established the precedent (in South Africa) for local authorities to have such work done; and, although the commissions were small and not well-paid, the precedent of *paying* for such research (in South Africa) was established.

Although these endeavours in Cape Town were path-finding for South African *urban* conservation practice, they were not without wider support: the gradual development of both professional and lay interest in urban conservation in South Africa was reflected in the symposia and conferences held in the 1980s and early 90s (sometimes local or regional, but also often national). The most significant of these include the very early symposium on the *Preservation and Restoration of Historic Buildings* held in Cape Town in 1959 (Immelman and Quinn, eds, 1968), the early conference on *urban* heritage at Grahamstown in 1974 (five of the papers were published in *Plan*, December 1974), a national symposium arranged by the Simon van der Stel Foundation in Potchefstroom in 1982 and already referred to (*Restorica*, 1983, pp58-59), the town planners' conference on urban conservation held in Stellenbosch in 1984 (SAITRP, 1984), the architectural conservation workshop organized by the CIA in Cape Town in 1988 (many of the papers were published in *Architecture SA*, September/October, 1988), the national conference on the *Conservation of Culture* held in Cape Town in 1988 (Coetzee and van der Waal, eds, 1988), the *Urban Conservation Symposium* held in Johannesburg in 1990 (Japha and Japha, eds, 1991), the *CBD Strategic Symposium* held in Cape Town in 1990 (CCC, 1990), and the *Vision of Cape Town Conference* held in Cape Town in 1993 (Cape Town Heritage Trust, 1994). It is also clear that the notion that *whole environments* better reflect history, that whole environments are more interesting subjects of conservation-oriented endeavours, and that the integrated planning of environs is more effective than the protection of isolated monuments, increasingly attracted more adherents, particularly academics, architects and administrators of conservation in certain local authorities as well as the NMC. This, of course, led to concern about research methods which is reflected in articles by Frescura in 1988, the Japhas and Todeschini also in 1988, and my own 1996 article describing the 20 year process of research in Cape Town. The national *Urban Conservation Symposium* held in Johannesburg in 1990, in particular, reflected the rise in this attitude and in the notion that the values underpinning conservation needed broader public input and ownership (Japha and Japha, eds, 1991; see also Townsend, 1991 and 1993).

It is a *sine qua non* that the values underpinning the assessments of cultural significance and the degree of importance will be critical to the public acceptance of the identifications. The values or criteria adopted in the Catalogues and in the 14 conservation studies were primarily architectural (Townsend, 1996, pp38-39) and clearly will not satisfy all sectors of society in the new South Africa. It is also true that the international debate about values, in particular the arguments about the importance

of *authenticity*, has recently taken a new direction. Indeed, it is now increasingly argued that conservation values and criteria must be developed and understood within the specific national and local cultural and socio-economic context (see the Nara Document on Authenticity in ICOMOS, 1996; also Zancheti and Jokilehto, 1997); although, it appears that this new position is more than likely to turn out to be simply another iteration in the struggle between the criteria and principles of *historicist conservation* and those of *conservation of fabric as document*. However, notwithstanding these caveats about the criteria underpinning the identification of buildings and areas, the criteria were applied relatively evenly through the sixteen studies, and a relatively consistent base for the measurement of conservation-worthiness was established.

It was, however, recognised at the outset of these conservation studies in 1986 that some mechanism would be needed ultimately to integrate the various and varying studies, each with their different perceptions, methodologies and findings. As a consequence, the City Council's UCU (then still under my direction) between 1992 and 1995 developed a simple three-grade system of classification of conservation-worthiness. The three grades can be summarised as follows:

- Grade 1: national or very considerable local architectural and/or historical significance; rare or outstanding;
- Grade 2: significant historical interest and/or intrinsic architectural value; and
- Grade 3: contributes to architectural or historical character of an area; contextual rather than intrinsic value; and/or minor intrinsic value (CCC, 1994; and Townsend, 1996)¹².

During 1986 and 1987 John Rennie (the principal author of the 1978 Catalogue) with Pat Riley made assessments of all the buildings in the Upper Table Valley and proposed a large number of small but internally homogenous conservation areas (CCC, 1987). The UCU's reassessment of these proposals led to the delimitation of only two consolidated and very much larger urban conservation areas. These differences were the result of the very different attitudes to urban conservation: Rennie and Riley quite clearly expected that urban conservation implied preservation and new works strictly in the style of the existing architectural character. This expectation necessarily presupposes architecturally homogenous environs which, in the heterogenous environment of the Upper Table Valley, formed gradually over centuries, are found only in very small local concentrations. The officials of the UCU, on the other hand, saw the city as a palimpsest and contended that new buildings could rather, indeed should rather, respond to the environs in a more generic way and could, in many circumstances, add a new modern imprint on or layer to the townscape; modern interventions should both respond morphologically and typologically to the immediate environs (as in Italy) *and* be an "honest attempt to built in a present-day idiom" (as in Britain; Buchanan, 1968, p53). As a consequence, the designations of the two large areas were formally proposed in 1988; and in early 1989 approximately 2000 property owners were advised by registered post and pamphlets explaining the proposal. It is interesting to note that only 111 responded in writing, the overwhelming majority of

¹² It must be mentioned that in 1997 the City Council commissioned a review of the categories and the grades of the buildings in the city centre, that is, the study area of Volumes One and Two of the Catalogue. Because of its lateness, it is of little moment in this study.

whom were enthusiastically in favour; though eight argued that the rights of the property owner were being eroded or that individual buildings rather than entire precincts should be protected, that is, taking a position closer to that of the consultants. Subsequently the two areas were formally designated as conservation areas in early 1992 by the Provincial Government. Although the Upper Table Valley is outside the city centre, this account is significant because the underlying, and largely unarticulated expectations as to the intentions of urban conservation quite clearly had a significant impact on the assessments and delimitations of the areas to be managed, and because this particular difference in expectations about the intentions of urban conservation management was to have a significant impact on the ultimately proposed and approved consolidated central city conservation area.

Later, from 1987, a number of conservation studies were carried out in parts of the city undergoing local area planning studies. In fact, several of the conservation studies were carried out in concert with or by the same consultants doing the local area planning. The delimitations of conservation areas proposed by the consultants were then assessed by the UCU and adapted as necessary for practical administrative efficiency. As the programme of conservation studies covered and analysed more of the city, so did the process of proposing conservation areas; and as this process of identification and delimitation advanced, so did the process of advertising these proposed conservation areas for public comment. In most cases such advertising was by pamphlet and/or by registered post to every property in each area proposed as a conservation area, and in several cases were followed up with public meetings to discuss the implications of the designations.

This second phase of designations again paralleled practice and experience in Britain, in that it primarily addressed residential areas (Larkham, 1996a, p7).

The Third Phase: 1993 - 1997

The third of the three over-lapping phases of identifying conservation-worthy buildings and sites and delimiting conservation areas began in 1993 when the UCU proposed that 34 new conservation areas be designated. As the process of carrying out conservation studies and identifying conservation areas had progressed, a number of areas throughout the city and the older suburbs had been suggested as conservation areas by a wide range of very different parties (groups of property owners, the NMC, historical societies, etc) in addition to those areas identified in conservation studies and/or local area planning exercises. This proposal was intended to complete the several processes started at different times since 1975. The areas included the six city centre streets and the immediately abutting buildings proposed in the late-1980s at the end of the first phase which were not carried through to designation.

The proposed designations of the 34 areas were widely advertised, leading to discussions and negotiations with a wide range of bodies ranging from individual property owners interested only in their own neighbourhoods, the CIA and its Heritage Committee, the University's School of Architecture and Planning, the SA Property Owners Association, and several NGOs with wider issues of principle in mind. Most importantly, several parties suggested that the six city centre streets (and their immediately abutting buildings) be consolidated with the seven already designated into

one consolidated central city conservation area incorporating the entire historic city centre. It was argued that the seven already designated areas with these additional six formed a matrix of "tightly drawn" pieces and strips that would both be difficult to understand and to manage and, more importantly, would be inclined to be dwarfed and/or dominated by buildings not constrained by the urban conservation-oriented guidance and controls in the immediate environment. This argument very closely paralleled that used by the UCU when they consolidated the numerous areas proposed in the Upper Table Valley. Indeed, the only reason they had not already proposed the consolidated city centre conservation area was concern that, in this environment with the highest land prices in the region, property owners would resist vehemently; and the UCU reasoned that it was pragmatic to suggest only the more easily motivated smaller pieces and strips. The parties who suggested and argued for the single consolidated area represented a wide range of interests: they were the NMC and NGOs like the Simon van der Stel Foundation, the CIA, the Chamber of Commerce, the SA Property Owners' Association and the Development Action Group (a politically progressive advocacy-planning NGO). This was an interesting and surprising development, particularly in view of the resistance to conservation previously expressed during the 1980s by some of the parties (SAPOA, in particular; although this is probably explained by the fact that an architect, the then recent past-president of the CIA, Trudy Groenewald, was representing SAPOA). This proposal to consolidate the 13 central city areas as described above and to designate the other proposed 28 areas was approved by the City Council without any further dispute (CCC, 1994b). The proposal was referred to the Provincial Government in late 1994, and approved by them in June 1997.

However, new twists in the process of designating conservation areas were about to unravel. In early 1997 a property developer had assembled several properties immediately adjoining the Loader Street "special area" (designated as such in 1979), but they were within the larger proposed conservation area then not yet approved; and a sketch plan for a seven-storey block of apartments was approved by the City Council (conservation-oriented constraints could not be imposed as the area had not yet been formally approved as a conservation area). Accordingly, when the conservation areas were approved in June 1997, the developer immediately attacked the Provincial Government's approval. The first attack was on the title of the approval, which had been incorrectly described as a "Draft Notice" and because, it was argued by the developer, that the designation had not been properly advertised. Accordingly, a corrected approval was published in July, 1997. This too was attacked; this time because the approval had been granted (improperly) by the Provincial *Premier* (it should have been the Minister of Planning). Subsequently, negotiations between the Provincial Government, the City Council and the developer resulted in these properties being excised from the Loader Street conservation area. Accordingly, all 28 new areas (the Loader Street area now slightly smaller, though still larger than the "special area") and, more importantly in this context, including the consolidated central city conservation area were all finally approved as Urban Conservation Areas in August 1997 (*Provincial Gazette*, 1997). This last struggle has no bearing on this study, but it does warrant the attention given it here because it demonstrates very well the conflicts between progrowth and growth management lobbies in Cape Town during the past two and a half decades.

This three-phased process of identifying/delimiting and formally designating conservation areas in the city centre of Cape Town over 18 years between 1979 and 1997 very closely mirrors the process in, for example, Bath in England, which evolved in four phases over 17 years between 1968 and 1985 (Larkham, 1996a, pp9-10).

It does also bear pointing out, before we examine the case studies in the next chapter, first, that all but one of the nine projects (the Stuttafords case) were sited within an area already identified and *proposed* as a conservation area; and, second, that only one of them (Park-on-Long) was sited within an already *formally declared* conservation area at the time of their scrutinies and approvals. This is significant because it shows that although all but one had been publicly identified for conservation-oriented scrutiny, only one could be properly controlled by the local planning authority. In other words, all of the nine cases had been identified for conservation-oriented attention (Stuttafords is included because it included four conservation-worthy buildings identified in the Catalogue), the scrutiny of all but one (the NMC alone was responsible in the Stuttafords case) relied on the *joint co-ordinated and co-operative* scrutiny of both the NMC and the City Council/UCU.

5.16 Two Phenomena Affecting Conservation in the City Centre

It has been apparent in this account of the growth of Cape Town, of the planning and the conservation intentions and the realisation of these intentions in the city centre during the past half century, that there have been two important phenomena that have had marked impacts on the shape, form, functioning, character and the development dynamics within the city centre. These two phenomena are, first, the periodic increase in the “bulk-lake” of permitted floor area in the city centre and its immediate surrounds and, second, the ever-increasing demand for parking in the city centre.

The Periodic Increase in the “Bulk” of the City Centre

The first of these phenomena, the periodic increase in the land and/or additional ‘bulk’ available for business and commercial development in and immediately abutting the city centre, has eased the pressure for re-development *within* the extant historical city and, as a consequence, it has eased the imposition of conservation-oriented controls.

Subsequent to the creation of the Town Planning Scheme in 1940 with its “permitted floor area factors” (CCC, 1940, S.23, pp93-97) and the consequent potential “bulk-lake” in the city centre, this potential was increased by the periodic extension of the city itself. This was, of course, not a new phenomenon in Cape Town. Indeed, ever since the dispute in the 1890s over the preservation of the Castle, the city has periodically been extended as more land was reclaimed from the sea. The first reclamations at the beginning of the 20th century enabled the construction of the railway line, the station (and later the goods yards) and the fish market (which was displaced for the new power station in the late-1920s). Then, during the 1930s, also before the Town Planning Scheme had been created, as described earlier, the Foreshore reclamation plan ensured that the city would be able to expand north-wards into an area previously occupied by the ocean (CTFJTC, 1948). This extension created some 194 hectares of which 109 hectares was specifically for expansion of the city centre (described in section 5.5 below). Throughout the 1950s and 70s the Foreshore properties were gradually disposed of by the Foreshore Board and the city expanded, enabling very

considerable development including the new municipal civic centre and the state opera house.

Also a part of this reclaimed land was the power station site (curiously *none* of the Foreshore proposals in the 1940s took any account of the then new power station). In the late-1980s the power station was demolished opening up the western section of the Foreshore for development; and, as a consequence, the considerable ICS (Imperial Cold Storage) site, itself all reclaimed land, was consolidated with the power station site releasing 5 hectares: approximately 60 % of this newly released and highly desirable land abutting the Waterfront, had been or was being developed by the time of writing in early 2003, including two very large hotels. Furthermore, and a third hotel and the very large convention centre are currently under construction on the immediately abutting northern Foreshore.

At the same time, in the late-1980s and early-90s, the relatively under-used and oldest section of the docklands (begun in 1860 with the start of the breakwater) comprising some 84 hectares of land and 32 hectares of water, owned by the state's railways and harbours services, were planned for re-development creating the Victoria & Alfred Waterfront with more than 600 000 sq m of new floor area (approximately half for retail and office and half for residential accommodation). By the time of writing approximately 50 % of the total had been constructed in just more than ten years (see the V&A's Bulk Register, 5 November 1999).

Furthermore, at present the "air-space" above the central station is being planned for 140 000sq m of retail, commercial and residential accommodation for immediate take-up; and the 60 hectares (includes the land to just beyond Church Street, Woodstock only) of the under-used Culemborg railways yards are being analysed for further expansion of the city towards the south-east (a development framework was approved in late 2002).

It is quite clear that these large pieces of land and the associated development potential periodically "coming on stream" will have created new opportunity for central city development, and thereby affected the development pressure and "cooled" the price of land within the city centre, thus reducing the development pressure on the extant old city centre. These extensions of the city over the past hundred years or so have enabled the city to expand without undue pressure on the fabric and buildings of the historical city centre. Indeed, it does appear that these extensions have enabled or facilitated the conservation of much of the core of the city by creating the space for expansion and, thereby, softening increases in land value.

The Demand for Parking

The second of these phenomena is the ever-growing market pressure for parking. As just pointed out, the city centre has expanded *and* it has become more dense through redevelopment at the same time. The early Morris plans of the 1950s which envisaged a ringroad around the city with parking garages both on the periphery and at strategic locations within the city centre have been amended: very few of the planned parking garages have been constructed, and the City Council was severely criticised during the late 1970s for the garages that had been constructed and then initially under-used

(CCC, TP 1932), and most of the proposed motorway system covering the metropolitan area has been constructed, even if amended or incomplete in several significant ways close to the city centre. However, the public transportation system, in particular the rail-commuter system and in particular during the 1990s, has not grown as expected. In other words, at the same time that the metropolitan freeway system grew during the past four decades and made road transport easier, other components of the overall transportation system have not kept pace. At present, and unchanged since 1997, just over 50% of all commuters arrive in the city centre by private car, 10% by mini-bus, 4% by bus and 35% by train (CCC, 1997, p29; and CCC, 2001, p77), though in off-peak periods the modal split favours private motor vehicles at 79% (CCT, 2001, p77).

The combined effect of an excellent freeway system, the under-provision of parking in the city centre and an under-performing commuter-rail system has had three significant impacts: first, suburban centres like Claremont and Belleville have grown more than might otherwise have been expected, second, green-field centres like Tygerberg and Century City have developed quite independently of conventional impetuses for growth and, third, and most importantly in the context of this study, in the city centre itself the demand for parking has grown exponentially.

This demand for parking has two significant effects on buildings, built and planned, and, therefore, on the way in which buildings in the city centre function:

First, the floor space to parking bay ratio has changed radically since the mid-1980s. Taking office buildings only, in 1985 the City Council approved the NBS proposal of 18 765 sqm with 189 parking bays which, if no parking is assigned to the retail floor area, means one bay was required per 90 sqm; The Terraces, with 14 326 sqm of floor area (no retail) and 200 bays or one bay per 70 sqm, was approved in 1989; the Federated Life Building of 14 555 sqm and 230 bays or one bay per 50 sqm (with no parking assigned to retail floor area), was approved in 1990 (see Townsend, 2001; all three examples are described in considerable detail); the Investec Bank Building on the Foreshore and approved in 1999, however, has one parking bay per 25 sqm of office space. This clearly signifies a very considerable change in demand for parking associated with office space over just 15 years. Indeed, it is something of a shock to realise that, because each parking bay uses approximately 25sqm (the area for the bay itself plus its share of the ramps and circulation space), parking demand has literally doubled the floor area of every building (Denis Fabian, interview, 2/8/2001).

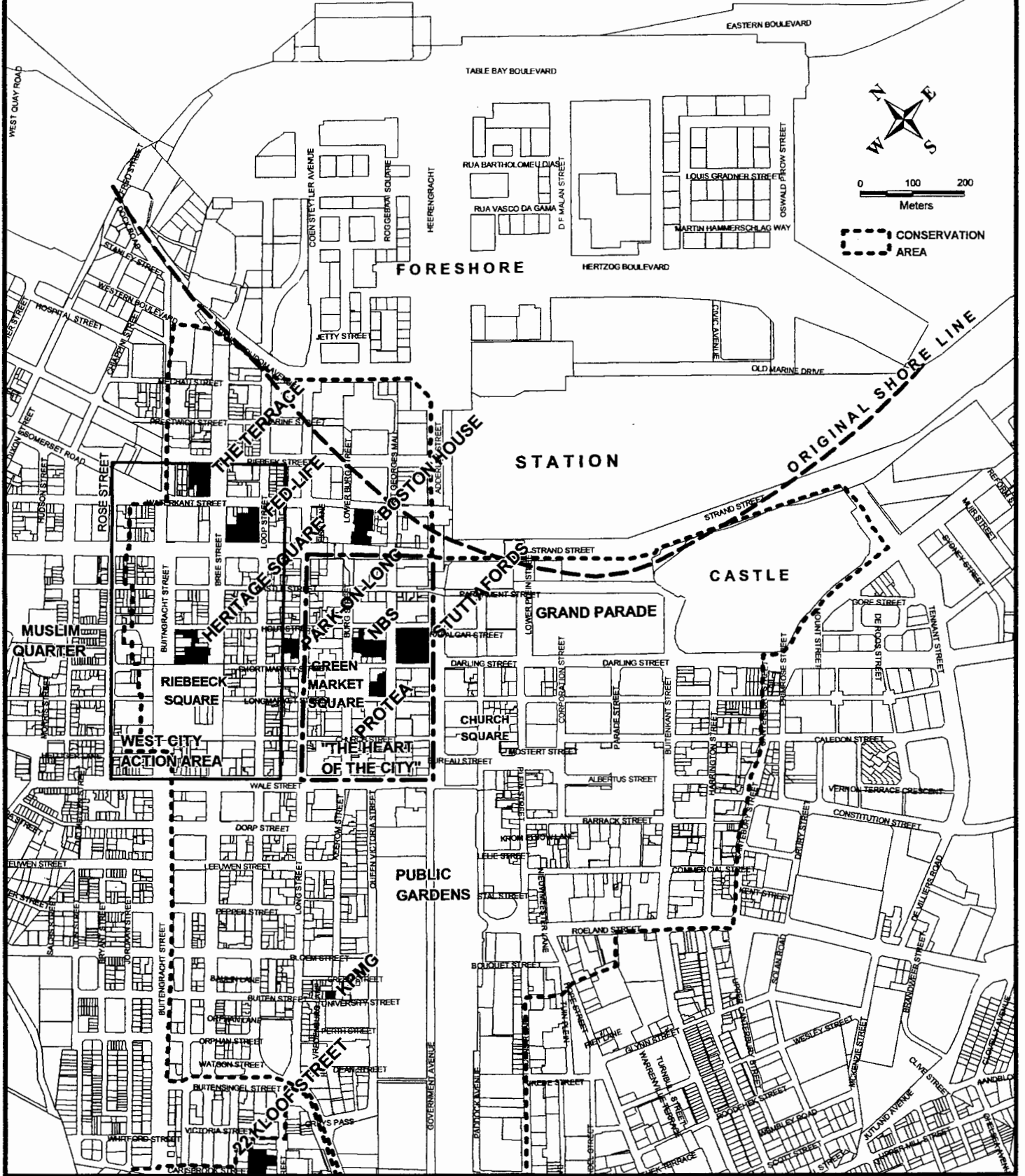
The second effect of the demand for parking is reflected in the number of private sector speculative parking garages constructed in the city centre during the past seven or eight years. Indeed, between c1994 and 2002 a number of buildings or complexes of buildings within a very small area at the core of the city centre have been re-modelled in order to create parking garages with retail at street level and small volumes of offices at roof level. Several of these have retained the existing facades of all the buildings on the site, for example, Boston House in Strand Street was approved in 1997 with 5700 sqm of office and retail accommodation and 358 parking bays, and Park-On-Long was approved in 1998 with 2871 sqm of office and retail accommodation and 250 parking bays (Townsend, 2001; and which will be discussed in the next chapter). Others have retained the facades of the larger of the extant buildings only and built large new

volumes attached to the pre-existing facades, creating large parking garages with retail at ground (street) level, for example, Adderley Park on the block bounded by Adderley, Longmarket and Parliament Streets (approved in 1999) and Akkermans Store, bounded by Darling, Plein and Longmarket Streets (approved in 2000) and both recently completed. Also, a number of large modern office buildings which simply did not have sufficient parking to make them viable have been gutted, reusing the greater part of the structure for parking; for example the re-named Wale Street Chambers on the corner of Long and Wale Streets which was connected to the diagonally adjoining building (the OFS Bank) at every level.

5.17 Conclusion

The fairly detailed description in this chapter of the growth of the city centre and of certain of the developments and trends during the past fifty years, following the chapters that have described the ruling ideas underpinning architectural and urban conservation (Chapter 2), that have explained the framework of law and administrative mechanisms regulating such endeavours (Chapter 3), and that have given a fairly detailed account of the key actors, their attitudes and their relationships (Chapter 4), completes the necessarily richly detailed context. These descriptions enable a general understanding of the structure and texture of the townscape, the architectural and historical "gems" within it, the reasons why certain parts of the city centre are more conservation-worthy than others, the reasons for the most obtrusive buildings and, perhaps most significantly, the recent history of endeavours by the city's conservation-oriented urban governance regime.

We turn now to the core component of the study, the praxis of conservation-oriented development control as it was carried out in the city centre of Cape Town during the life of the final form of the National Monuments Act from 1986 to 2000.



Map of Central Cape Town

Chapter 6

Case Studies in the Conservation-Oriented Control of Development

Introduction

The Development Project Cases

The nine cases described in this chapter are relatively ordinary examples of the scrutiny and decision-making processes in the conservation-oriented control of development in Cape Town between 1986 and 2000, that is, during the life of the last amendment of the National Monuments Act. Ten projects were examined, but one, the NBS, approved in 1984, has been described in the previous chapter. Each case had a significant and, in some cases, controversial conservation aspect; all of the cases are in the city centre or on its fringes; all were commercial developments, that is, all contain a mix of retail (including restaurants), office and parking (only one does not include retail and three contain very little or no parking); and all of the projects were constructed soon after approval. Many of the most controversial proposals scrutinised during this period were refused and others were approved but not executed (like The Adderley and T-One, both referred to in the previous chapter). The evaluation of the effectiveness of the controls is incomplete or inconclusive in such cases because the assessment of the building itself cannot be carried out, and have, therefore, been excluded. But, as has been argued earlier, it is essential to assess and judge the system of controls both by what is built *and* "by what is invisible to the vast majority of people - what it rejects" (Punter, 1990, p365). Of the nine projects dealt with in this chapter, only three of the proposals were not considerably altered during the scrutiny and negotiation process and one of them was completely and unrecognisably re-designed. These nine projects do, therefore, describe a wide range of what was refused and what was ultimately approved and built. The criteria for the selection of these particular development projects as cases to be studied is discussed in more detail in Appendix 1: Research Methods.

The cases were chosen with a view to exploring the differences in the opinions, expectations and behaviours of the key actors *vis a vis* the key questions raised in Chapter 1, that is, one, the appropriateness or otherwise of the approach to conservation adopted or demanded by the authorities; two, the appropriateness or otherwise of the development rights in the city centre; three, the appropriateness of the demands of the authorities and the impact on these development rights; four, the completeness or adequacy of the identification of the conservation-worthiness of the buildings, sites and environments being conserved or managed; five, the capabilities and efficiencies of the authorities; and, finally, the efficacy of the controls in conserving significance and/or the significance of the urban landscape.

Directly related to these questions are questions about the influence of each of the key actors in the scrutiny and negotiating process and the influence of the conservation-oriented urban governance regime on each of the projects. As a consequence, the choice of case studies was designed to enable the examination of the central questions *and* the influence wielded by the key actors in each case. Indeed, together the nine cases reveal several divisions within the conservation-oriented urban governance regime, thus demonstrating one of the principal characteristics of urban regimes:

namely, that of complexity in perspective and view, fragmentation and lack of consensus. As we shall see, in only three of the nine cases was there no division *within* the regime, and the division in each of the other six was an essentially different division while in four of them the division cut three ways.

The case studies are not fully representative of conservation-oriented control in Cape Town generally (for example, there are no residential projects and none are situated in a suburban or rural environment), but they are indicative of the kinds of problems that typically arise, they are indicative of the behaviours and actions of the actors typically involved in the scrutiny and decision-making processes, and they do reflect the capacity of the system and of the key actors to resolve the difficulties that arise. Also, although there may have been a particular reason for the choice of each of the cases, they do also each provide data relating to each of the questions being examined.

The nine cases are presented in chronological order, in essence, because there was a gradual change in the atmosphere surrounding development control confrontations between the Sanlam proposal in 1981-82 described in the previous chapter (section 5.11, Chapter 5) and Park-on-Long, the last of the case study projects approved in 1998; and they are presented here in a generally similar format: a description of the conservation-worthiness of the subject property and its environs is followed by an account of the development rights and the constraints; an account of the negotiations between the authorities and development team then follows; with an analysis of the completed project, its success or otherwise; and, finally, a judgement regarding the efficacy of the controls. This judgement is framed, as described in Chapter 1, as a mini-referendum of the key actors interviewed for the case studies and includes my own opinion as a key actor. The descriptions and analyses are reliant on the unpublished detailed development project case studies carried out in 2000 and 2001 (Townsend, 2001).

Conservation-Oriented Development Controls Before 1990

The first two cases, the Stuttafords redevelopment and the Protea extension, are close to each other, occupying an entire city block (Stuttafords) and a large part of another diagonally facing city block (Protea) at the heart of the old city centre and near or adjacent to Greenmarket Square and to the Sanlam/NBS site, and were planned and negotiated in the aftermath of the 1981-2 Sanlam controversy and during the hiatus between the City Council's decision to control conservation areas in 1979 and the effective creation of the regulation in 1990. Furthermore, the NMC's administration of the 1986 "fifty-year clause" was tentative during the first few years after gaining these powers. It is apparent that during this period before 1990 property owners and the development industry acted cautiously; and the authorities, recognizing the significance of the property rights and their own responsibilities *vis a vis* timeous decision-making, were inclined to approach negotiations in a spirit of compromise. It is also apparent that although most of the insiders within architectural and conservation circles, the established leaders of the urban governance regime in particular, were determinedly preservationist regarding the more conservation-worthy buildings and the significant public squares identified in the Catalogue, most were unsure about imposing urban conservation-oriented design controls that were too prescriptive. Indeed, as I have remarked earlier, their views were similar to and reliant on those expressed by English

conservationists during the late-1960s when urban conservation controls were first mooted there. Indeed, the views expressed in the 1968 models of English conservation research and planning, the studies of Bath and Chichester, could have been the voices of certain of the key actors in Cape Town in the mid-1980s:

“(A)n honest attempt to build in a present-day idiom should be made with a straight-forward expression of function, structure and materials as well as a sympathetic relationship to the existing surroundings” (Buchanan, 1968, p53); and

“(T)his does not imply that there is no place for new development in an old environment Far from it. New buildings may be necessary or desirable, and can be made to fit in with the established environment, and even to balance it... Aping past styles is becoming increasingly undesirable; new buildings in old environments should (save in exceptional circumstances) be generally in the idiom of the day and at times of materials for which there is no historical precedent, yet, at the same time, fitting harmoniously into the existing urban context (Burrows, 1968, pp1-2).

Views in Cape Town in the mid-1980s echoed these earlier English attitudes very precisely; and, during the first phase of creating and identifying conservation areas between 1979 when the controls were first mooted and 1990 when the Zoning Scheme finally incorporated the urban conservation provisions, the effective powers of the parties engaged in promoting development and those interested in or responsible for conservation-oriented scrutiny and decision-making appear to have been very delicately balanced. In 1990 the controls were finally legitimated and thereafter the controls were more firmly administered: but, as we shall see, the struggle for the upper hand between rights and constraints remained delicately poised, though now tipping towards the controls.

6.1 Stuttafords Town Square (Approved 1987)

The Stuttafords redevelopment was selected and is significant as a case study because it was particularly controversial: the controversy raged, first, over the contradiction between what the developer regarded as rights or legitimate expectations and the constraints imposed by the authorities; second, between the apparently contrasting views of insiders within the conservation lobby; and, third, as a result of criticism of the NMC for being weak. The controversy was, however, essentially within the conservation lobby and revolved around the age-old debate about the choice between a *traditionalist* demolition with a redevelopment “fitting harmoniously into the existing urban context”, the *preservation of the buildings as documents*, or an *historicist* restorative/recreative exercise in facadism. Indeed, it has been pointed out by the developer in this case, Ian Hirschon, that this was the first time that facadism was debated in Cape Town with any degree of seriousness (interview, 28/3/2001).

On 3 March 1987 Stuttafords announced that its flagship store in the city centre was to close and that their operations were to be consolidated in its Claremont store (Cape Times, 3 March 1987), thus confirming the world-wide decline of traditional department

stores set in CBDs and their flight to suburban locations¹.

The block was occupied by six buildings when the development company, Equikor, bought the Stuttafords property in early 1987 (see the location of the block and the constituent parts of the ultimate proposal on page 138): the four smaller and older of the six buildings lined Shortmarket Street:

- Adderley House of 1906 and St George's House of 1904, on the corners of Adderley/Shortmarket and St Georges/ Shortmarket respectively, are both fine richly detailed commercial buildings of five and six stories, both designed by the well known architect, John Parker;
- The building abutting Adderley House was the remnant of a larger building, part of which had been demolished to accommodate Adderley House in 1906; this building, known as Gresham House, had been designed by another well known turn of the century architect, Arthur Ransome, in c1890 in a "Dutch Renaissance manner"²; and
- The fourth building, facing Shortmarket Street between the remnant of Gresham House and St George's Building, was the Central Hotel, the most interesting building on the site; it was certainly the oldest and included much 18th century fabric, having been remodelled, also by Ransome, and given its rich classical decorations (typical of Ransome) in c1894³.

All four of these buildings had been classified in the Catalogue as "rare or outstanding examples of their period", as buildings "which form a fine grouping of architectural merit" and, the two by Parker, as buildings "which represent the work of a pioneer or recognised master", though the other two by Ransome should also have been so classified. The Central Hotel should certainly also have been classified as a "building or site over 100 years of age which should form the subject of archaeological or architectural study".

- The fifth, and by far the largest, building on the site is the main Stuttaford's building of six stories over a ground floor. It was designed by the French department store architect, Louis Blanc⁴, and built in stages between 1939 and 1957. The building was clearly intended to be extended across the entire site, as is demonstrated by the many incomplete beam-ends. This is an interesting and well designed building, but it was not classified; and
- The sixth building on the site is an undistinguished modern building built in 1973.

Accordingly, the four buildings on Shortmarket Street were enormously significant in the urban environment and, although the main Stuttaford's building was not classified or graded, it too was important both because of its position and because of its own

¹ Stuttafords had opened in Harrington Street in the east city in 1859 and moved to its first Adderley Street property in 1876. As the store had prospered, so it bought the adjacent properties until it owned the entire block in c1942.

² Approved Plan 206/189.; the more elaborate front of the building, demolished in 1906, and facing onto Adderley Street, is visible in the photograph in Picton-Seymour, 1977, p72.

³ Approved Plan 127/1894.

⁴ Blanc had also designed Harrod's Department Store in London in the 30s.

architectural character. Clearly, both the preservation of the extant buildings and the appearance of any new work was potentially controversial and, at very least, the four buildings on Shortmarket Street could be protected through the application of the "historical site" clause of the NM Act, though at that time this provision was recent, having been introduced the previous year, and the NMC was cautious in its application. It also appeared that at least the two Parker buildings should be declared as national monuments. All of the key actors concurred with and accepted these assessments of the buildings and the environs. It is also clear that there were differing opinions and expectations regarding the *effect* that the classifications would have on redevelopment.

It should be noted that notwithstanding the conservation-worthiness of the buildings and the importance of the locality within the heart of the city centre, no part of the block had ever been proposed as a conservation area. There clearly is something of an anomaly in this. Although the earliest proposals of conservation areas in 1979 were the city squares and in the early 80s streets like Long Street, this block was not proposed as a conservation area until 1994. This is consistent with the perception in the 1980s of the big property owners like Old Mutual and Sanlam and SAPOA, in particular, that conservation implied preservation and was, therefore, inimical to development and would adversely effect property values, particularly properties with the highest "bulk" factors, as did these. Indeed, this perception is perfectly consistent with, even fuelled by, the views of the historicist wing of the conservation lobby who held, and who have continued to pursue, strongly preservationist views regarding both the identification and management of conservation areas.

The development rights attached to this property included a bulk factor of 10,1 and permitted heights of 37m on the street boundaries rising to a maximum height of 60 m at the centre of the block. However, the proposal was to be contained within the existing building envelopes and, accordingly, the *extent* of the development rights was not a significant issue in this case. The Stuttafords site faces the NBS (discussed at some length in the previous chapter) directly across St Georges Mall, and the same policies regarding the conservation of architecturally significant buildings, the enhancement of the pedestrian environment and the pedestrianisation of St Georges Mall applied. It bears mentioning that at this time, in mid-1987, there was still debate as to whether the side-street, Shortmarket Street, should be pedestrianised. The traffic police believed that the closure of Shortmarket Street would lead to traffic congestion in the city centre whereas the architects, urban designers and traffic engineers in the town planning branch were confident that this was not a significant problem and, more importantly, that the benefits of extending the pedestrianisation far outweighed any disadvantage (which has been proved to be true).

In April of 1987 Equikor's architects, the retail specialists Stauch Vorster in association with the conservation specialist Dirk Visser, made the first enquiries; and at the end of May representatives of Equikor, including their MD, Iain Hirschon, and several members of their professional team met with senior officials of the City Council, including Dave Jack and Peter de Tolly, and two City Councillors, Clive Keegan (then chair of the Planning Committee) and Jack Frost (the ward councillor), to discuss the proposals. The main features of the proposal were as follows: the existing complex of buildings would, in the main, be retained, though both the Central Hotel building and the remnant

of Gresham House were proposed to be demolished; Adderley House and St Georges House would both be restored; the ground and first floors would accommodate retail; a pedestrian arcade through the building would link Adderley Street and St Georges Mall and would re-enforce the pedestrianisation; access to a multi-storey parking garage for approximately 120 parking bays was proposed from Shortmarket Street; and the office component, an important factor in the viability of the project, would be retained above the second floor. The proposals were, in the main, well received as it was recognised that the redevelopment of the soon-to-be-vacated grand old department store would be an important catalyst in the success of the Mall, then under way. The contentious aspects included the demolition of the two conservation-worthy buildings facing onto Shortmarket Street, the Gresham House remnant and the Central Hotel, and the implications of the proposed vehicular access to the on-site parking.

The resistance of the NMC and the City Council should not have been a surprise to the developer and his team: although the block had never been included within a proposed conservation area, the four buildings facing onto Shortmarket Street were each clearly of intrinsic merit, they formed an interesting piece of the townscape and they were part of the setting of several important buildings of very considerable architectural worth. The developer's conservation architect, Dirk Visser, was a core member of the conservation lobby and a central figure in Cape Town's conservation-oriented urban governance regime, who would have advised the developer of the likely response from the authorities. It appears, however, that the development team interpreted the *effect* of the classifications differently and they anticipated demolishing the two buildings and designing a modern facade between the two preserved corner buildings (Dirk Visser, interview, 22/3/2001). It does appear now, however, that Visser did actually agree that the position adopted by the authorities was the correct position, but that he, as part of the development team, "was professionally bound to the developer and his intentions" (Dirk Visser, interview, 22/3/2001). It was also argued at this time that, because Shortmarket Street and its pavements were so narrow, the two buildings were barely visible to the passer-by and that, therefore, their preservation was not particularly meaningful (repeated by Hirschon, interview, 28/3/2001).

Initially the NMC held the firm view that both buildings should be preserved in their entirety, but by late August 1987 had conceded that the *structures behind the facades* could be demolished. At this point it appeared that agreement had been reached. The NMC proposed to proclaim the two Parker buildings on the corners and the two facades in between them as national monuments, and it was agreed that the three parties (NMC, City Council and Equikor) would share equally the additional cost of preserving the two facades (estimated then to be R249 000).

Weeks later in September the building plans were submitted. The proposal was similar in many respects to the project presented in May, but now included the fruits of the discussions, that is, the Gresham House and Central Hotel facades would be preserved (with retail behind them at both ground and first floors) and the parking would be in the basement with access from Hout Street. But now the developer had decided that proclamation of the two Parker buildings was *not* desirable and withdrew from the agreement. Also, the developer's engineers again contended that the preservation of the facades could not be guaranteed; and the argument over the demolition of the two

facades was renewed. It was contended by the engineers that the facade of the Gresham House remnant, in particular, would be difficult to retain.

As head of the Urban Conservation Unit, I then approached an engineer specialised in the preservation and consolidation of old buildings for his advice in early-October; and, subsequently, the NMC formally engaged this engineer as a consultant⁵. The essence of the advice was that "with a willing engineer and a willing contractor the preservation of the facades could be guaranteed" (Hennie Fagan, at a meeting between all the parties, 3/12/1987).

Notwithstanding the difference of opinions during October and November, many of the parties still believed (or hoped) that both facades would be preserved; and the minutes of the CIA's Heritage Committee meeting on 19 November 1987 record Dirk Visser's and my own comments regarding the success of the negotiations:

"Mr Visser said that this was a typical example of how perseverance could result in a gain for conservation. As a result of negotiations the facades of Gresham House and the Central Hotel (originally earmarked for demolition) were to be retained along with the two corner buildings. Mr Townsend offered congratulations to the National Monuments Council and particularly to the consulting engineer, Mr Hennie Fagan, who had given his opinion in this matter" (Heritage Committee Minutes, 19 November 1987).

The plans were approved on 19 November (CCC, approved plan 317958) and the demolition works commenced. However, during the week-end of 28-29 November part of the Central Hotel facade collapsed!

A flurry of letters followed over the next few days:

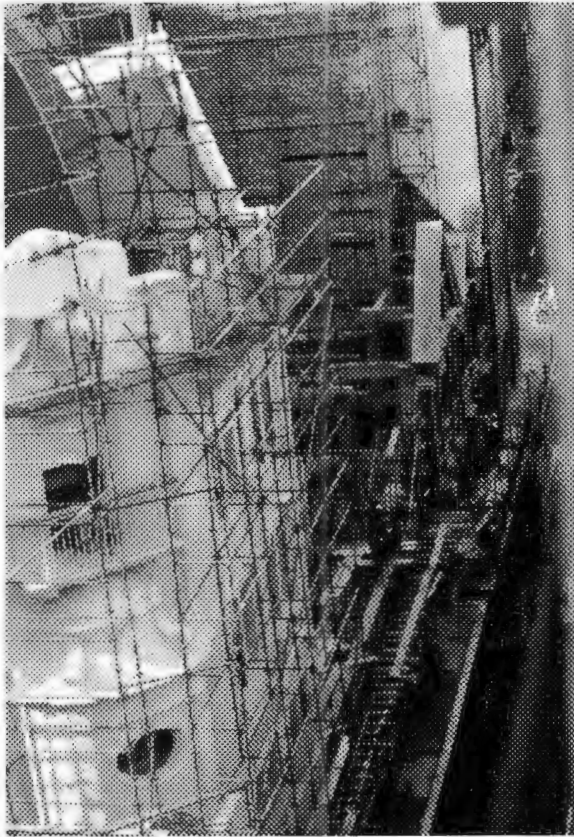
"Our professional team had advised against the retention of the facades and ... we have protested on a number of occasions, we feel that the City Council and the National Monuments Council have unjustly demanded the preservation of these properties" (letter from Ian Hirschon, Equikor, 1 December 1987); and

The NMC responded (or capitulated) as follows:

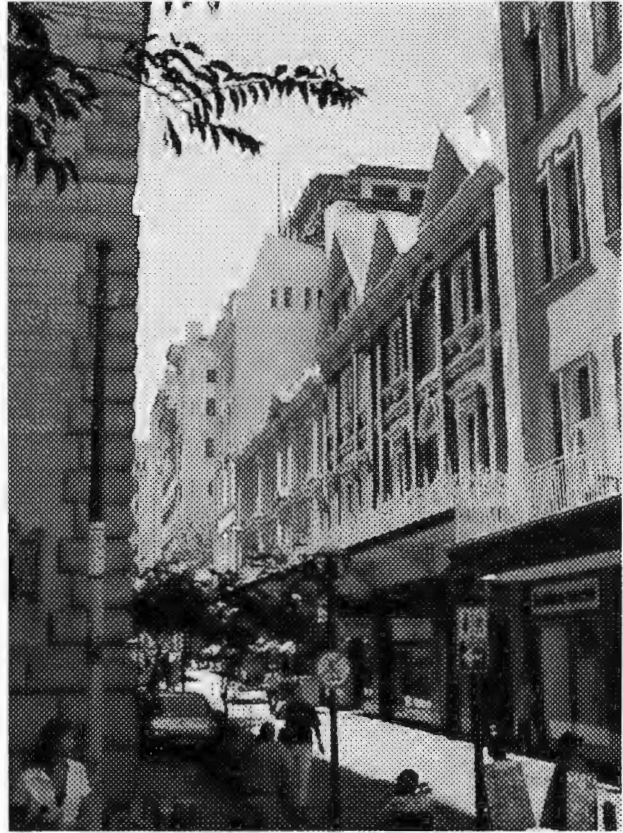
"The chairman of Council has asked us to make an appeal to you, to retain the existing facade of Central Hotel if at all possible. We shall, however, have to abide by the final decision of your engineer" (letter from the NMC to the developer's architects, 2 December 1987).

Finally, at a meeting at the National Monuments Council's offices on 3 December attended by Equikor, their professional team and senior officials from the City Council, it was agreed that, notwithstanding Hennie Fagan's advice, the demolition of the Central Hotel facade could proceed subject to several conditions; namely, that the facade first be photogrammetrically recorded, that as much of the mouldings (precast elements of the 1894 remodelling) be salvaged as possible, that a proper statement of method be approved first, that the facade be replicated and, finally, that there be some assurance that the Gresham House facade would be saved.

⁵ This was Henry Fagan, the son of Gabriel Fagan, and himself a member of the conservation lobby.



Stuttafords: Under construction, showing the Central Hotel facade being reconstructed and the Gresham House facade being retained (photograph Oct 1988)



Stuttafords: Shortmarket Street today, showing the Central Hotel and Gresham House facades (photograph 2003)



Stuttafords: Adderley Street facades: Adderley House, 1906 and Stuttafords Building, 1939 (photograph 2003)

As a result new plans were submitted in February of 1988 showing two forms of facadism: a replicated Central Hotel facade and the existing facade of Gresham House supported by a new structure behind it. Subsequently, in June 1988, this plan was amended incorporating several small cinemas on the first floor behind the preserved/reconstructed facades. These plans were approved in late July, 1988 (CCC, approved plan 325327).

It is quite clear that the NMC lost its collective nerve when the Central Hotel facade collapsed during the demolitions of the ancient structure behind the facade and this loss of confidence is clearly reflected in the letter of 2 December quoted above. Indeed, the decision to permit the demolition of the Central Hotel facade and its reconstruction using salvaged parts was disappointing to many of the parties concerned, particularly because many suspected that the collapse had been deliberate. This impression was encouraged by the developer's express determination to have his way, the very considerable advantage gained by the collapse facilitating the contractor's access to the site, and the engineer's insistence that these relatively conventional operations could not be guaranteed. (With hindsight, however, the relative inexperience of the engineer in dealing with building fabric of this type and age, and his mistaken prediction that the more modern Gresham House facade was the more problematic of the two, do go to suggest that the collapse was a genuine accident.)

The redevelopment of the Stuttafords complex did have the hoped-for impact on the environs of the newly completed St Georges Mall. The arcade, importantly, on the diagonal from Adderley Street and facing the NBS arcade across the Mall, the stairs connecting the first floor arcade with its restaurants to the Mall, and the numerous new line shops facing onto St Georges Mall, Shortmarket and Adderley all had a beneficial affect (several of the shops facing onto Shortmarket Street also had frontages to the internal arcade). Indeed, the developer, Iain Hirschon, had been imaginative and bold in assembling the tenant mix: a complex of small cinemas, a number of fashionable boutiques, several restaurants (including one owned by a very well known restaurateur which actually over-looked and projected out over the newly pedestrianised Mall), the most popular bookshop in the city, all of whom were required to remain open till after 9 pm. This entrepreneurial attempt to attract people back into the city was both imaginative and daring (Dave Jack, interview, 20/6/2001). Furthermore, the offices were refurbished at a time of high office vacancy in the city centre. Indeed, this remodelling of this group of buildings that had previously housed a single inward-looking department store turned the block into a vital and exciting complex of buildings which, for a while became a fashionable meeting spot, thus contributing to the vitality of the city itself.

The loss of the Central Hotel building was, however, disappointing from a narrow *conservation of the building as document* point of view. With hindsight, it is clear that Gresham House remnant (the most important part of which, facing onto Adderley Street, had been demolished in 1906) was the less significant of the two buildings. The preservation of this part-facade with a modern structure behind it, accommodating functions that did not need fenestration, was not an important gain. The Central Hotel had, however, contained much ancient fabric and warranted preservation in its entirety. Indeed, the retention of the Central Hotel building would have enormously enriched the complex. A more careful assessment of the relative merits of the buildings by the

authorities and by the developer's conservation specialists could have led to a different and better solution.

With regard to the facadism aspect of the project, it does now seem to be generally agreed within the group of key actors who were interviewed in this case and of the conservation community that the solution which adopted facadism as the technique for solving the design dilemmas was acceptable in this case because the resulting "grain, texture, scale, streetscape and the active shopfronts were all improvements" (Penny Pistorius, NMC official in 1987, interview, 16/3/2001).

It is interesting that all but one of the key actors interviewed did accept that the demands of the authorities had improved the project; "No. We would have produced something we were proud of" (John Whitton of Stauch Vorster Architects, interview, 30/1/2001). Several were, however, critical of the National Monuments Council for either being "too authoritarian", "did not seek to find a compromise", "blinkered", "academic" or, on the other hand, for their "collapse of will" and "for not being firmer". Most of the parties felt that the City Council had acted appropriately, though one of the developer's architects criticised the City Council for being "no better than the NMC" (John Whitton). The developer himself felt that the Council's officials had been facilitative and that, notwithstanding the disputes, had made important contributions to the project. It has been suggested that the City's officials took a more constructive stance because the City Council saw the project as more than a conservation project, but part of the revitalisation of the city itself (Henry Aikman, in 1987 an official in the Town Planning branch, interview, 12/7/2001). In this regard, the intentions of the UCU were congruent with those of the urban designers.

It is now clear that the key actors participating in the negotiations shared, in a general sense, views regarding the significance of the buildings, the townscape and the environs generally, but differed in their expectations as to what the *effect* of such significance should be. Because these differences were, in essence, between the members of the conservation-oriented urban governance regime, the regime was less effective. This, in turn, effected the NMC's resolve, its decision-making ability and led, ultimately, to its acquiescence. The consequences of this was conflict and the loss of a significant early building and a loss in the richness of the texture of the townscape. The controversy was not so much the result of a conflict between development rights and conservation constraints (although the developer certainly perceived this to be the case at the time) but, rather more straight-forwardly, the result of the differences within the conservation lobby about the appropriate approach to this particular intervention on the urban landscape, the acceptability or otherwise of the demolition of conservation-worthy buildings, and the acceptability or otherwise of facadism.

6.2 Protea Assurance Extension (Approved 1988)

The Protea Assurance extension project was selected and is significant as a case study for several reasons: the site abuts Greenmarket Square, the subject of the most significant conservation-related controversy in the recent history of the city centre in 1981-2; this controversy led to clarity in the identification of significance and to explicit and precise guidelines for development (as discussed in section 5.11, Chapter 5); because the case demonstrates the ideal, that is, a very good building that responds

and contributes to the grain, texture and functioning of the city around it; and because the building was designed and approved with a minimum of fuss. It did, however, have flaws that could have provoked controversy: the impossibility of providing parking on site did lead to a furore regarding an associated proposal to provide parking under Greenmarket Square; and the architecture is derivative and could be described as pastiche, but was so well designed by the architects that no questions were or have been raised in this regard.

In 1988, when Protea Assurance proposed to extend their building by demolishing two abutting buildings, the block comprised of only four buildings (see the location of the site and its constituent parts on page 138): two of the four, the Protea Assurance Building and Market House were (and remain) very fine buildings:

- Market House(1932, designed by WH Grant), though not part of the site being developed, had been classified in the Catalogue in three categories, namely, as a “rare or outstanding architectural example of its period”, as a “building which contributes to or enhances the quality of the square of significance on which it abuts” and as a “work of a recognized master”.
- The Protea Assurance Building (1930, by the architects Jones and Adams) had been classified only as a “building which contributes to or enhances the quality of the square of significance on which it abuts”.
- Neither of the other two buildings, one of them the abutting old 1959 NBS Building (then recently vacated by the NBS), were classified.

Because the site faced onto Greenmarket Square, any new building would inevitably have an impact on the Square, and would impact on the large group of “buildings which are rare or outstanding examples of their periods” and “which contribute to or enhance the quality of a square or other space of significance on which they abut” which line the Square and which characterize the immediate environs. It bears mentioning that all of the key actors interviewed concurred with these assessments of the merits of the buildings with the exception of the representative of the client, who thought that the Protea Building was rather more handsome than Market House, “in an ugly style” (Peter Mitchley of Protea Assurance, interview, 1/12/2000).

The properties had considerable rights: a bulk factor of 9 and maximum heights of 37m at the street boundaries rising to 60m at the centre of the block. Given the public furore over the Sanlam proposals in 1981-2, it seemed unlikely that even now in 1988 that any developer would propose anything that could run foul of public opinion and it was most unlikely that significant departures would have been granted.

Although Greenmarket Square had been proposed as a conservation area in 1979, the provisions had not yet been promulgated and such controls could not be imposed. Given the Sanlam furore, however, applicants proposing to develop in the environs were willing to negotiate with the Council in order to reach agreement over the shape, form and appearance of proposals. This certainly applied to Protea Assurance. More importantly, Greenmarket Square had been declared as a national monument in 1961. Accordingly, the NMC apparently had all the authority it required to control any development facing onto the Square. However, it is also true that the promulgation pertains only to the open space of the Square itself. Accordingly, had the nature of the proposed development been contentious, the NMC would have had to rely on Section

5(8)(a)(l) of the NM Act which enabled the NMC to ensure that “the land surrounding or in the immediate vicinity of a monument is not developed in such a manner that the aspect of, or the view from, that monument is obstructed”. The NMC’s authority was, therefore, like the City Council’s, uncertain. In the event, however, the NMC’s authority was not questioned and, given Protea’s position *vis a vis* the preservation of its building, this potential problem was never raised.

The NBS had purchased the property in the adjacent block, obtained approval and completed their new office building in 1987. As a consequence, Protea Assurance, who needed to consolidate their offices which were located in several buildings in the city, were able to purchase both the adjoining old (1959) NBS Building (then about to be vacated) and a second building abutting the old NBS. Protea proposed to extend their building across these two abutting properties. This new building would share the entire block between Greenmarket Square and St Georges Mall with Market House. Although the 1930 Protea Assurance Building was not particularly highly graded or particularly highly regarded, Protea itself was very proud of its headquarter building (Mitchley, interview, 1/12/2000). Protea required deep and open floor space enabled by the large site created by the three erven, the uneconomical parts of the old building could be remodelled, and a rationalised and modern service core could be provided in the new part of the building.

Although the Protea Assurance Building had not been classified as being as significant as Market House, it was of great importance to the character of Greenmarket Square. Its architectural character and presence at one of the corners of the Square and very close to the Old Townhouse gave it greater significance than might otherwise have been the case. Accordingly, in May 1988 Protea’s architects, Louis Karol Architects, approached the City Council officials with a view to discussing the proposed design. Negotiations between the architects and City Council officials regarding the proposed building took place easily over the next few weeks and in early June 1988 the City Council officials willingly recommended the proposal unreservedly to the NMC. None of the discussions led to changes, though the City Council did try to persuade Protea to include a pedestrian arcade or through-route connecting the Mall with the Square. The demolition applications for the old NBS and the second building, Lincoln House, were submitted to the NMC on 8 June and approved a month later; and the proposed extension of the Protea Building onto the two neighbouring properties was approved by the NMC soon after that.

The essence of the proposal was to retain the entire existing Protea Assurance Building with the exception of the lift and service core (the existing floor levels of this building thus determined the floor levels of the new extension). The design of the new extended principal facade facing onto Greenmarket Square used the same elements already appearing in the existing symmetrically arranged old Protea Building, and proposed a new main entrance to the enlarged building on a new axis with a tall recessed niche and giant columns four storeys high facing onto Greenmarket Square all capped by the two storied attic. The double storied balcony is interrupted at the new entrance, giving greater emphasis to the niche above and to the new axis. Interestingly, this device, the idea of repeating elements of an existing axially arranged building about a new axis so as to create a new larger composition, is the same device used in the building facing



The 1931 Protea Assurance Building on the right with the 1959 old NBS Building abutting it (photographed in early 1987)



The Protea Building with its new extension overlooking Greenmarket Square (photographed in 1994)

the Protea Assurance Building across the Square, the old Shell House. The first Shell House had been designed in 1929 by WH Grant and extended by him using this device in 1940. Grant also used giant paired columns to give emphasis to the new axis, just as this extension designed by Louis Karol and Evon Smuts did to Protea Assurance.

The new extended facade of the Protea Building facing onto St George's Mall was, however, treated differently. This facade is rather wider and the architects felt that it should be clearly modern, using the compositional devices of the Greenmarket Square facade, but with transformed elements. It bears mentioning that the new enlarged building has an actual floor area of 9 677 sqm, that is, 99.9% of the permitted bulk. It also bears mentioning that only 21 parking bays are provided (in the basement).

The building plans were submitted to the City Council in late September 1988, but approved by Council only on 7 February 1989 (CCC, approved plan 331548). This delay is not accounted for in the record; and is surprising given the degree of accord reached in June.

This building is a remarkable achievement. The realisation of 100% of the permitted bulk is an important achievement in itself; but the ingenious and subtle treatment of the Greenmarket Square facade is a masterstroke of design. Furthermore, the more modern but "cool" new facade facing onto St Georges is subtle and appropriate in that environment. A couple of the key actors who were interviewed did, however, voice reservations regarding the St Georges Mall facade which they suggested was perhaps not sufficiently modulated and is relatively crudely detailed. The internal arrangement of the accommodation is well ordered and economical, and "way ahead of its time" (Mitchley, interview, 1/12/2000). Indeed, the accommodation provided state-of-the-art services to the open-plan offices which the client was particularly proud of *and* preserved its distinctive old head quarters. All of the key actors interviewed agreed that the design was extremely successful. One contended that it is, with the NBS Building completed a couple of years before, the best building built in the city centre in the last couple of decades, which is an indictment of the developments that have followed (Peter de Tolly, interview, 18/1/2001); another argued that it was "one of the few examples of successful in-fill in Cape Town" (Pistorius, interview, 27/11/2000).

It is clear that this development was negotiated without any difficulty between the owners, the architects, the City Council and the NMC; and it could be argued that there had been no need for conservation-oriented controls. However, it is clear that the Sanlam controversy had created a shared mind set which still pertained when the new NBS building was being proposed and which obviated the need for over-stated control. Indeed, the guidelines formulated in 1982 and referred to earlier made the requirements explicit and, importantly for the property owner, a building using precisely 100% of the permitted bulk was realisable. In other words, the essential components of the development rights were exploited *and* the controls had ensured both that the most significant components of the environs were protected *and* gave sufficient guidance. It is also clear that relationships of mutual trust between the architects (although not part of the insider community of the conservation lobby, they are well-known and respected) and the City's officials under Dave Jack and Peter de Tolly ensured that the proposal would be well designed. Henry Aikman has pointed out:

“It showed how small the architectural world in Cape Town is.... they knew the officials and *vice versa*.... everyone knew the ropes and each other” (interview, 15/12/2000).

The only problem was the provision of parking: a building of almost 10 000 sqm with only 21 parking bays is clearly grossly underprovided: given the configuration of the site and the requirement to retain the existing Protea Assurance Building, it was not possible to provide more parking without severe compromise. Although the obvious solution was to put parking under the Square as discussed in the previous chapter, it is this researcher’s opinion that this option would have damaged the character and functioning of the Square and its immediate surrounds irremediably: ramps, air vents, and the loss of mature trees would have seriously damaged this, the most charming and best used of the city’s public spaces. The appropriate solution is for Protea to provide their parking on a nearby site. While none of the parties interviewed disagreed with this view, several were critical of the NMC’s behaviour and approach in dealing with this proposal. Indeed, the point was made that it was fortunate that Protea and their architects were proposing something that had everyone’s agreement, because in different circumstances the NMC’s “negotiating style” would probably have led to conflict (Peter Mitchley, interview, 1/12/2000).

6.3 The Terraces (Approved 1989)

The Terraces is significant as a case study for three reasons: because the controversy raised was, in essence, about the contradiction between development rights and conservation constraints; because it caused a three-way split in the urban governance regime; and because this split led to very damaging conflict within the conservation lobby which still reverberates today.

The site of the project is set in the West City which had received considerable public attention during the late-1970s and early-1980s. As we have seen, such attention focussed on the elevated Buitengracht freeway, a debate convincingly won by the conservation lobby, and on the West City Action Area as a sector requiring conservation-oriented planning attention. In other words, the West City was a sector of the city needing investment, but where the City Council’s policies were conservation-led: historic buildings and character had been identified as significant resources to be protected, speculative development resulting from low land values and degradation was to be guided so as not to negatively affect the long term future of the area, and retail and “interactive uses” were to be protected and/or encouraged at street level (CCC, 1979a, 1981a and 1987a).

It is also true that the tentative manner adopted by the authorities in addressing urban conservation-oriented controls during the early- and mid-1980s had matured into an approach rather more workmanlike and determined. The officials within the NMC and in the City Council’s Town Planning Branch and Urban Conservation Unit, now hardened by confrontations like those described in the Stuttafords case and by the public criticism and accusations of ineffectiveness like those made, for example, from 1986 *vis a vis* the slowly but visibly disintegrating buildings at 20-22 Kloof Street (see section 6.5 below), had become firmer in their interactions and negotiations with developers. Also, by this time the conservation-oriented urban governance regime had

developed two distinct wings: an older group (mostly architects in private practice) who had led the victories and accomplishments of the late-1970s and early 80s, and a group of younger officials of the NMC and the UCU, who were involved in the every-day struggles with property owners and developers and who were consolidating their own co-operative relationship.

This city block, bounded by Waterkant, Bree and Riebeeck Streets and Lelie Lane, had been laid out and subdivided in c1800 and most of the erven were developed within the next two decades. However, the buildings had been much altered periodically and/or completely redeveloped by 1988 (see the location and constituent parts of the ultimate proposal on page 176), and the uses were primarily warehousing and industrial:

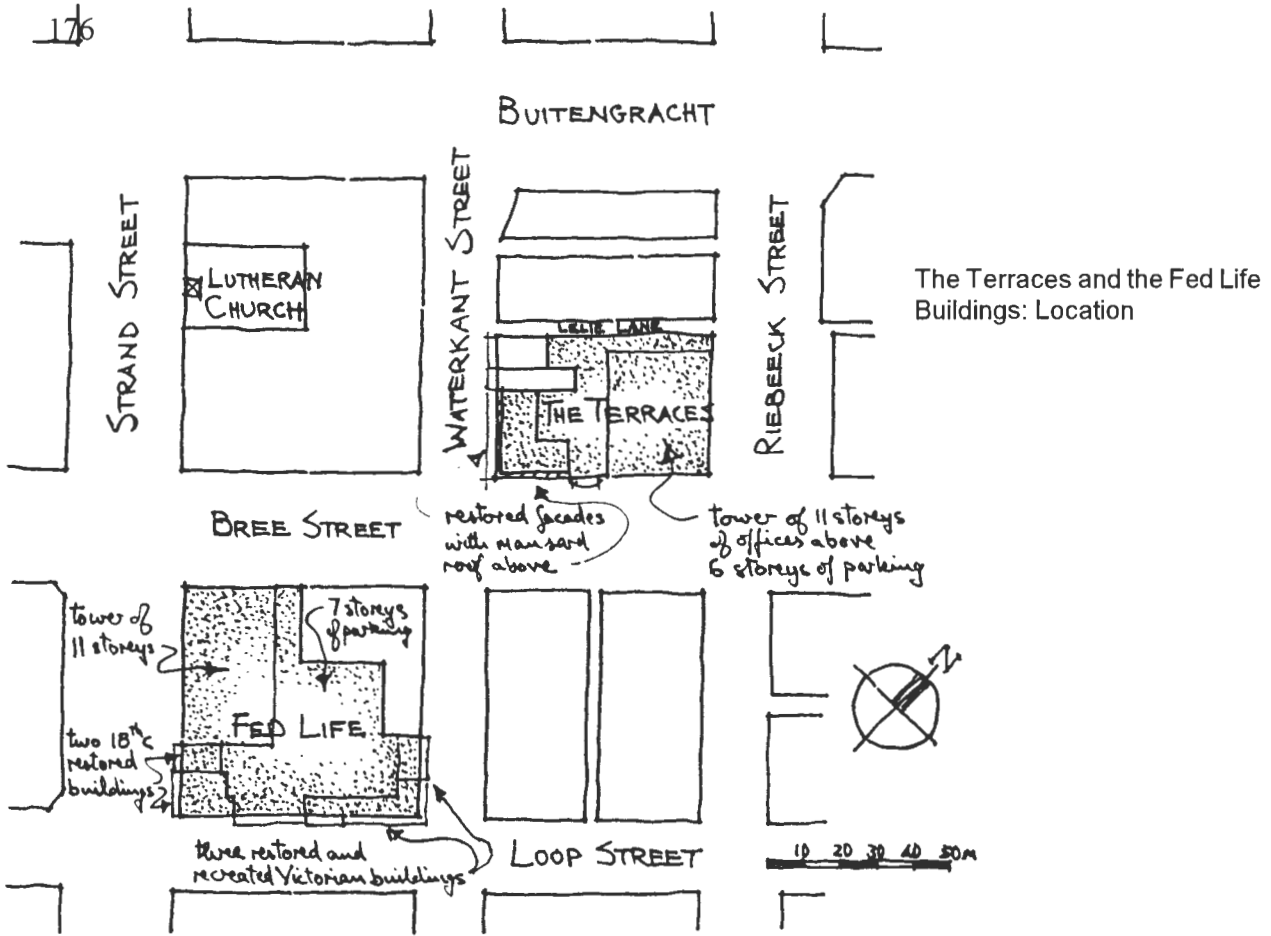
- The Waterkant Street frontage consisted of four two-storied turn-of-the-century commercial buildings (two of these, initially intended as part of the development, were ultimately not included, but were both remodelled independently during the construction of The Terraces). All four of these buildings were late-Victorian or Edwardian in style, although some contained earlier fabric. The largest of these buildings on the corner of Waterkant and Bree Streets incorporated three older buildings which had been unified behind a single facade, itself built in stages during the 1920's as the properties were acquired and incorporated into one by the Stephans family (see Shorter, 1963, pp543-545); one of these, an early 19th century warehouse of c1810, contained much original fabric. This group of buildings had been classed under two classifications in the Catalogue.
- None of the other buildings on the site had any conservation value.

In other words, several of the buildings on the site had some degree of intrinsic significance: the warehouse of c1810 contained within the Stephan's Building, was rather more valuable as a rare example of its type. However, it became clear that (the warehouse apart) the greater value of the buildings was as townscape and for their contribution to the character of the area. This section of upper Waterkant Street has many graded buildings and satisfied more than sufficient criteria for designation as an Urban Conservation Area. In fact, 72% of the buildings in the area were conservation-worthy, a figure which was exceeded by only two of the already designated conservation areas. Furthermore, this area abuts the then already proposed Lutheran Church Complex conservation area. It was also clear that the visual relationship between the proposed development and the Lutheran Church, built in the late 18th century and a national monument of great significance, would be a source of concern.

Because several of the buildings on the site were "historical sites" (over fifty years old), because one of the buildings, the warehouse of c1810, was nearly two hundred years old and potentially warranted declaration as a monument, and because any building over four storeys was clearly going to affect the context of the nearby Lutheran Church Complex, a declared monument, the National Monuments Council clearly had a statutory responsibility to intervene.

The development rights were considerable, however, and included a bulk factor of 9 and maximum heights of 37m at the street boundaries rising to 60m at the centre of the block.

The development company which had then recently redeveloped the Stuttafords block,



The Terraces: a view of the Lutheran Church before The Terraces were built (photographed in 1988)

Equikor, assembled most of the properties in the block in early-1988. Equikor was clearly aware of the significance of the properties because the professional team was led by the well-known architects, Munnik Visser Black and Fish and Dirk Visser who, as we have seen, had been one of the central figures in the research and the assessments of the Catalogue. It was clear that the development team did not share the generally held view that the early 19th century warehouse had sufficient significance to warrant preservation, or that the early 20th century buildings were an important part of the character of a conservation-worthy area, or that any tall building would impact negatively on the Lutheran Church. Given the architects' conservation and urban design expertise, this was surprising. Their view is perhaps most revealingly expressed by Dirk Visser's recent comments that the warehouse was in the "wrong" place, that he "wouldn't have minded" the demolition of the "lesser" buildings in Waterkant Street and, finally, referring to the hotel across Strand Street from the Lutheran Church, that the Church had already been compromised by large modern buildings even closer to it than this proposal (Dirk Visser, interview, 25/9/2000). This reflects particular conceptions of both architectural and urban conservation: namely, that only the most significant buildings should be preserved, that "lesser" buildings are not conservation-worthy, and that heterogeneity in the townscape adversely impacts on the worth of even the most significant buildings. It is, however, difficult to concede that the architects, Mike Munnik and Hirsch Fish, both past presidents of the CIA and self-evidently insiders if relatively distant, and Visser, a pre-eminent member of the conservation lobby, did not recognise the significance of the classifications, the proximity of the Lutheran Church, and the siting of the development within the West City.

Equikor had obtained options on the properties, apparently with the intention of developing a large stepped "ziggurat-shaped" office block with several floors of parking fitting precisely within the envelope determined by the setbacks established by the town planning scheme. The developer had a vision of the whole site being occupied by a terraced building (hence the name) exploiting the views to best effect (Iain Hirschon, interview, 27/9/2000). This required the demolition of all the buildings on the site. The development was speculative in that there was no "anchor" or principal tenant, though Equikor had intended from the first to occupy the top floor of the building themselves. It has, however, become clear through recent interviews with the development team, including both the architects and the developer, that this "ziggurat" proposal was not a serious proposal, but rather a "straw dog" intended to provoke response from the authorities and the conservation lobby. Hirschon has said that he was "searching for a workable product", that they were "grappling with the bulk to parking ratio" and how to fit it all into the permitted envelope, particularly as rock close to the surface made it impossible to put any parking below ground level.

The initial "ziggurat" proposal provoked an immediate furore because it required the demolition of all the buildings on the site, because the proposed massive stepped slab was quite at odds with the character of the area, because the proposal would have loomed above and close behind the Lutheran Church complex, and because the parking proposed at street level would have made for a very "unfriendly" relationship between built form and pedestrian life. In fact, the "ziggurat" proposal was never formally submitted, but the illustrations, which were widely distributed, served their purpose: the extent of the development rights were clearly demonstrated.

Although conservation was approved policy in the West City, designation of this area as a conservation area had not been initiated by the time the properties had been assembled. Once the impact of Equikor's intentions were understood, the Town Planning Branch did initiate the first steps to designate much of upper Waterkant Street, including the block under discussion, as a conservation area. It was clearly too late to influence the course of events here and, notwithstanding the special character of the area, the intrinsic value of several of the buildings on the site, and the proximity of the Lutheran Church Complex, conservation area controls could not be imposed; and this belated step served only to infuriate the developer. On 5 October the Council's Planning Committee agreed to the designation of the conservation area but, persuaded by the threats of Equikor's lawyers, approved the demolitions.

The NMC was concerned but indecisive, and asked the Heritage Committee for its opinion. The Heritage Committee met on 18 October with the chairman of the Council's Planning Committee, Clive Keegan, the Council's Director of Planning, Peter de Tolly, and officials and members (Desiree Picton-Seymour and John Rennie) of the NMC, and recommended that the NMC provisionally proclaim the buildings more than 50 years old. It did also recommend that "the buildings on Waterkant Street (especially Stephans) should be retained. ie. the whole building not just the facade" and that "the height of the new development should not exceed four storeys" (Heritage Committee Minutes, 18 Oct 1988). The NMC, however, intimidated by Equikor's lawyers, prevaricated. But the controversy raged with the greatest heat within the Simon van der Stel Foundation, that is, in relative privacy; and Dirk Visser, the current chairman of the Cape Town Chapter of the Foundation was obliged to resign as chairman.

As a result of this furore, between October of 1988 and January of 1989, the architects redesigned the proposal several times. A first new proposal was submitted as a sketch plan on 21 November 1988, but it required departures from the height and setback requirements and it was, therefore, advertised to potentially affected neighbours and other interested parties. Subsequently, a second amended design was submitted on 21 December and later a third amended design was submitted on 24 January 1989. The architects all recall the period leading up to this final design as being particularly intense with several design sessions with senior Council officials, Dave Jack and Peter de Tolly. This ultimate design retained the old two-storied facades on Waterkant and Bree Streets and added a third storey contained within a mansard roof uniting the two-storied buildings, and with an office tower on the corner of Bree and Riebeeck Streets. The tower consisted of six floors of parking (for approximately 200 bays) and twelve floors of offices. The floor area (bulk) of this proposal was 14 326 sqm, only 76% of the permitted floor area.

The NMC then approved the proposed demolitions in early February 1989 subject to a documentary record of the early 19th century warehouse being made; and they informed the City Council that they would take no further part in the negotiations. Formal objections were, however, received by the City Council during February from an abutting neighbour, from the Lutheran Church, from the Simon van der Stel Foundation and, notwithstanding their earlier withdrawal, the NMC also registered a formal objection to the departures. These parties held the position that the development should not exceed four storeys on the grounds that the appearance of the Lutheran Church

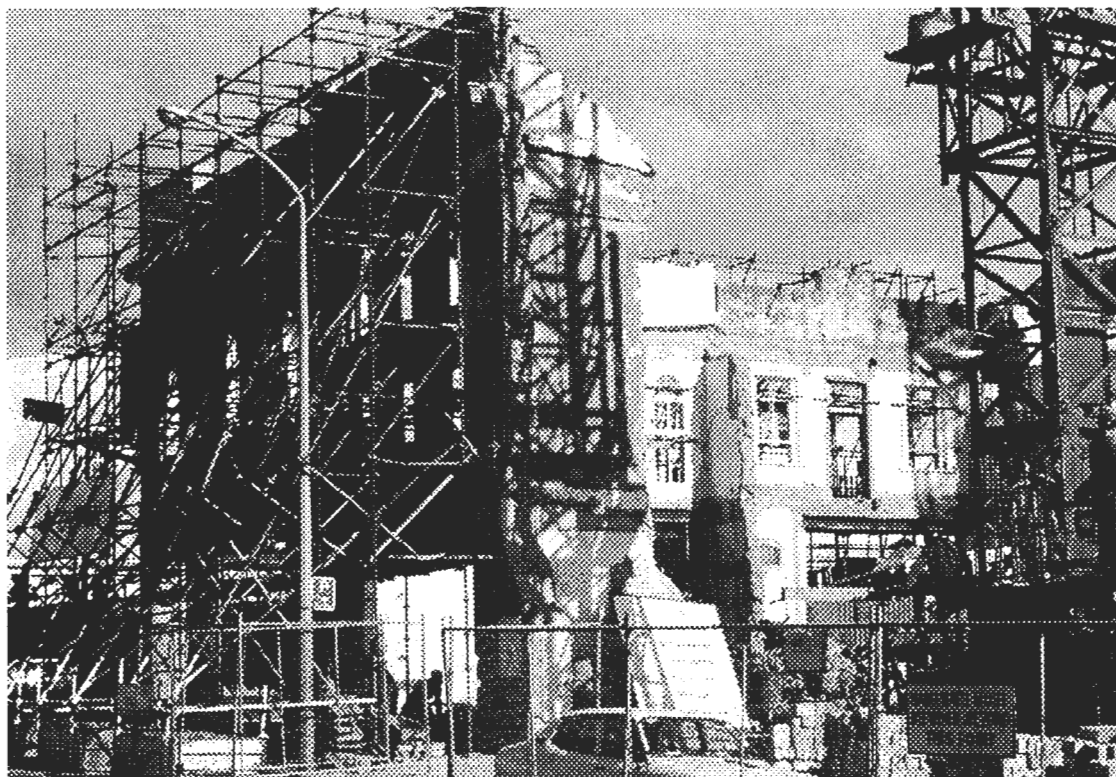
Complex would be adversely effected by a taller building.

On 10 March 1989 the Council's Town Planning Committee, concurring with the officials' report which argued that a satisfactory compromise had been achieved, approved the proposals with the necessary departures subject to conditions requiring that the facades and colonnades along Waterkant and part of Bree Street be preserved, that a canopy or colonnade be erected along Bree and Riebeeck Streets, and enabling control of the materials of the proposed building.

Equikor, however, appealed the imposition of these conditions; and the Simon van der Stel Foundation appealed Council's decision to grant the departures. Subsequently, on 16 June the Provincial Government dismissed the Simon van der Stel Foundation's appeal and simultaneously upheld Equikor's appeal, thus removing the conditions that the City Council had imposed. No reasons were given; though at this time it was the norm for the Province to favour development. The building plans were finally approved on 11 July 1989 (CCC, approved plan 336063).

The building completed in early 1991 was a considerable improvement on the design initially proposed. The retention of the facades on Waterkant Street maintained that charming streetscape. Adjacent and nearby buildings have been remodelled subsequently and the immediate environs have received considerable investment and attention following the approval of The Terraces. Indeed, it is clear that The Terraces had a very significant and beneficial impact on the area as a result of the confidence generated by this investment. The development team was happy with and proud of the completed building and all thought that the tower was an adequate and appropriate design. One of the architects spoke of the relationship between the model for this building (the Renaissance palazzo) and the public realm and how they, the architects, had hoped that a proposed canopy of trees on the pavement would mediate the relationship between the tower and the pedestrian realm (Mike Munnik, interview, 29/9/2000). Hirschon conceded that a colonnade would have improved the building considerably, but that the hostility generated during the furore had "left a bad taste in the mouth" and that, ultimately, there was no energy, will or time to re-design again (Iain Hirschon, interview, 27/9/2000).

While many remain implacably hostile to the tower, this researcher contends that, given the bulk rights of the site, the final building form is the best that could have been hoped for. Indeed, many of those interviewed thought that the building is a very fine achievement, "one of the best modern buildings in Cape Town". More than one commentator, however, thought that it was "in the wrong place", "out of keeping with its surroundings" and "should have been two blocks closer to the CBD" (Shahid Solomon, ZAS official, interview, 5/10/2000). Of the 11 key actors interviewed, nine were at least grudgingly admiring of the completed building and several of the most vociferous opponents during the negotiation and approval process were warmly complimentary; for example, the chairman of the planning committee, Councillor Clive Keegan, referring to the parking at street level and its hostile relationship to the pedestrian, had severely criticised the final proposal for being like a mermaid, handsome above the waist but sterile below. Hirschon retaliated with a lawsuit in the Supreme Court for these disparaging and (he contended) damaging remarks, but on the completion of the



The Terraces: during demolition work showing the retention of the facades (photographed in early 1989)



Terraces: Waterkant Street, showing the "mansard" roof added above the two-storied Victorian buildings (photographed March 1989)



The Terraces: the Lutheran Church with the Terraces tower behind it
(photograph 1994)

building, Keegan was invited to formally open it; and he then warmly described the building as “handsome”. It is interesting to note that only one of the 11 key actors interviewed observed that the gutting of the buildings behind the facades and the construction of modern offices behind the old facades was a pity and that the preservation of the old buildings with individual tenants would have been preferred (John Rennie, interview, 6/10/2000). The practice of “facadism” had been controversial in Cape Town since the Stuttafords redevelopment, so the relative absence of criticism in this case is surprising.

It should be noted that none of the key actors interviewed believe that the NMC had done its job properly. Most thought that if the NMC had been more decisive and used its powers properly, events could well have turned out differently. It is clear that the NMC had hoped initially to limit the building to four storeys only and to protect all of the old buildings facing onto Bree and Waterkant Streets. It later reduced these demands to apply to the early 19th century warehouse only, and then apparently finally withdrew entirely; only to belatedly object to the departures. Indeed, the unanimity of the condemnation of the NMC as “hesitant”, “weak”, “flaccid”, and the “ultimate culprit” is instructive in itself. On the other hand, all of the interviewees believed that the City Council had done the best it could in the circumstances. Indeed, the commitment of the City Council officials to finding a practical solution was commended by the majority of the interviewees, including the developer, Iain Hirschon. Hirschon’s compliments are not insignificant given the widely held perception that Peter de Tolly had failed to be promoted soon after this controversy because of the position he had adopted in the earlier phases of the negotiations. This too is significant because it demonstrates both the power of the conservation-oriented urban governance regime within its realm of influence, that is, of development control, and the limits of the regime’s influence which clearly did not extend to the *majority* of the councillors who were persuaded to turn against de Tolly.

The impact of the controls on the development was considerable. The initial scheme was completely redesigned: half of the site was kept at three stories behind retained facades, and the remainder of the site was occupied by an 18 storey tower using only 76% of the permissible floor area, a significant reduction of bulk. It is clear also that, notwithstanding the very considerable development rights and the NMC’s weakness and vacillation, the controls and the *threat* of refusal did give sufficient leverage for the Council officials to negotiate a design that is widely recognised as excellent and that satisfies most of the environmental imperatives, in particular, in protecting the streetscape. It is clear, however, that the developer and his architects did badly underestimate the shock value of the initial proposal (however exploratory it may have been) and the controversy that it would provoke. While many of the key actors in this drama may have been left with scars, it is clear too that the passing of time has taken the edge off their feelings: I recall Iain Hirschon being apoplectic when he first realized that we, the officials of the NMC and UCU, regarded several of the buildings on the site to be conservation-worthy; I also recall Hirschon’s rage and that of his project manager, Doug Claxton, an ex-international prop forward the size of a small battleship, when they learned that the Town Planning Branch proposed to declare a conservation area incorporating the block. Rather closer to the events, I wrote in a 1990 conference paper that:

“White heat was felt all over town when the NMC, supported by some members of the Heritage Committee, proposed that the developer build no higher than four or five storeys on the grounds that it would effect the view of the Lutheran Church” (Townsend, 1990, p18, which is the original version, presented to the conference, of Townsend, 1991).

It is clear even now, nearly 15 years later, that the conflict within the Simon van der Stel Foundation that led to Dirk Visser resigning from its chair, the differences in opinion between old friends and colleagues in the CIA, and the perceptions of most that Peter de Tolly, then Director of Planning, had failed in his bid to become City Planner on the departure of Dave Jack as a result of the position he took in this controversy, all indicate how bloody this battle had been. Indeed, I too felt strongly that the Heritage Committee had, in its suggestion that the building “should not exceed four storeys” (Heritage Committee Minutes, 18 October 1988), advised the NMC inappropriately; and I resigned from the Committee in protest.⁶ It is also true that the NMC could (or should) have taken a rather more determined position. NMC officials and NMC Council members alike have conceded that the NMC were out of their depth with a new assistant director inexperienced in development control and had “caved in”.

All of this also demonstrates, first, that the identification of categories of merit is not useful unless the *degree* of conservation-worthiness is also given and if the *effects* of the consequential controls on development rights are uncertain; second, that the often mutually exclusive approaches of the *insiders* within the conservation lobby will lead to conflict; third, that one of the authorities’ primary responsibilities is to be clear and decisive.

6.4 Federated Life Assurance (Approved 1990):

The Fed-Life project is significant as a case study primarily because it demonstrates the effects of the difference in responsibility and the consequent difference in opinion between the two authorities, the NMC and the City Council; because the inadequate identification of conservation-worthiness of the buildings and environs led directly to conflict between the authorities and with the developer; and because there did appear to have been a real limitation of rights in this case.

The site assembled by Concor Property Developments for Fed-Life in 1988 comprised of eight buildings occupying 75% of the block bounded by Strand, Loop, Waterkant and Bree Streets and diagonally opposite The Terraces (see the location and constituent parts of the ultimately approved proposal on page 176):

- The three small Victorian commercial buildings at the Waterkant/Loop Street corner had been built in the 1890s (two by the same well-known architect, Antonie de Witt). Only two of them had been classified in the Catalogue, and under-classified at that; but all three were clearly significant and made a significant contribution to the streetscape;
- At the Strand/Loop Street corner were three rather earlier buildings: on the very corner was a double-storied three-bay late-18th century townhouse with its

⁶ But, realising the importance of the Heritage Committee at the hub of the conservation lobby in Cape Town, I returned to the Committee the following year.

“steep” or uncovered verandah facing onto Strand Street, though showing 19th century repairs. The second building was a double-storied two-bay late-18th century townhouse, remodelled probably c1890: a distinctive late-Victorian commercial town building, but containing much older fabric. These two buildings were classified in only two classifications in the Catalogue and, given their age and rarity, were also inadequately identified. The third was of no architectural distinction, but clearly was an old site with much ancient fabric;

- The two remaining buildings on the consolidated site had been built in the 1940s and 50s and were of no distinction.

Almost two-thirds of the site was within the area proposed as a conservation area during The Terraces controversy. Although part of the block is within and very much a part of this very pretty largely late-Victorian and Edwardian townscape, other parts of the immediate surrounds are occupied by buildings of very poor architectural quality. Indeed, Strand Street has a very mixed character with several large and poorly designed modern buildings. The block also abuts the important Lutheran Church complex.

The development rights on this site are considerable and include a bulk factor of 9 and maximum heights of 37m on the street boundaries rising to 60m at the centre of the block. Like The Terraces, this site is within the West City Action Area, and the same conservation-led policies pertained. But, as with The Terraces, because the formal designation as a conservation area had not been completed, such controls could not be imposed.

Concor Property Developments had acquired options to purchase the several properties for Federated Life Assurance during the first half of 1989. Accordingly, the *de facto* developer was Concor who had undertaken a “turn-key” project which was to satisfy all of Fed-Life’s requirements. This was to prove problematic during the negotiations between the authorities and the developer because the real client, Fed-Life, was contractually excluded. Indeed, this removed any possibility of flexibility and reduced the architects’ ability to integrate the requirements of the authorities with those of the client (Vernon Head, the project architect, interview, 4/6/2001).

Both the City Council and the development team led by Meyer-Louw Architects, relying on the Catalogue and its assessments, recognised that several of the buildings on the site were “historical sites” (that is, over fifty years old) and were significant in the streetscape. The City Council anticipated that the NMC both had the power and the will to intervene and, indeed, expected them to support the City’s position. However, the NMC believed that two of the buildings facing onto Strand Street, though not particularly highly graded, had more than just townscape value. The NMC had decided some time before in 1984 that these two buildings should be declared as national monuments, but this decision was not acted on and neither the owner nor the City Council were informed of this intention. The decision was confirmed in 1987 and again in 1988, though still no action was taken. It is now clear that the inappropriate classification in the Catalogue and the NMC’s “secret” decision to declare the buildings as national monuments was to lead to confusion between the authorities and to cause conflict and uncertainty during the negotiations.

The development intentions were first presented to the authorities, the NMC and the City Council, more or less simultaneously in early June 1989 by way of an application *to demolish all of the buildings on the site*. In essence, the proposal was to construct a ten-storied office building facing onto Strand street with a seven-storied parking garage with approximately 300 bays on the remainder of the site. No drawings of the proposed development were presented to the authorities at this early stage. The developer has, however, insisted in the interviews that it was always their intention to retain parts of the buildings on Waterkant Street (Gary Moore of Concor, interview, 4/5/2001). Other key actors interviewed recall rather a gradual retreat by the development team during the lengthy negotiations, which is confirmed by the architect's own recollections (Vernon Head, interview, 4/6/2001). The earliest archived drawing shows the buildings on the corner of Waterkant and Loop retained for a depth of 4,5m, and the facade only of the Antonie de Witt building in Loop Street; but for the rest, this early design comprised a seven-storied parking garage and a ten-storied office tower block (these sketches are undated but are from circa October 1989).

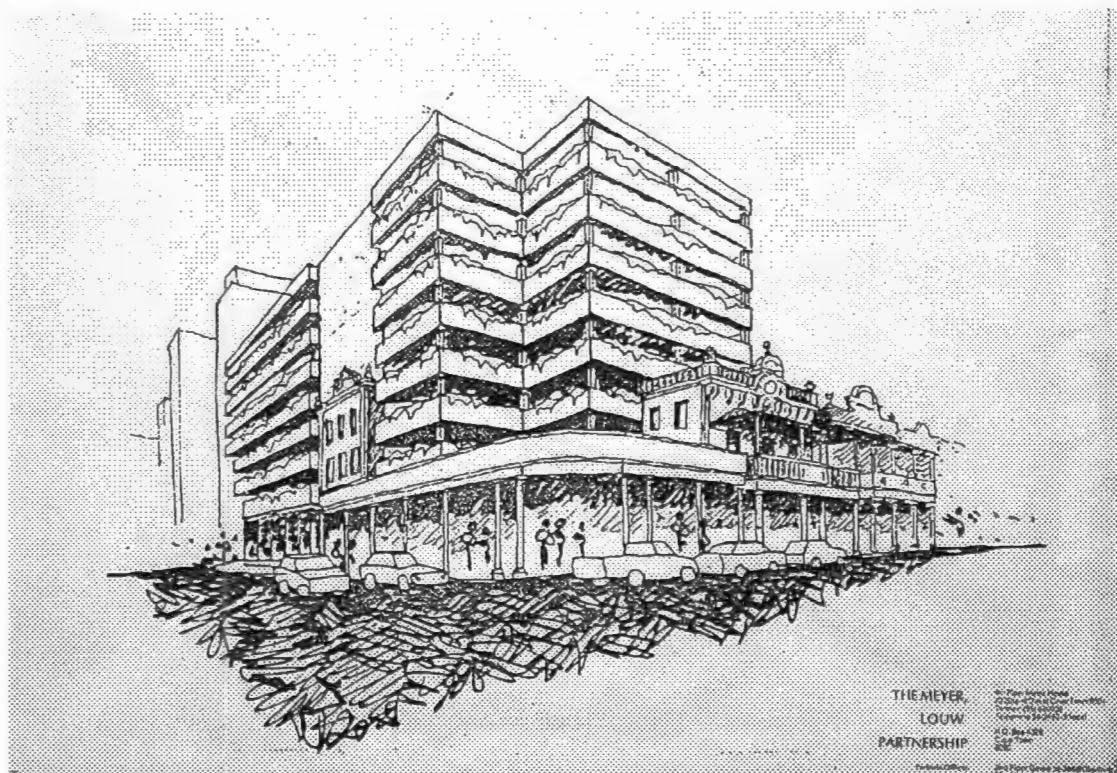
Officials from the NMC and City Council discussed the application and it was apparent that there were differences of opinion. The City's officials favoured a concentration of attention on the conservation-worthy buildings facing onto Waterkant and Loop Streets in order to protect the townscape, whereas the NMC officials regarded the two buildings facing onto Strand Street as being of such value that they should be preserved. The Council officials, recognising that "tactics of restraint" can lead to *less acceptable* development (Whitehand, 1992a, p212), feared this would reduce the likelihood of designing a viable scheme in the short term, that a period of neglect would follow, that ultimately *all* of the conservation-worthy buildings in the block would be lost, and that the precinct would be irreparably compromised.

In the event, early in the controversy on 27 June 1989 the NMC advised the developer's architects that they would not approve the demolition of the two buildings facing onto Strand Street or of the three buildings on the corner of Loop and Waterkant; and negotiations began in July. The negotiations were clearly very difficult as the two authorities had different positions and priorities but, more significantly, the developer was already committed to a building of a pre-determined configuration and the ultimate user, Fed-Life, was not included in these discussions. As a consequence, the NMC moved to provisionally proclaim the two Strand Street buildings and formally advised the property owner and the developer of this intention on 2 October 1989.

The process of changing the original design to a modified design retaining the two buildings on Strand Street and the three buildings grouped at the corner of Loop and Waterkant was slow. It must also be recalled that the architects believed that they were well-placed with regard to influential figures in the relevant national Minister's office and that the preservation requirements of the NMC and the design controls of the Council would ultimately be over-ruled. However, the NMC's decision on 4 December to proclaim the Strand Street buildings and a meeting between the NMC, the City Council and the developer with their architects days later gave greater weight to the officials' requests and led to further design development. Although the officials of the NMC and of the City Council had differed regarding the relative importance of preserving the two buildings on Strand Street, the NMC did give their support to the City's requirements



Fed-Life: the view down Loop Street with the site on the left before redevelopment (photograph by MeyerLouv, Architects, in late 1989)



Fed-Life: early perspective of the proposal from the Loop/Waterkant corner

regarding the remodelling of the buildings on and abutting the Loop-Waterkant Street corner and of the parking garage component.

The City should also have had the power to control the architectural appearance of the development as a condition of the sale of a 2m wide lane bisecting the block: in late June 1989 the developer had made an application to the City Council to purchase it. Dispute ensued regarding price and the conditions proposed to be attached, including design controls over the development; but ultimately the City Council agreed on 31 October 1989 to sell the lane to the developer for R165 000. It is now belatedly clear that the developer's need to purchase Pallas Lane from the City Council should have given the City Council rather more leverage. The department responsible for the sale, however, was quite separate from the Town Planning Branch and did not share the same goals (Henry Aikman, interview, 30/5/2001).

Notwithstanding these still unresolved differences, the architects initiated the plan submission to the City Council in late January 1990, and on 1 February announced the "successful negotiations" with the authorities. The project was "unveiled" with some fanfare by the national Deputy Minister responsible for the NMC (apparently a relative of one of the architects)⁷.

There were, however, still many aspects of the proposal that the City Council officials were unhappy about and in late February they wrote (not for the first time) to the architects. This led to another round of discussions, now focussing on the architectural expression and articulation of the building envelope agreed to in principle and on the detail of the facades, balconies, verandahs and shop fronts. These aspects of the project were finally agreed to in mid-May 1990.

On 22 May 1990, five days after having obtained the clearance of the UCU, the developer's architects, the Meyer-Louw Partnership, applied to the City Council for special relief regarding the purchase price of Pallas Lane. This request was made on the grounds that the NMC had insisted on the preservation of the two Strand Street buildings on the corner and, as a result, the owner had lost a valuable tenant; that the preservation of these buildings had led to the cantilevering of the main office building; that the parking garage had been reduced by 48 bays; that the City Council's officials had insisted that "the developer's economic solutions for the facade of the parking garage be amended both in concept and detail" and that "the final detailing of the full length of the Loop Street elevation has also undergone considerable change and upgrading". This had, argued the architects, resulted in additional costs of R850 000: an amount of R500 000 had initially been allowed to "satisfy the conservation requirements on this development", but for the reasons stated this had to be increased to R1 350 000. Accordingly, the developer asked that the City Council either make a contribution towards the conservation of the historical structures or to significantly reduce the purchase price of Pallas Lane. This was reported to the Council's Executive Committee on 19 June 1990 when the developer and the architects were interviewed. The request was, however, refused. Both the developer and the architects

⁷ This was Roelf Meyer, now famous for his role in the Kempton Park negotiations between the apartheid government and the opposition forces in the early 1990s.

believe that the actual cost of the conservation-oriented controls and requirements were considerably higher (Vernon Head contended that the cost was more like R2 million; interview, 4/6/2001), and quite impossible for a project of this size (R40 million) to bear.

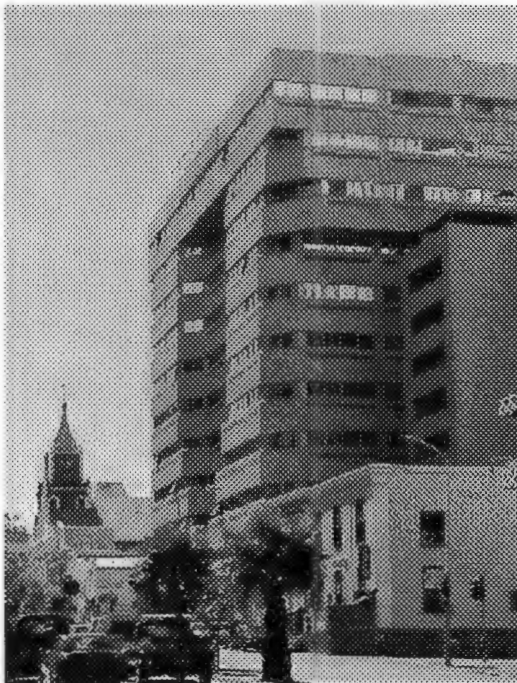
All of the key actors interviewed believe (or concede) that the development approved in May 1990 was a very considerable improvement on the proposal first mooted by the developer in June, 1989: the two buildings facing onto Strand Street had been preserved and upgraded (and declared as national monuments); the front 5m of each of the three buildings at the corner of Loop and Waterkant had been retained and remodelled; and the extent and visual impact of the parking garage facing onto Loop Street had been reduced and its appearance had been considerably improved by including a colonnade. These improvements were significant and even the architect, Gerry Meyer, conceded at the meeting with the City Council's Executive Committee in June 1990 that their original proposal would have "made one hell of a mess of the streetscape" (Exco Minutes, 19 June 1990).

Notwithstanding these acknowledgements of the (relative) success of the controls in ameliorating the negative aspects of the project, all of the key actors (with the exception of the architect, Vernon Head, interview, 4/6/2001) think that the complex is "a disaster" and "dreadful", and most of these parties believe that the architects "just weren't up to it". However, to be fair, all the parties also accept that the process was profoundly flawed by the late demands of the NMC to preserve the two Strand Street buildings and the consequent differences between the authorities. Also, all the parties recognise that Fed-Life's absence from the negotiations doomed them to failure: a negotiation without the ultimate decision-maker is just a discussion.

In conclusion, the project is not a success in architectural terms: the ten-storied office building is poorly designed and poorly, even shoddily, built; and the parking garage of unfinished concrete looms uncomfortably above Loop and Waterkant Streets. It is also true that the restoration and conservation works carried out were not carefully or thoroughly supervised and, therefore, do not have the atmosphere of authenticity. This is most apparent in the interiors of the two restored buildings, and the replacement balcony designed for the Antonie de Witt building in Loop Street.

This investment in this part of the city, a little way from the zones of higher land value, was a direct response to the neighbouring Terraces development and its approval by the City Council in March, 1989. Together, these two developments encouraged further investment in this quarter of the city; and in the following years this area became the centre of Cape Town's night life. The architects, however, thought that the restored and conserved buildings were "a film set" which, by their nature, had enabled "a slum for entertainment" (Vernon Head, interview, 4/6/2001).

The effect of the controls on the Fed-Life complex was marked. The initial scheme was radically remodelled to enable the retention of five conservation-worthy buildings: the two buildings facing onto Strand Street were restored and declared as national monuments and the three buildings at the corner of Loop and Waterkant were retained and remodelled, thus maintaining the streetscape and the character of those environs. This was a significant achievement. Furthermore, although the primary elements of the



Fed-Life today: the view up Strand Street, showing the Lutheran Church in the background (photograph 2003)



Fed-Life today: the Loop Street side of the site after redevelopment (photograph 2003)



Fed-Life today: the development from the Loop/Waterkant corner (photograph 2003)

initial proposal (the ten storeyed office block and the seven floors of parking garage) were retained, the proposal did use only 51% of the Permissible Floor Area, a very significant reduction of bulk. It is clear also that, notwithstanding the very considerable development rights and the NMC's "secret" assessment of the two Strand Street buildings and the consequent conflict between the authorities, the controls did give sufficient leverage for the Council officials to negotiate the gains referred to. Also, in this case the NMC did determinedly hold to their position. It is clear, too, that the developer and his architects did badly underestimate the commitment of the officials within both the NMC and City Council to protect the environs as best they could.

The incomplete identification of the conservation-worthiness of the buildings by the NMC and the truncated process in the designation of the precinct as a conservation-area led directly to conflict between the authorities. In the event, both of the authorities had their way regarding the parts of the design that they wanted amended; but this put a considerable strain on the project: coupled with the absence of the ultimate decision-maker and the consequent inability of the architects to respond to the authorities' guidance, this was to ensure very poor architecture.

These last two case studies are very interestingly juxtaposed: the conflicts internal to the urban governance regime are quite different. In the case of The Terraces the differences were between the preservationists and the younger officials of the NMC and the City Council who sought, primarily, to protect the scale and character of the immediate townscape. In the case of Fed-Sure the differences were between the authorities who had different responsibilities and who, therefore, endeavoured to achieve disparate ends. In the next case, 20-22 Kloof Street, the differences between groups within the urban governance regime are even more sharply drawn.

6.5 20-22 Kloof Street (also known as Blue Mountain Estates and/or Rosenhof Court; Approved 1990)

This project is significant as a case study for one primary reason: the very distinct differences between the two by now well-defined groups within the conservation lobby regarding the conservation approach to be adopted led to very considerable delay and, ultimately, to the loss of the buildings themselves and of all significance.

Kloof Street is a natural passage following the course of one of the streams which ran from the lower slopes of the mountain through the market gardens of the Table Valley towards the sea. This passage had probably been established as a pathway as early as the 17th century and gave access from the settlement to the developing market gardens in the area. However, as the town grew the lower gardens were increasingly subdivided and developed; and by 1800 several of the properties along the lowest part of Kloof Street were developed with dwellings. There were two buildings on the site when the property was put on the market in early 1986, 20 and 22 Kloof Street:

- The outward appearance of No 22 was that of a double-storied five-bay Victorian building, then until recently occupied by a video store and a brothel. It had previously been a boarding house for many years; indeed, it had been used as a boarding house for most of its life, already put to this use in 1820. At that time the building was a "dakkamer huis", a Cape Dutch single-storied house with a central room-in-the-roof, which had probably been constructed in 1789 when the

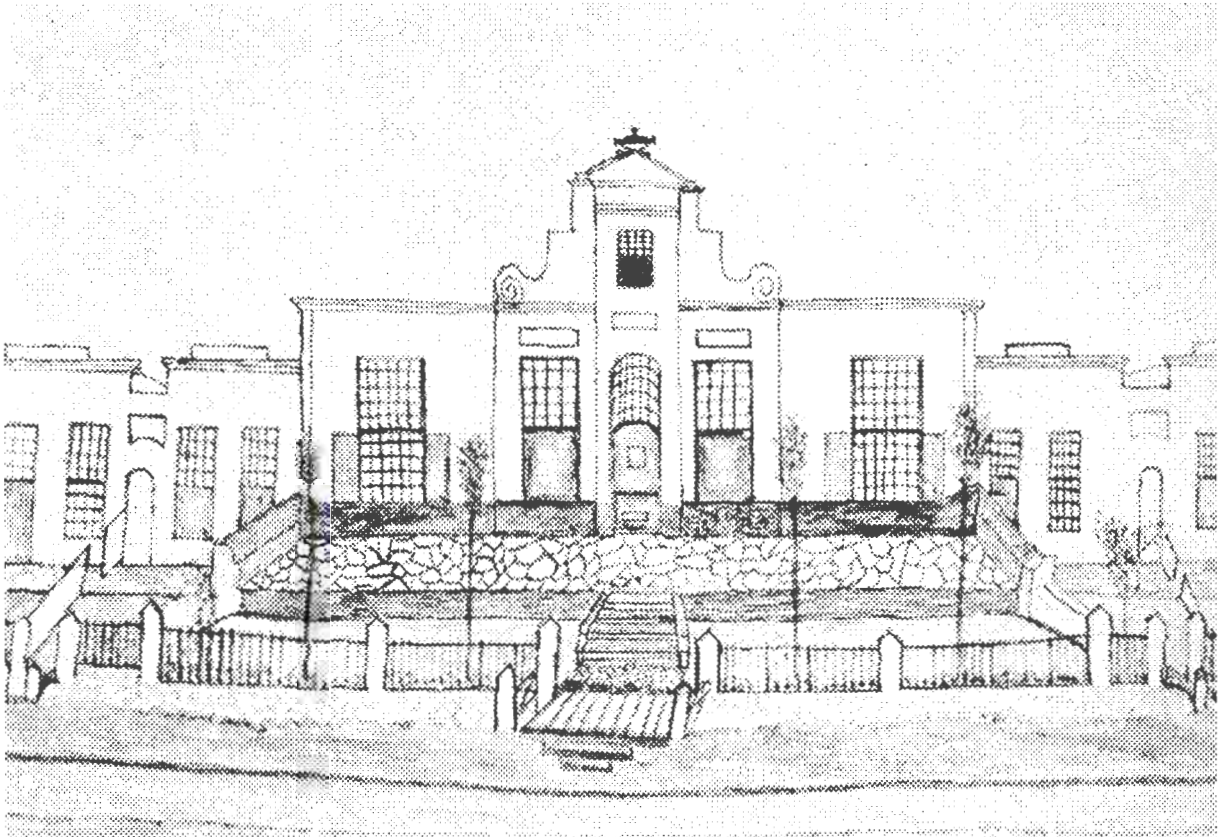
erf was created. The “dakkamer huis” certainly existed in 1819, as it appears in Eleman’s plan of 1820 and in a sketch of 1819 by an English pastor, the Rev John Campbell. Campbell’s more detailed drawing shows the configuration of the building and its immediate neighbours, and it was still in that form in 1860 (see Millard’s photographic panorama, AG 13447). The building had additional associational significance as Fearon Fallows, who came to Cape Town to build the Royal Observatory, stayed in the house in 1821 and 1822 and took his first readings of the stars of the southern hemisphere from the property (Brian Warner, 1995, p48). In 1896 Vixseboxse, a Dutch architect from the Transvaal, designed extensive alterations to the late-18th century building and converted it to its double-storied Victorian form, but clearly retaining much earlier fabric (see Approved Plan CCC243/1896).

- Adjoining this property was 20 Kloof Street, a small double-storied Victorian house (attached to its neighbours on both sides). This part of the site had been developed by 1819 as a single storied building which also appears on both Eleman’s plan and on the Rev Campbell’s sketch. Like its more important neighbour at No 22, it incorporated much earlier fabric. Though not as interesting as its neighbour, it certainly contributed to the character of the environs.

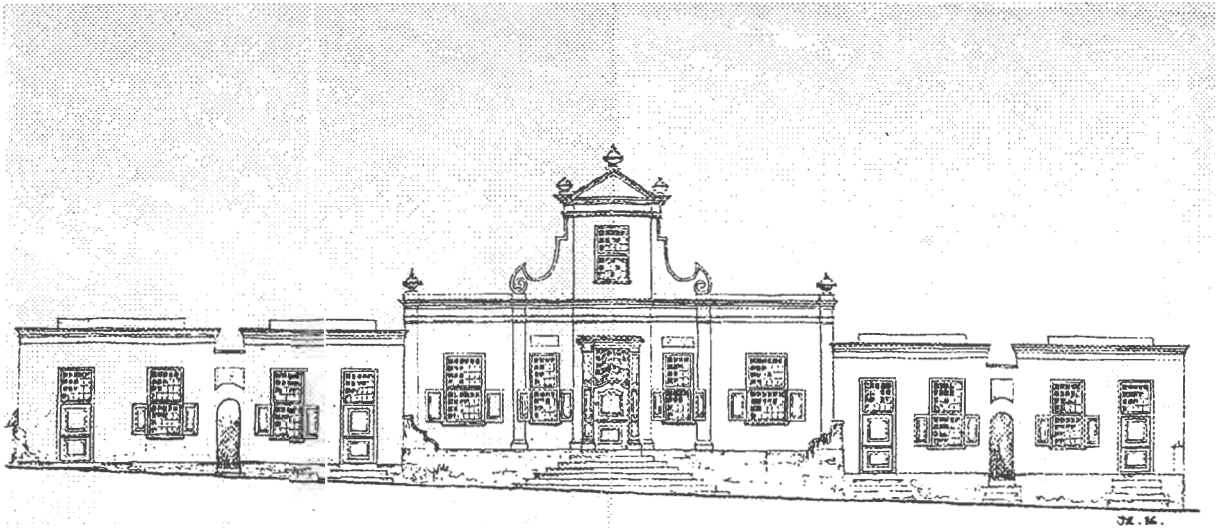
The buildings’ provenance and history was not known in 1986 when the properties first came into the public eye, but was uncovered during the next couple of years and was well-known by 1989 when the property was acquired by Blue Mountain Estates.

In the late 1980s, Kloof Street was a charming street of very mixed activities and a wide range of building types. This lower section had, however, lost most of its earlier predominantly residential use and the older dwellings still extant were in the process of being remodelled for new uses or being allowed to deteriorate. In other words, this section of Kloof Street was in transition and property values were uncertain. The entire length of Kloof Street is within the Upper Table Valley conservation area identified during this period and declared as such in 1992.

It bears mentioning that all of the key actors interviewed during 2000-2001 concurred with these assessments of the buildings and the environs, but recalled that there had been considerable differences regarding the *possibility* of conservation. The attorney for the initial owners, although agreeing that conservation was a “potentially a worthwhile cause”, insisted that in 1986 the buildings were already “seriously derelict” and he questioned the possibility of their conservation (Peter Whelan, interview, 12/12/2000). Also, two officials (one from the NMC and one from the City Council’s UCU) questioned the significance attached to the remnants of the “dakkamer huis” embedded within the carcass of No 22. Indeed, both of these officials believed that the significance of the building was in the “layered” nature of the building (Penny Pistorius, NMC official, interview, 29/11/2000; Graham Jacobs, UCU official, interview, 22/6/2001). Significantly, at least one of the “reconstructionists”, Dirk Visser, who at the time argued that the embedded remnants of the “dakkamer huis” were more significant than the “layers” has conceded that he was probably seduced by the *idea* of the reconstruction of the single-storied “dakkamer huis” (Dirk Visser, adviser to NMC, interview, 7/9/2001). This difference of opinion regarding what was significant about the existing building(s) is profoundly important and it was, ultimately, to lead to the complete loss of both buildings and of all significance.



22 Kloof Street: 1819 sketch of the "dakkamer" house by the Reverend Campbell



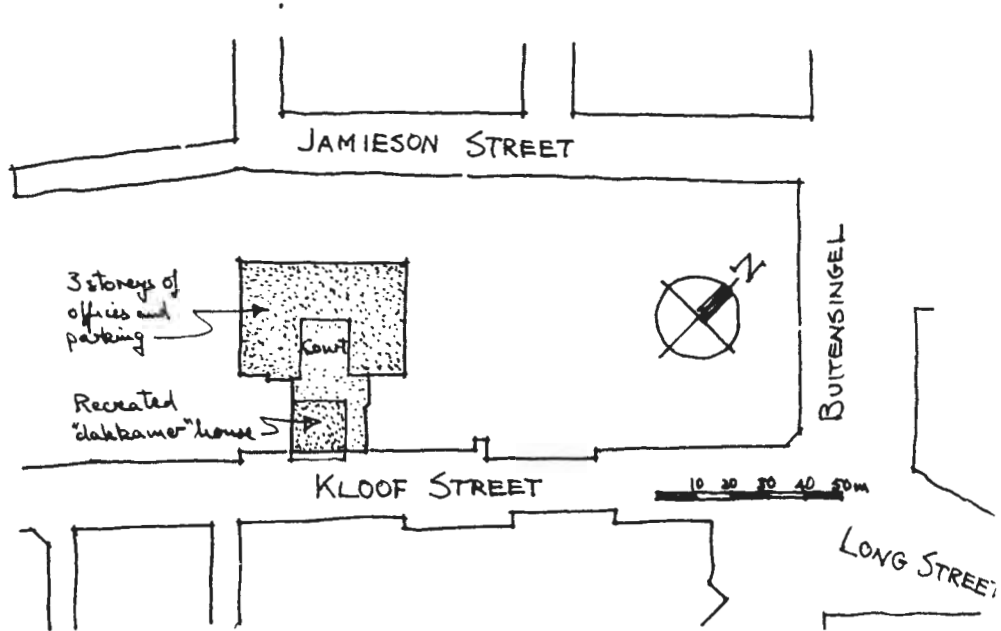
22 Kloof Street: hypothetical reconstruction (drawing by John Rennie, Architect)

The site was zoned for "General Commercial" use, which permits a wide range of uses with a bulk factor of 3,7 and a three-storey height limitation on the street and side boundaries with a 4,5m setback above that rising to a maximum height of seven storeys. The applicable local area policy plan in this instance was the draft Upper Table Valley policy plan which had been through several public processes, but was still in the making. The relevant aspects of the draft policy were clear directives to conserve conservation-worthy buildings and to strengthen the retail and business activities in the historical business strips like Kloof Street. This policy had led to conservation consultants being commissioned in 1986, and in 1988 the Council had proposed the designation of a conservation area. The designations were, however, only granted in 1992, some time after this proposal had been completed. Accordingly, although there was every indication that the City Council would attempt to ensure that any development both preserved any conservation-worthy buildings on the site and responded appropriately to the character of the environs, it did not, at this time, have the authority to impose such controls. It is clear, however, that the buildings did merit the NMC's attention. The preservation of No 22 should have been ensured and No 20 deserved attention as an "historical site" at least. The buildings certainly satisfied the necessary criteria for such control and the NMC had the power to impose restrictions.

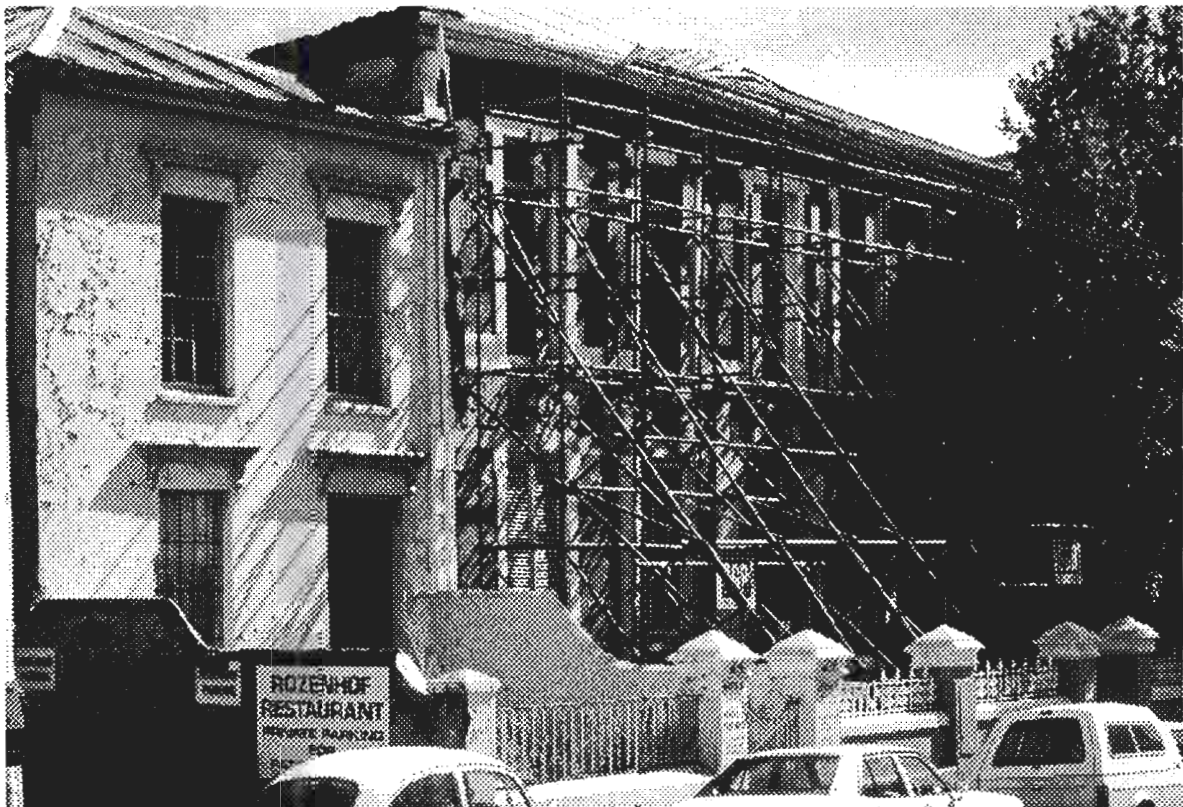
However, before the development intentions of the developer in 1989 are discussed, it is necessary to consider the position of the owners prior to this time and the events during the three years prior to their first proposals.

No 20 was occupied by a statutory tenant who had to be re-housed by the property owner. The rent was controlled and not an economical one and, as a result, No 20, although occupied, was gradually disintegrating. No 22 had been occupied by a video store and brothel until late 1985. Once it had been vacated, however, it was alternately occupied and vandalised by vagrants; and it rapidly deteriorated and became dangerous both to the public at large and, in particular, to the tenant and his family in No 20. Other nearby neighbours pressed the property owners and the City Council to resolve the increasingly hazardous and unhygienic situation. It does appear, however, that the tenant at No 20 and opportunistic vagrants gradually removed those parts of the building that could be sold. Indeed, one such person was almost killed when a wall collapsed. Although badly injured, he was charged with theft and malicious damage and convicted for his part in this mining of the site.

In August 1986 the owners, two elderly ladies with their attorney, met the Heritage Committee. Both the NMC and the City Council were represented. It was concluded that demolition of those sections of the building that were not historically or architecturally important could proceed, that the Heritage Committee would "develop a concept for how a scheme could be developed" and that the NMC "would attempt to find funds for a holding operation" (Heritage Committee minutes, August 1986). Not surprisingly, very little came out of these resolutions, though in September 1986 the well-known conservation architect and then a member of the NM Council itself, John Rennie, produced a hypothetical reconstruction of the "dakkamer huis" facade based on measurements taken of the extant building and on Rev Campbell's 1820 sketch. As a consequence, the NMC provisionally proclaimed No 22 as a national monument in February 1987. The buildings, however, continued to deteriorate, though the front



20-22 Kloof Street: Location



22 Kloof Street: Vixseboxe's remodelled building (altered by him in 1896) in the early stages of collapse (photographed March 1989)

facade of No 22 had to be supported by scaffolding to ensure that it did not fall into the street. In September 1987 the provisional proclamation expired and was not re-newed.

By mid-1988 a developer had become interested but would not initially commit himself to purchasing the property until clarity had been reached regarding the development potential. An agreement to purchase was, however, concluded in October 1988. It was proposed to build a "courtyard office development" behind the restored or reconstructed historical "dakkamer huis" with vehicular access from Kloof Street. This raised a new concern, and further delay, as it was clearly not possible to get vehicular access without demolishing No 20; and the reconstructionist lobby hoped that the traffic engineers would refuse access from Kloof Street (this was an unreasonable, even impossible, wish because the property had no other possible access point).

After considerable delay due to the necessity of rehousing the statutory tenant, during the second half of 1989 debate ensued again between the developer, his architect, officials from both UCU and the NMC, and the Heritage Committee (several of the members of the Heritage Committee were either members of the National Monuments Council itself, Desiree Picton-Seymour and John Rennie, or were advisers to the NMC, Dirk Visser and Gawie Fagan). A three-storeyed office development behind the building at No 22 was proposed, but the NMC was ambivalent about the extent of remodelling/restoration they should agree to. It should by now have been self-evident that the carcass of No 22 would not survive, but the "reconstructionists" could not bring themselves to accept this. By late 1989 it had become clear that although some of the younger members of the Heritage Committee were critical of ideas of reconstruction and would have preferred a simple re-use of the existing fabric in a modest consolidation (of Vixseboxse's building) or a good unpretentious modern building, the majority of the Committee and the NMCouncil members were committed to having the "dakkamer huis" restored (by this time the remaining fabric was precarious) or reconstructed. It appears that the enthusiasm for the "restoration" was due to the fact that the "dakkamer huis" was Dutch rather than English (see Franco Frescura, 1990, on this general subject), and it had been learned that the then President, PW Botha, had met and courted his wife-to-be in the 1930s at the boarding house at No 22. This new fact encouraged the NMC to endeavour to raise funds for a "restoration" (more correctly a reconstruction).

During this debate the developer had become committed to a marketing strategy based on the idea of an "historical" office precinct and the NMC finally decided that a "restored" single-storied "dakkamer huis" would be unique in Cape Town. It is clear that the developer was conservation-minded and would not have become embroiled in this matter had he not been so minded (Alan McVitty, interview, 22/1/2001), and that the developer, his architect and the "reconstructionists" shared the same historicist ideas about conservation. It is also clear that neither the developer nor the architect realised how long the property had been the subject of dispute within the conservation lobby (Warren Simpson, architect, interview, 24/1/2001). Accordingly, in February 1990 the architect submitted a proposal for a three-storied office development behind the "restored" "dakkamer huis" with access off Kloof Street which required the demolition of No 20. The actual floor area of the complex of buildings proposed and ultimately approved comprised 2 530 sqm or only 35% of the permitted floor area. This figure

omits the 1000 sqm of floor area accommodating 42 parking bays which is “bulk-free”. It bears mentioning that both the developer and the architect have insisted that the scale of the development was determined by the number of parking bays that could be accommodated at ground level (that is, at relatively low cost) because the parking to floor space ratio was (and still is) the primary marketing factor.

During this time the buildings had deteriorated continually. In September of 1989 shoring up required by the City Council for safety reasons had been stopped by the NMC to enable the measuring of the buildings by a conservation specialist (which was never done); and subsequently, during the plan scrutiny process, further demolitions had been agreed to; but a couple of weeks after the NMC finally approved the proposal in May 1990 the final section of the facade collapsed.

While the building at No 22 remained standing the officials at both the NMC and the City Council were obliged by the “reconstructionist” position of the National Monuments Council itself and of its advisors to press the developer to conserve the building. However, once the last remnant had collapsed these officials felt strongly that the conservation-oriented endeavours should change so as to design a good modern and contextually appropriate building; and I made the following lengthy comment (dated 30 May 1990) to ZAS on the noting sheet at the end of the scrutiny process:

“The UCU will not approve this proposal. However, as the NMC have approved the scheme, we appear to have little grounds for refusal. Please note that the front facade indicated as existing has been demolished. (The NMC are aware of this.) I believe that Sections 7 and 10 of the Nat. Blding Regulations Act should be invoked in that hypothetical reconstructions/fakes like this devalue all genuine historic bldings in the neighbourhood. ie. In that they ‘derogate from the value of adjoining or neighbouring properties’. However, I have discussed this with the DoP and the Chairman of the TP Committee and they are reluctant to follow this course. It would also be unfair to the developer who has responded in good faith to the NMC’s directives”

This change in position was difficult for the development team to understand or accept (Warren Simpson, interview, 24/1/2001).

The effect of the lengthy negotiations between the several parties was considerable. Development expectations before the negotiations were for rather more accommodation than the 35% of the allowable bulk that was ultimately approved. It is clear that the demands of the NMC and the advice of the Heritage Committee dissuaded potential purchasers from buying the property until a developer who was interested in the existing building arrived on the scene. It is also clear that this was too late to save the building. Considerable loss was entailed as a result of this delay. The attorney for the sellers recalls that a fair price was assumed in early 1986 to be between R 400 000 and R 500 000, and that the sale only realised R 300 000 in late 1989. But he also contends that the price should have been closer to a million rand (Peter Whelan, interview, 12/12/2000). The delays were also extremely costly to the architect, and, most importantly, to the two buildings which were lost through neglect and indecision. Interestingly, the developer has said that the delays due to the negotiations were not costly to him; the delays in removing the statutory tenant and subsequent delays negotiating with potential tenants were the problem. The architect, however, has

pointed out that the almost interminable negotiations and discussions with the several parties were enormously costly in his (unpaid) professional time.

The completed building is a great disappointment from a conservation point of view. The loss of the two buildings must be seen as a failure; and several of the key actors interviewed used phrases like “a tragedy”, “a farce” or “a shadow of what it should have been”. Indeed, all but two of the parties interviewed accept that the replica has no conservation value at all (the architect and one of the NMC officials). There is, however, still disagreement about the appropriateness of the reconstruction. Three of those interviewed (the architect and two from the NMC) are pleased that the reconstruction was built. The architect is, however, critical that the NMC and the City Council have, after “all that effort, blood, sweat and tears” recently permitted the current owners to clad the front of the stoep with “fake stone tiles” and to construct inappropriate balustrading (Warren Simpson, interview, 24/1/2001). Several parties were very critical of the NMC for a variety of diverging reasons: one party described the NMC as “at best naive, at worst vindictive” and said that the whole process appeared to be “an exercise in statutory spite” (Graham Jacobs, UCU official, interview, 22/6/2001). Several others thought that the NMC had abused their powers and made unreasonable and/or impossible demands. It is clear that this is a case where a willing but unwitting development team had been caught in the conflict between different lobbies in the conservation lobby. On one side were the traditional historicist “restorationists” who were determined to “restore” or reconstruct the “dakkamer huis” come what may; on the other were the younger followers of a more modern theory of conservation who would have preferred to preserve the “layered” building with the manifestations of the many interventions over its two centuries of existence, treating the building as a document. It is significant that one of the original “reconstructionists” now accepts that the end result was “in conservation terms, a futile exercise” and that a “very nice little building that could have been kept” had been lost; and he described the reconstruction as “an academic exercise that should have remained on paper” and that “the historic layering should have been left untouched” (Dirk Visser, interview, 7/9/2001). The ambivalence of the NMC appears to have been the primary cause of first the seller’s and then the developer’s uncertainty; and of the subsequent delays. Indeed, it is clear that the five years of continuous deterioration of the vacated building at No 22 was a direct expression of the NMC’s indecision; and that this long period of neglect caused the loss of this interesting and much layered late-18th century building. It is difficult to imagine a less satisfactory process.

Conservation-Oriented Development Controls Come of Age

The considerable public criticism associated with this debacle and with The Terraces and the Fed-Life projects, all three negotiated during 1988-89, did, however, produce positive fruits: first, the officials in the NMC and the UCU had become battle-hardened, determined, and considerably more adept at conservation-oriented negotiating; second, these officials had also developed and discovered their shared credibility and influence; and third, the internecine conflict within the conservation lobby expressed in a number of ways, including a newspaper debate⁸ regarding the competence of the NMC between

⁸ In the *Citystroller's* columns in the June and July 1987 editions of *The City*, a weekly newspaper of short life.



22 Kloof Street: the final stages of collapse (photographed October 1989)



22 Kloof Street today (photograph 2003)

Clive Keegan and myself had high-lighted the need for the NMC and City Council to agree on their respective administrative responsibilities and to formalise procedures for liaison and co-operation. This formalised co-operation between NMC and the City Council, an enormously significant event in the development of a system of conservation-oriented controls in Cape Town, took place at the most opportune time in 1989, just before the approval of the provision in the Zoning Scheme enabling urban conservation controls in 1990. Indeed, the formalisation of an agreement and of cooperative relations between the NMC and the City Council, the identification of conservation-worthy buildings and conservation areas, and the inclusion of Section 108 in the Zoning Scheme set the scene for the second phase of urban conservation controls in the city centre (and much of the rest of the historic city).

Urban conservation had come of age in Cape Town. Indeed, once Section 108 was promulgated in 1990 the conflict and controversy provoked by the controls would be more straightforwardly about the nature of the controls and differences in opinion regarding the approach preferred by the authorities rather than the very fact of conservation-oriented control; although, as we have seen, the designated conservation areas at this time included relatively small parts of the city centre at this time.

6.6 Heritage Square (Approved 1997):

The Heritage Square is particularly significant as a case study for two reasons: first, because it constitutes one of the conservation-oriented urban governance regime's greatest successes, one that this group had worked towards for 20 years; and second, because it demonstrates the still very clear differences in approach of two groups within the conservation lobby which, in this case, were debated at some length.

The recent history of this city block abutting Riebeeck Square in the West City and for many years intended to accommodate a 2000-bay parking garage, has been extraordinarily complicated and controversial. The periodic changes in the planning intentions and development rights the past 40 years have been described in the previous chapter. As a result of the uncertainty of the future of the block, many of the properties became increasingly neglected and run down, in particular those properties expropriated by the City Council after 1973. The City Council was not a good owner and the buildings deteriorated throughout the period of uncertainty which only ended with the Heritage Trust-Montsi project in 1997.

The block was surveyed and allocated in seven grants in 1771. By 1800 the seven properties had been reconfigured into 12, almost certainly each with a building. This process of subdivision and consolidation continued throughout the 19th century (Hall, 1989). There were 19 buildings on the block in 1973 when the City Council expropriated 13 of them. One was disposed of separately in 1991. Accordingly, this development involved 12 of the buildings or 60% of the block (the location and configuration of the block is shown on page 202). Of the 12, nine were grade 1 buildings, one was a grade 2 and two were grade 3 buildings. Of the seven in private ownership, one was a grade 1, one was a grade 2, three were grade 3 and only two were ungraded. It should be noted that the system of grading developed by the UCU during the early 1990s (Townsend, 1996) was, by this time, in everyday usage. These assessments and gradings rely on the findings and insight of the several research projects commissioned

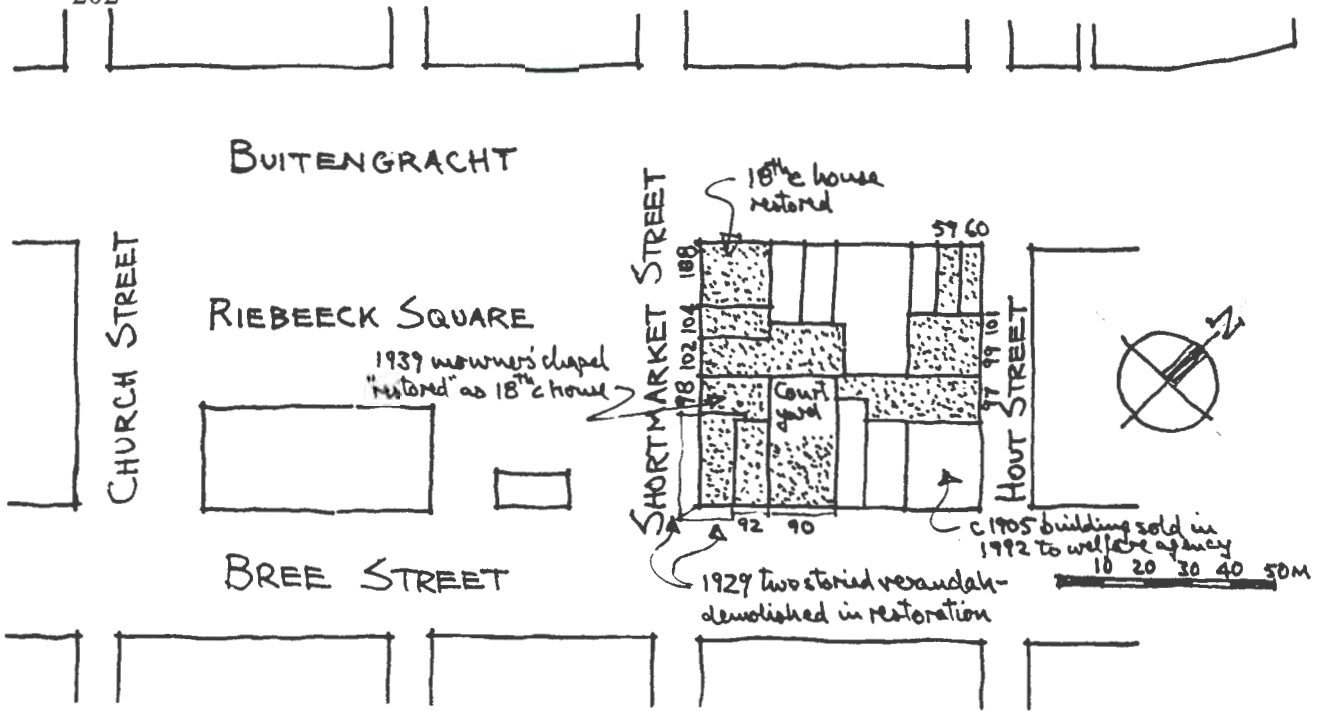
by the UCU between 1986 and 1992. Although the City Council agency responsible for property holdings was reluctant to spend money on their upkeep, the Town Planning Branch under Peter de Tolly and the UCU, pursuing the goals of the conservation-oriented urban governance regime through the West City Action Area initiative, worked towards the ultimate goal of conserving this block as the keystone of the West City's revitalisation. The block is, indeed, unique in Cape Town with an unusual percentage of old buildings. As a consequence, it presented a unique opportunity for both urban regeneration and for individual conservation projects.

The zoning of the properties suggest very considerable rights, but these were limited by conservation-related restrictions: indeed, the City Council proposed to dispose of the properties with title deed conditions limiting the rights to the existing built forms only. The block is within the Riebeeck Square conservation area, which was amongst the first seven areas proposed as conservation areas in the city in 1979. Indeed, the block's inclusion in the proposed conservation area and the West City Action Area initiative initiated in 1979 reflected the determination of the conservation lobby in the 1970s that the block should not be developed as a parking garage. Its early inclusion in a conservation area must, therefore, be read as both a recognition of each individual building's significance and of the importance of the block in the environs of the West City.

All of the buildings in the block were more than fifty years old and, therefore, also came under the control of the National Monuments Council; the buildings graded as Grade 1 buildings were, by definition, worthy of being declared as national monuments. Indeed, as early as 1975 the National Monuments Council had decided to declare *the whole block* as a national monument, but had not taken action in that regard. Accordingly, the NMC had the authority and, presumably, the will to control any proposed development.

Throughout the 1980s and 90s innumerable approaches had been made to the Council by prospective developers proposing to redevelop the gradually disintegrating buildings. Indeed, the Council did agree to the sale of four of the properties to the French government for use as a consulate in late 1991 (the proposal, however, fell through). At that time the Council also agreed to the sale of one of the properties to a welfare agency. This sale did go through in 1992, and the building was renovated. As reported in the previous chapter, the Heritage Trust first proposed that these buildings be donated to them in 1989. This was at first rejected by the Council, but the Trust persisted with its proposal and, after the block had been rezoned from parking garage back to General Business in March 1993 persuaded the City Council in 1994 to donate the 12 properties to the Heritage Trust.

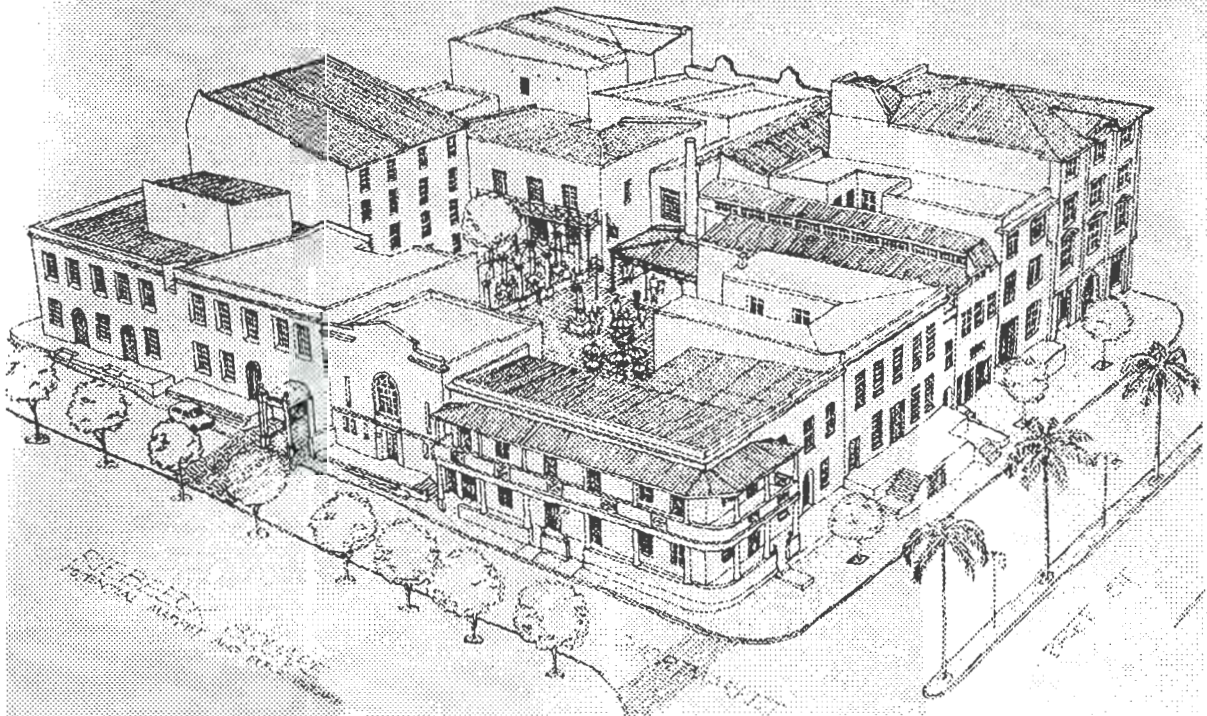
In 1995 the Trust, in association with Montsi Properties, suggested the following: the properties would remain the property of the Heritage Trust and would be held in a long-term notarial lease; the buildings would be "refurbished"; a central courtyard would be created with "crafts/trades people from the local community", a museum or exhibition area, cafes, delicatessens and bakery all at ground floor level, and with a small hotel and residential uses at first floor level; with a best case "completed development value" of R9.3 million and a worst case of R5.8 million. This proposal was the basis of



Heritage Square: Location

FIGURE 11 BREE SHORTMARKET BLOCK: CONCEPT

- RESTORATION OF BUILDINGS
- CREATION OF CENTRAL COURTYARD
- IMPROVEMENT OF PEDESTRIAN ENVIRONMENT
- LANDSCAPING, REMOVAL OF SIGNAGE, POLES, WIRES
- TREATMENT OF BREE AND SHORTMARKET STREETS
- UPGRADING OF RIEBEEK SQUARE



Heritage Square: axonometric drawing from the 1987 West City Action Area Report Three; note the balcony on the corner of Shortmarket and Bree Streets and the Mourners' Chapel

Council's approval in January 1996.

During the following months the Heritage Trust-Montsi partnership developed these proposals and discussed them with the NMC and the City Council's Urban Conservation Unit (both NMC and the City Council were represented on the Trust) and, ultimately, the submission to the City Council for formal planning approval was initiated in September 1996. This initial submission was divided into two parts, which is interesting in that it signals the early dissolution of the partnership of the two very differently constituted partners.

A first phase or "enabling" contract was carried out immediately. This comprised some demolitions and removals of paint, plaster, ceilings and floor coverings to expose the underlying ancient fabric, and enabled a complete and proper understanding of the buildings. This is, of course, an important first step in the planning and design of any conservation project, but is seldom carried out before statutory approvals have been obtained. However, precisely because this exploration had been carried out, changes based on new information were included in the submission to the authorities. It had also been recognised that certain aspects of the initial proposals were not viable.

The amended proposal submitted for approval was as follows:

- The three ancient buildings at 90, 92 and 94 Bree Street were proposed to be restored to their early 19th century appearance and remodelled internally as a hotel: a new aspect of the proposal was the proposed demolition of the 1929 verandah on the corner of Bree and Shortmarket and the hypothetical restoration of the facade to its assumed late-18th century warehouse configuration;
- The extant building at 98 Shortmarket Street, previously a funeral parlour with an attached mourners' chapel of 1939 contained within the shell of its c1800 predecessor was now proposed to be reconstructed with an early version of the facade based on an early-20th century photograph with the supposed ground floor plan-form of an early 19th century townhouse for use as a restaurant;
- The complex of rather dilapidated buildings at 102 and 104 Shortmarket Street was proposed to be consolidated and refurbished, with no 102 serving as the main entrance to the internal shared courtyard, and with several restaurants facing onto the courtyard;
- It was proposed to consolidate, refurbish and restore the late 18th century two-storeyed townhouse at 108 Shortmarket Street (cnr Buitengracht) for use as offices. Though dangerously dilapidated the building incorporated a considerable amount of rescuable ancient fabric, including evidence of early 19th century working class tenements;
- The complex of dilapidated, but structurally sound turn-of-the-century warehouses at 97, 99 and 101 Hout Street and 59-61 Buitengracht were proposed to be consolidated, and remodelled for office use, restaurants and for the blacksmith/engineering works that had occupied no 97 for several decades.

Immediately after the submission of the plans to the City Council in September 1996 the architects and several of the leading trustees met with officials of both the NMC and the UCU who had voiced concerns regarding the proposals. The concerns shared by the two authorities included, most importantly, the loss of the "layering" of past



Heritage Square today: view up Shortmarket Street; the balcony has been removed and the Mourners' Chapel has been remodelled as a 19th century residential building (photograph 2003)



Heritage Square today: view of the Bree Street facades (photograph 2003)

interventions and, therefore, the loss of authenticity, in particular, of the properties at the corner of Bree and Shortmarket due to the demolition of the 1929 balcony and the hypothetical reconstruction of the earlier facades, the reconstruction of the early 19th century townhouse facade and plan at 98 Shortmarket, and the remodelling of the outbuildings (the early 19th century tenements) at 108 Shortmarket.

The Heritage Trust, however, was not prepared to adapt the proposals and advanced further motivation. The essence of their position was that the restorations of these early Cape facades “would put back a missing piece of very rare and contextually relevant Cape Townscape” and that the existing balcony was crudely detailed and of no merit or significance (David van der Heever of GAPP Architects, Motivation, February 1997). This view was held very strongly by a particularly influential group of several of the best known and most respected members of the conservation lobby, Visser, Fox and Fagan, as well as the project architects, David van den Heever and Trevor Thorold, and the Trust’s chairman, then the vice president of the SA Institute of Architects, Llewellyn van Wyk. In interviews, all of these parties defended, or rather promoted, their earlier position, namely that this had been a unique opportunity to re-create an early 19th century townscape in the city that could not be missed. All of the protagonists of this idea referred to the “unique opportunity” of restoring an “entire city block (or contiguous part)” and of “one period”. They also all argued that the balcony was relatively modern and crudely built; that the mourners’ chapel would have limited the size of the hotel; and that the re-created facade in its place was “authentically restored” because it was based on photographic evidence. It is worthy of note, though, that all of these protagonists insist that they held to the principles of authenticity and to the preservation of the diverse strata of ancient structures. They did, however, argue that “sometimes you just can’t keep *all* the layers” (Trevor Thorold, interview 15/1/2001). On the other hand, it is clear that Montsi Properties did not have a particularly strong view on this issue and were happy to keep the balcony and the mourners’ chapel. Indeed, it appears that the Montsi component of the partnership would have preferred to preserve the “layers” of history and would have preferred a modernist and more imaginative approach to new works (Tony Davenport, interview, 25/1/2001).

The Trust’s refusal to reconsider these problematic components of the project should not have surprised anyone. The Cape Town Heritage Trust is managed by a board of some thirty trustees, many of whom are the established and publicly recognised leaders of the conservation lobby. Indeed, most of the active trustees are architects and experienced in the fields of architectural conservation and restoration, and all of these trustees are also members of the Heritage Committee at the centre of the conservation-oriented urban governance regime. Indeed, this group are, by and large, the same group who had promoted the reconstruction of the “dakkamer huis” in Kloof Street almost ten years earlier. It was most unlikely that this group would bow to the arguments put by the UCU (the NMC was silent in this debate); and, in the event, the attempt by these officials to get support for a more modern concept of conservation reliant on authenticity was too late and too narrowly cast to have any chance of success (Martin Hall was approached for assistance just days before the Planning Committee was to approve the proposals). It is also true, however, that every party interviewed believed that the debate was an important one and that it was appropriate to argue it to conclusion. Indeed, the debate which was vigorously and heatedly argued within the

conservation lobby, did “valorise the system” (Martin Hall, interview 18/4/2001). It is also clear, however, that none of the parties have been persuaded to a different view regarding the correctness of the re-creation/restoration: the proponents are pleased with the outcome and the opponents are convinced that the result is bland and/or shallow and/or fraudulent.

The dispute, which had raged for six months from September 1996, ultimately came to a head in March 1997 when first the NMC and then the City Council’s Planning Committee approved the contentious works. It should be pointed out that the report to the Planning Committee drafted by the UCU, then with Graham Jacobs at its head, but redrafted by the director of planning who consulted with Revel Fox of the Trust, at this time also a City Councillor (Graham Jacobs, interview, 22/2/2001), did recommend that the approvals be given. This was notwithstanding the UCU’s lengthy contesting of the proposals and a cogently argued objection from Dr Martin Hall, professor of historical archaeology and director of the University’s archaeology research unit. It bears noting Professor Hall’s argument:

“The complex combinations of fashion and necessity, creating at any one point in time a palimpsest of styles and appearances (are) much more representative of historical reality than a search for an aesthetic continuity” (Martin Hall, interview, 18/4/2001).

The very considerable delay in obtaining the plan approval did, of course, have cost implications. It is recognised by several of the key actors that the Heritage Trust is simply not constituted to be commercially-minded, and that at least part of the responsibility for the delay had to be borne by the Trust. The delay certainly led to an increased contract price, and it is also true that the delay made the search for potential tenants difficult. Neither of the partners could be regarded as an economic occupier and, because the Trust is obliged to retain ownership in perpetuity, no part of the project could be sold. Accordingly, the entire project relies on numerous small tenants.

The 12 buildings donated to the Heritage Trust have now been refurbished and remodelled to accommodate several restaurants, offices, a hotel and a courtyard which many of these buildings face onto, creating a vibrant, private and protected space. Furthermore, four of the buildings are extremely rare late-18th or early-19th century buildings which have been rescued from dangerous neglect and restored to use and to some significance in the townscape; and most of the parties from within the development team at least believe the re-creation/restoration of the late 18th and early 19th century facades facing onto Riebeeck Square to be an important achievement for the city. In fact, all the parties interviewed are, without exception, satisfied with the project as a whole.

However, notwithstanding the considerable gains for the urban environment and the enormous boost to property values in the immediate surrounds, it is clear that some opportunities have been missed. The loss of character and authenticity by pairing away the 1920s double-storeyed balcony and the wiping away of any memory of the mourners’ chapel in order to recreate a unity of character to the Shortmarket Street facade of the block is anathema to those who expect conservation to focus on authenticity. Indeed, the reconstructions were described as “a traditional approach to

conservation” by such conservationists and sceptics; and several of these parties have emphasized the loss of the richness of the many layers that signal the opportunity lost: the loss of the *palimpsest*. The project does, therefore signal the continued authority of the historicist wing of the conservation-oriented urban governance regime. It does also confirm that, as Whitehand has argued, there is little popular support for the concept of the *building as document* (Whitehand, 1992, p208), even among some of the conservation-minded.

Notwithstanding these disappointments, the Heritage Trust-Montsi partnership (and its director during the construction period, Ashley Lillie, in particular) was meticulous in its approach to the preservation or retention of the innumerable pieces of ancient fabric, often retained with great difficulty, and integrated into the remodelling. It is this researcher’s contention that this is the project’s singular success: the careful preservation of the innumerable ancient components and their judicious re-use has, in large part, protected the patina, *the* mark of authenticity.

Given the nature of the controversy in this case, it is necessary to report the opinions and observations of the parties regarding the involvement of the authorities: the National Monuments Council and the City Council’s UCU. Almost all of the parties interviewed (including some of the officials within the NMC and the UCU) were critical of the NMC for being “equivocal” (Revel Fox, interview, 23/3/2001), “ambivalent”, “strangely neutral, strangely absent (Melanie Attwell, UCU official, 18/1/2001)”, for being “led by the Heritage Trust” (Graham Jacobs, interview, 22/2/2001), and (contradictorily) “deferred to the UCU ... remarkably limited role” (Trevor Thorold, interview, 15/1/2001), and for confusing their dual-role of governing and of promoting conservation (Martin Hall, interview, 18/4/2001). It does appear that there is agreement that the NMC did not take an appropriate position in the debate, nor did they assist in bringing the debate to a close. It is also true that the majority of those interviewed were critical of the Urban Conservation Unit for “not showing the red flag sooner” (Llewellyn van Wyk, interview, 18/1/2001) and for not ensuring that the dispute was tested earlier in the decision-making process with the appropriate input from the necessary experts.

This project has encouraged the owners of the other buildings in the block to refurbish their buildings too, and the block is now a unique complex of restored buildings, ranging from the late-18th century to the 1930s, reflecting the architectures of 150 years of history. Other property owners in the West City will respond to the improvements and will invest in similar or mutually re-inforcing development, thus helping to create a critical mass of related and like activities and, thereby, to transform the area as envisaged in the West City Action Area reports of the 1980s. Indeed, the Heritage Square project has realised considerable critical and public acclaim: in 1998 it received a Cape Times Centenary award for *urban conservation* and in 2000 it received a conservation award from the South African Institute of Architects.

It bears noting that this controversy was about *how to conserve*, and about how the ideas of history and the significance of its relics should underpin conservation endeavours; and was internal to the conservation lobby. Indeed, several parties have observed that the authorities applied more stringent standards than ordinarily, precisely because the primary developer was the Heritage Trust and, therefore, more was

expected of them (Graham Jacobs, interview, 22/2/2001). Several also alluded to the expectation that this project would serve as an exemplar for conservation in the city, both as a demonstration of theory and as a financial success; “it was expected to set standards and to reflect current ideas about conservation” (David Hart, NMC official, interview, 6/3/2001).

6.7 KPMG, Keerom Street (Approved 1997):

This project is significant as a case study because it demonstrated an interesting division within the architects in the conservation-oriented urban governance regime and it is one that parallels the debate in Britain between the Prince of Wales and the architectural establishment about the nature of modern architecture and, more importantly in the context of this study, about appropriate architectural forms in conservation areas.

The land in this precinct, on the fringes of the city centre and near to the VOC Gardens, was used for private market gardening until the beginning of the 19th century. The subject property was part of a larger piece of land first subdivided as early as 1664 and stretching between what today are Queen Victoria and Long Streets. The land in this area was much divided up during the 19th century, and this particular site was built on in several phases from before 1850; but by 1920 the building envelopes of the two double-storied buildings on the site had been constructed in the form still existing in 1996 (Archaeology Contracts Office, 1997). The two buildings on the site at this time, 72 and 72A Keerom Street, were both much renovated and altered flat roofed two-storied buildings (of c1920) of a “Cape Georgian” character. It is probable that some mid-19th century material is contained within these buildings. All the windows in the front facades had been replaced in 1977 (CCC, minor works permit) and the stoeps (uncovered verandahs) in front of both buildings had been removed to enable parking. The buildings had been classified as being part of a “fine grouping of architectural merit” and as “buildings or sites over 100 years of age which should form the subject of archaeological or architectural study” in the Catalogue (CPIA, 1978); and both were Grade 3 buildings. The site abuts the important Centre for the Book, an annexe to the SA Library, until recently used by the Cape Archives, but built in 1905 as the University of the Cape of Good Hope Office and Examination Hall. This short *cul de sac* at the very end of Keerom Street contains a very interesting and homogenous collection of seven small 19th century buildings ranging in age from c1830 to c1920, forming a very pretty group. The street itself ends in a gate that opens onto the garden of the Centre for the Book which has several large trees and forms a charming termination to this small piece of the old city.

Accordingly, the pair of buildings had some significance. The buildings, though Grade 3 buildings, did not have great intrinsic value. The likelihood that they contained early 19th century material was interesting but did not, by itself, make them preservation-worthy. Clearly, the buildings’ (or the site’s) significance was established by the relationship with the surrounding buildings. It was also clear that the impact of any alteration, addition or new building on the important neighbouring Centre of the Book was going to be of concern. It is also significant that all of the key actors in this case recognised and accepted the need for conservation and for controls. In other words, the controversy in this case was not about the necessity for conservation, but rather about

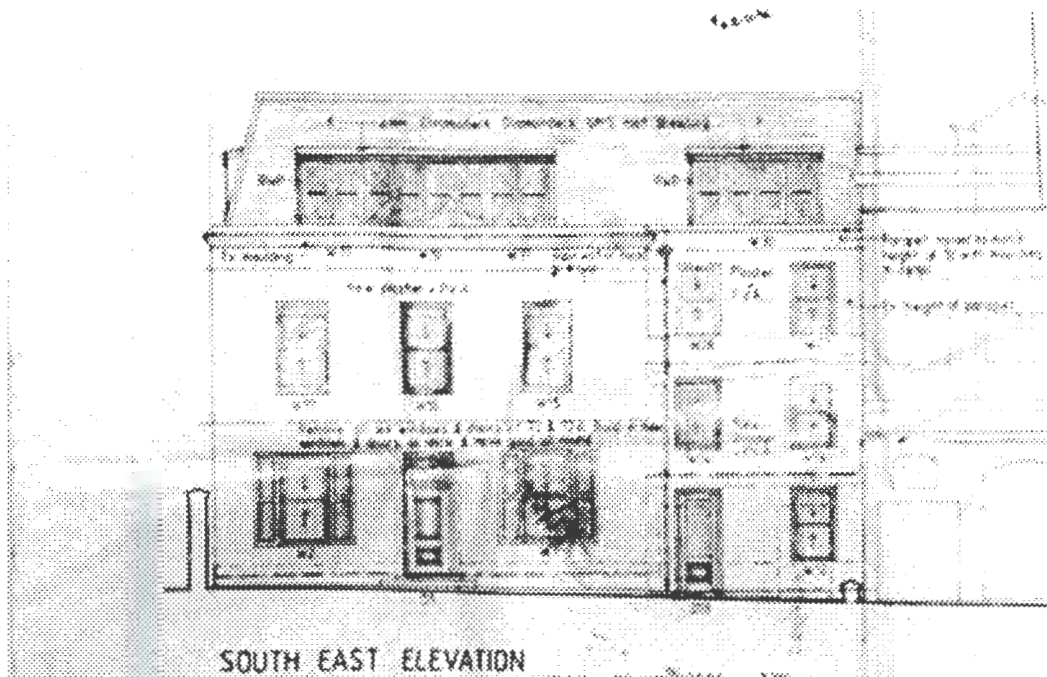
architecture and, more to the point, the impact of modernism on the character of traditional conservation-worthy buildings and environs.

The site is zoned for “General Commercial” use which permits a wide range of uses and includes a bulk factor of 5,6 and an effective height limitation of 25 m. The applicable City Council policies were the by now fairly old policies, 1975 *City for the People* and the 1985 *Pedestrian Network for Central Cape Town*. Both these policies emphasize the conservation of architecturally significant buildings and enhancement of the pedestrian environment. Surprisingly, this short *cul-de-sac* section of Keerom Street had not been included in a proposed conservation area until 1994 when the 13 declared and proposed conservation areas in the city centre were first proposed as a single consolidated conservation area; and its inclusion was more by default than deliberate. Be that as it may, the designation had not yet been approved by the provincial government when the proposal was submitted; and, as a consequence, the City Council did not have the authority to impose conservation-oriented controls.

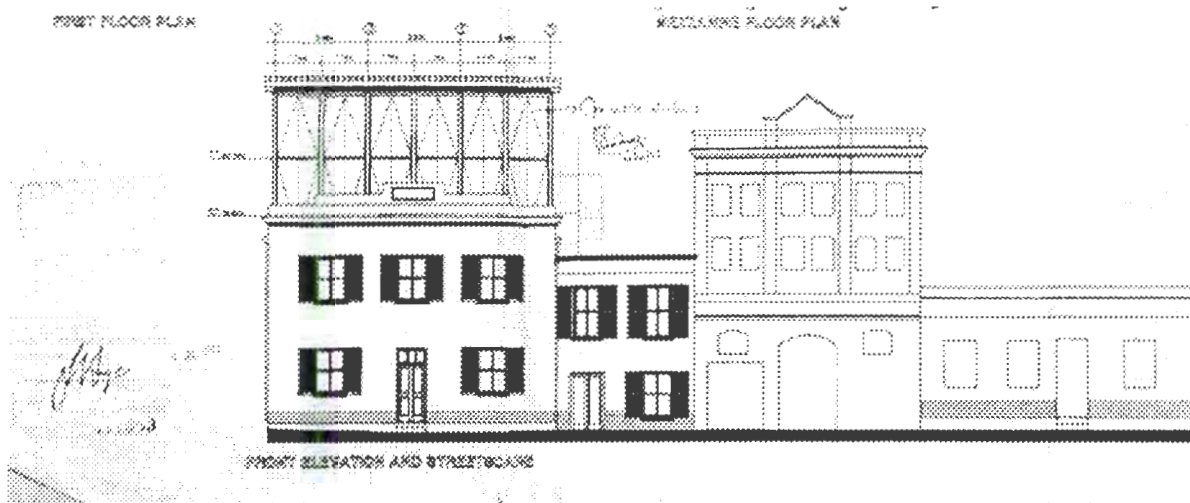
However, the buildings were more than fifty years old and clearly fell within the ambit of the NM Act’s “historical site” clause. Indeed, the Catalogue’s classification as “buildings or sites over 100 years of age which should form the subject of archaeological or architectural study” suggested that the NMC should require that some archaeological research be carried out when the buildings were redeveloped. Furthermore, as the property abutted a national monument the NMC was obliged to control the impact of development that may affect “the aspect of, or the view from” the declared national monuments.

KPMG, accountants and business advisers, had purchased the property in 1996 in order to enlarge the existing buildings to house their forensic accounting division. This required a small addition of approximately 200 sqm of floor area (the existing buildings comprised only 347 sqm). In other words, much of the two double-storied buildings would have to be increased in height by at least another floor.

An initial proposal was designed by a first architect, Charl Roux, after preliminary discussions with UCU officials during the second half of 1996. This design proposed a mansard roof incorporating an additional storey above the two buildings, and so to cap and unify the two buildings. This design, although “safe” in several senses, was not entirely satisfactory in architectural terms. The two buildings have different heights although both terminate in parapets with mouldings. No 72 is significantly lower, which enabled the squeezing in of an additional storey below a new parapet moulding with the proposed mansard roof capping the whole ensemble. The effect is to create a facade that has an unsatisfactory masonry-to-fenestration relationship. The proposal, which provided an additional 235 sqm, was conservative in architectural terms but, given the context, it was certainly the safest option. This proposal was submitted to the City Council in early October 1996 and approved in late-November 1996 (CCC, approved plan 406519). There is no evidence that the UCU discussed this design with the NMC. Apparently they regarded it as unobtrusive and not injurious in its impact on the streetscape or on the adjacent national monument. Strictly speaking, this was an omission because of the proximity of the abutting national monument. It was also an omission in that the buildings had been identified in the Catalogue as warranting



KPMG: elevation of the first “safe” proposal; with “Mansard” roof over both buildings (Charl Roux, Architect)



KPMG: elevation of the second proposal; the “high tech” design (HorneLutz, Architects) shown in relation to the two existing buildings on the site and the neighbours

archaeological study; and only the NMC had the authority to request such an investigation.

However, late in this process the client decided to pursue an alternate option and engaged another architect, Horne Lutz, who included Ray Shiels who had worked for Foster and Partners. These architects designed an alternate proposal with very different architectural intentions: this design proposed adding a radically contrasting double-volumed steel and glass structure above the larger of the two buildings. In the resultant building complex the smaller of the two buildings is retained unchanged, apparently without any alteration, while the larger of the two is surmounted by a glistening modernist steel and glass box, capped by a projecting lightweight *bris soleil*. Thus, the last building in this row of traditional 19th century plastered masonry buildings with fenestration of vertical proportions, each capped by parapets and heavy mouldings, is terminated by a lightweight box of almost yacht-like construction silhouetted against the green canopy of trees in the adjoining garden. This proposal was submitted to the City Council towards the end of January 1997.

The new proposal was enthusiastically received and endorsed by the UCU, pleased with the idea of a layered building. However, notwithstanding their enthusiasm, the radical modernism of the new proposal did concern the officials. It was feared that the radical modernism of the proposed design could create a precedent which would make future management of the proposed conservation area difficult. More importantly, the officials were aware that public and some professional opinion is resistant to such close juxtaposition of traditional and modern architectures. After some preliminary discussions the architects were advised that this new proposal would have to be approved by the NMC, and that both NMC and Council would want the advice of the Heritage Committee.

The architects presented their proposal to the Heritage Committee in February 1997, and the scheme was well received although two minor amendments were suggested: that the new glass line above the parapet be set back a little more and that the scale and detail of the new projecting roof be re-examined. The NMC's Plans Committee considered the proposal in early March and approved the proposal, the only condition being that "an archaeologist sample the yard at the rear of the properties". The Urban Conservation Unit cleared the proposal in mid-March, saying that the proposal would be "an exciting new layer to this building" (Graham Jacobs, note on plan scrutiny documentation,....) and also required that the glass line be set back slightly further behind the parapet and the new steel columns. (This additional set back was not effected.)

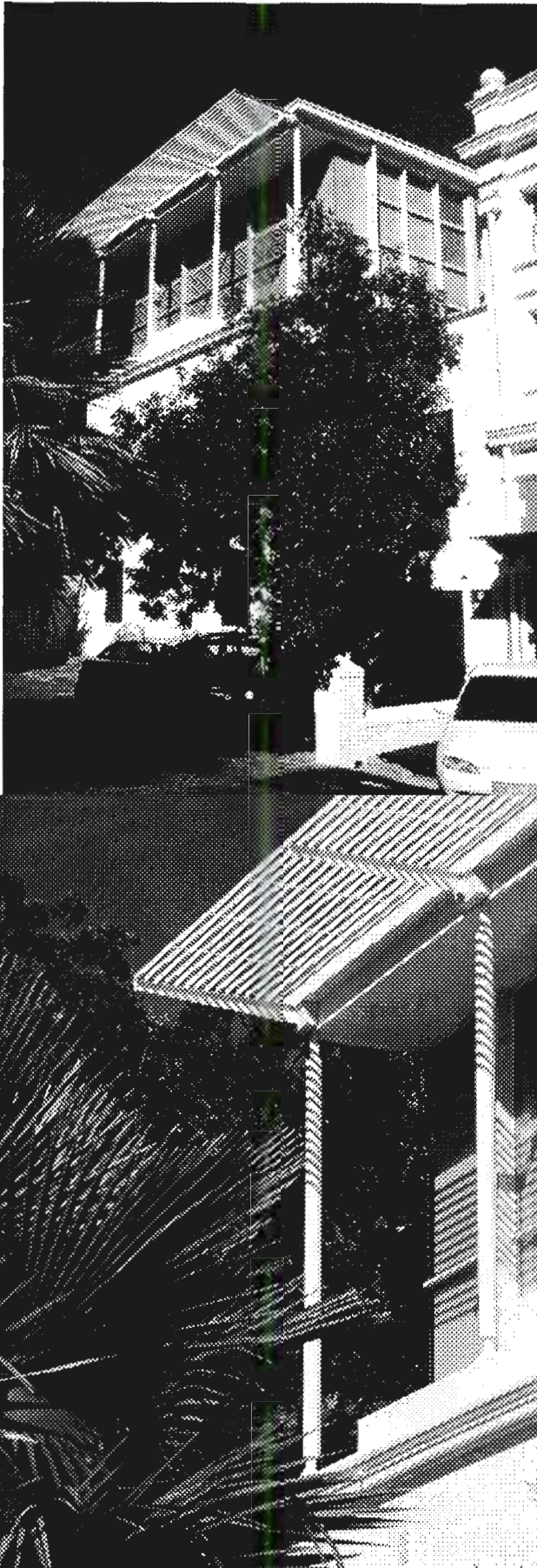
Notwithstanding these approvals, the senior official with the authority to grant the final building plan approval referred the plans to the Planning Committee for Council's final approval. This was both because of the controversial nature of the design and because the works, which had already been initiated, had provoked considerable public comment. Accordingly, the Planning Committee considered the matter in mid-June and, after interviewing the applicant and considerable debate, it *refused* the application. This was on the grounds that the proposed building would "derogate from the value and amenity of the surrounding properties and from the quality of the environment". This

decision was made in terms of the National Building and Building Standards Act, rather than in terms of the planning or conservation legislation. During the next few days, however, the planning officials consulted the Council's legal advisor who confirmed that such a refusal in the face of the comments and approvals from the CIA's Heritage Committee, the NMC and the Council's own UCU was not sustainable in law; and he recommended the Committee rescind its decision to refuse. Accordingly, the Planning Committee reversed its decision five days later on 23 June 1997 and approved the building plans (CCC 411659). The Planning Committee quite clearly imagined itself to be representing the ordinary man-in-the-street. Indeed, the two councillors who were interviewed clearly articulated this view (Clr Revel Fox, 8/12/2000; Clr Belinda Walker, 4/12/2001).

Not surprisingly, this reversal by the Planning Committee after the initial enthusiastic reception has received considerable comment (and criticism), both public and from the key actors involved. Indeed, such criticism has been almost unanimous, though divergent in its direction. The councillors thought that the proposal should have been brought to the Planning Committee earlier, both for the Committee's sake and in the interests of the applicant; the applicant, KPMG, was angry that the "aesthetic issue" was only questioned at the very end of the process; the architects pointed out that such a reversal so late in the process undermined the process itself and made it extremely difficult to persuade clients to accept advice from them as professionals, which in turn undermined their relationship with the officials; the NMC officials criticised the Planning Committee for making a decision "outside their terms of reference"; and the City Council officials criticised each other, either for referring the proposal to the Planning Committee or for not referring it earlier. It appears that one of three alternate routes should have been followed:

- The Planning Committee could have been consulted much earlier. Given that there were already three parties involved in this scrutiny and decision, namely the NMC, the Council's Urban Conservation Unit and the Cape Institute of Architects' Heritage Committee, this is the least appropriate alternative; or
- The senior official responsible for the final approval of the building plans should have accepted that the three most appropriate bodies had scrutinised the proposal and had approved it enthusiastically and he should have approved it without referring it to the Planning Committee (indeed, as events have shown, the Planning Committee could not at this late stage make a decision: it could only endorse the decision recommended and, in effect, already taken); or
- If the proposal was, indeed, too controversial not to be referred to the Planning Committee, the three "expert bodies", the NMC, the City's UCU and the Heritage Committee, should all have attended the Planning Committee's meeting to explain and motivate their expert position. This would have given the Planning Committee the appropriate background for their endorsement rather than a contrary decision.

The first safer proposal by the architect Charl Roux could be, and was, approved quickly and without controversy, even without reference to parties that might normally have been expected to be consulted. This is not really surprising, and it appears that the alterations to the interiors were not viewed by the UCU officials to be important enough to raise with the NMC because they felt that the interiors had already been



KPMG today
(photograph 2002)

KPMG today: detail
(photograph 2002)

guttled over the decades. The second, more radical, design was a more costly solution, though this was quite clearly not the result of conservation-oriented (or any other) controls. It is interesting to note that the architects of the second proposal thought (mistakenly) that the first scheme required extensive structural and re-enforcing work to be done to the existing structure. Also, subsequent to the completion of the works, additional costs were suffered when the air conditioning system was found to be inadequate under the heating and cooling loads experienced in this lightweight glass box; and the structure supporting the two-storied glass wall was found to flex excessively under the wind loads and had to be augmented. Furthermore, it is clear that the second more radical design did attract significantly more attention than the first design had. This self-evidently would lead to delays and, therefore, to additional costs. It is interesting that the client was fairly sanguine about these additional costs and it appears that the *uncertainty* during the scrutiny and approval process was more troubling than the additional cost.

This building, though a small extension of only 170 sq m, has raised considerable controversy in professional and lay circles in Cape Town. Indeed, the juxtaposing of the “high tech” lightweight glossy modernist yachting technology and the existing earth-bound traditional plastered masonry “Cape Georgian” architecture has provoked the rhetorical excesses which have characterised the debate in Britain between Prince Charles and the architectural profession. Officials of both City Council and NMC thought it very successful and a good example of a modern intervention in a conservation area. Most of the key actors interviewed, however, thought that the modernist box should have been set distinctly back from the street facade, turning it into a “non-event”. At least some of these critics said this because they were disappointed in the lack of design resolution, and that it was not the shining example it had the potential to be, given the willing client and the more than competent designer. It is interesting to note that none of the interviewees would have preferred to see the earlier mansard-roof scheme built, though one critic (certainly the most influential one, Revel Fox, referred to numerous times in this study and at this time a Councillor on the Planning Committee) would have preferred an extension in a traditional character (Revel Fox, interview, 8/12/2000).

The architects are very happy with the result and give the client much of the credit for letting them “stick to the concept”. They dismiss the suggestion that setting the addition back from the front facade would have improved the result, arguing that this would have diluted the concept and the integral relationship between the existing traditional building and the modern “high tech” extension with its columns directly above and a part of the principal facade below. Setting the modern piece back would certainly have disengaged the new building from the old. They see their scheme as a “tree-house for adults” and contend that the lightweight structure suits the pre-existing structure better. Interestingly, but not surprisingly, they were very critical of the earlier scheme, describing that strategy as “dangerous” as it emulates the old and blurs the distinction between old and new. They see their design as a hybrid rather than a clearly layered extension, and they contend that, in this location, the conservative evolutionary idea of architecture was wrong (Andrew Horne and Fredrich Lutz, interview, 1/12/2000). The client is very happy with the way the building has turned out. Although they clearly were happy initially with the more traditional mansard-roof proposal, once the break with the

first architect had occurred, they were open to persuasion by the second firm; and it appears that they were enthusiastic converts, though they only realised later how controversial a project it was. Indeed, the constant flow of students during the first year of occupation has emphasised this as much as the furore during the approval process did (Petrus Marais, KPMG, interview, 12/12/2000). KPMG are clearly proud of their landmark building and they believe, probably rightly, that it contradicts the image of the accounting profession and is, therefore, good for their image as accountants.

There is, however, general agreement that the precise relationship between the pre-existing building and the new addition is not entirely satisfactory and that the position of the glass line, the height and proportions of the glass facade, and the form and detail of the capping *bris soleil* are not ideally resolved. The sides and back of the “high-tech” box, clad in corrugated sheeting and glimpsed from Long Street, are even less satisfactory (conceded by the architects). Nevertheless, it is this researcher’s opinion that the project is a great success. It is beautifully made and its very uniqueness sets the extension apart from the solid buildings below it, and perhaps from the city itself. This high-tech and largely glass (facing Keerom Street) box, yacht-like, but structurally a part of the building below, appears to float above the streetscape within the trees against the backdrop of the changing weather. Being inside this space is certainly a pleasure, and even some of the sternest critics would love to work here.

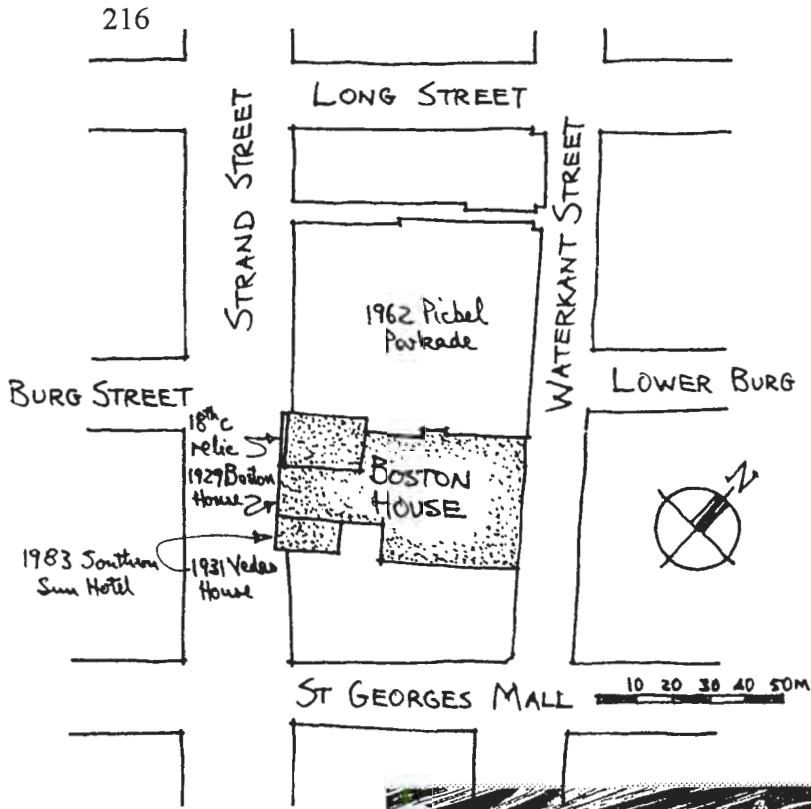
The refusal of the proposal by the Planning Committee after the unanimous and enthusiastic endorsement by the three responsible bodies, that is, the NMC, the UCU and the Heritage Committee, who are the three central components of the conservation-oriented urban governance regime in Cape Town, was, if the truth be told, because of the influence of one person, Revel Fox. This does, however, as in Britain and in many other countries, reflect a widely held view of modernism and about the appropriate architectural form of new buildings in traditional or “historic” environments. After this debacle, I (then chair of the Heritage Committee) persuaded Fox to return to the Heritage Committee, arguing that neither he nor the Committee could be effective if we held conflicting views and did not resolve them. As a consequence, the Heritage Committee (and the urban governance regime) became even more influential, if perhaps now inclined to be more conservative architecturally.

6.8 Boston House (Approved 1997):

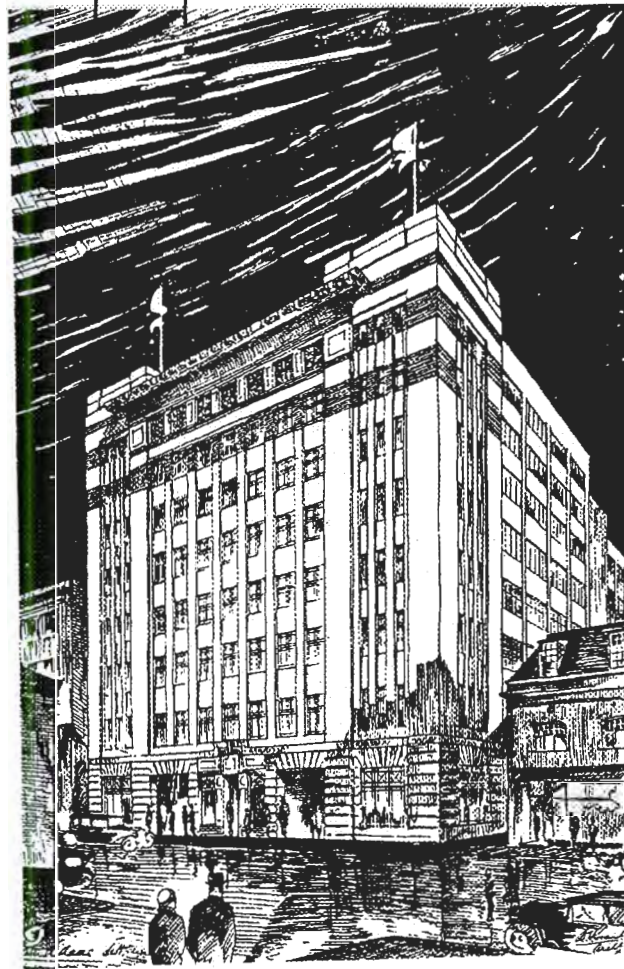
The Boston House redevelopment is significant because it demonstrates how, by 1996-1997, urban conservation controls had become accepted with equanimity by developers, (relatively) without conflict between opposing wings within the conservation lobby, and therefore (relatively) without controversy. But, because not enough attention was given by the authorities, by the conservation lobby or by the architects to the identification of significance, a very poor, even meaningless, result was achieved.

The site straddles a city block that had been subdivided by c1700 and developed over the following decades; but, with the exception of one of the buildings, it is unlikely that any fabric on the site dated from early development of the properties. Three buildings were included in the consolidated site for this redevelopment:

- The seven-storeyed Boston House, the largest of the three buildings and extending from Strand to Waterkant Street, was designed by the well-known



Boston House: Location



Boston House: Grant's sketch design, 1927; Waterkant Street elevation (ABE, October 1930)

architect, WH Grant, approved in 1927 (CCC 21690) and completed in 1929. Some decades ago its neo-Egyptian architectural intentions, reliant on the 1925 Adelaide House in London by Burnet (Harris, 2001), were watered down by the over-painting of the red face-brick bands at the upper levels, but much of its richness had been retained.

- An adjoining building, Ingenuity House (originally known as Vadas House), also seven-storeyed but much smaller than Boston House, was also designed by Grant but built in 1931 (Harris, 2001). This building is more conventionally *art deco* in style but not at all distinguished.

Neither of these two buildings were classified in the Catalogue of 1978 and, accordingly, were not graded. A Review of the Catalogue, completed in September 1997 (Todeschini and Japha, 1997) somewhat surprisingly, did not grade either building either. This unaltered status was not, however, known at the time of this scrutiny and approval process which was initiated in October 1996 and finalised in July 1997. It bears mentioning that several of the parties interviewed noted that the Catalogue was weak with regard to the identification and classification of *art deco* buildings.

- The third building on the site is the much altered, or mutilated, remaining three-bay relic of an 18th century five-bay two-storeyed (with high basement-cellar) Cape Dutch townhouse. Although it was much altered, some 18th century fabric remained. The two missing bays had been demolished in c1962 to enable the construction of the adjoining Picbel Parkade parking garage, the first building of this sort to be built in the city. Although the building can only be described as a mutilated relic, it does “refer” to the several other 18th century townhouses opposite and further up Strand Street.

The Catalogue did not, however, recognise such significance and the building was classified only as being a worthy “subject of archaeological or architectural study”. It was, accordingly, not graded, and the Review of 1997 did not grade this building either. This is even more surprising than the unchanged gradings of the two *art deco* buildings discussed above. In the event, the NMC did not accept that these remains had no significance and the CIA’s Heritage Committee’s comments on an earlier 1988 proposal certainly implied that they too associated considerable significance with the building.

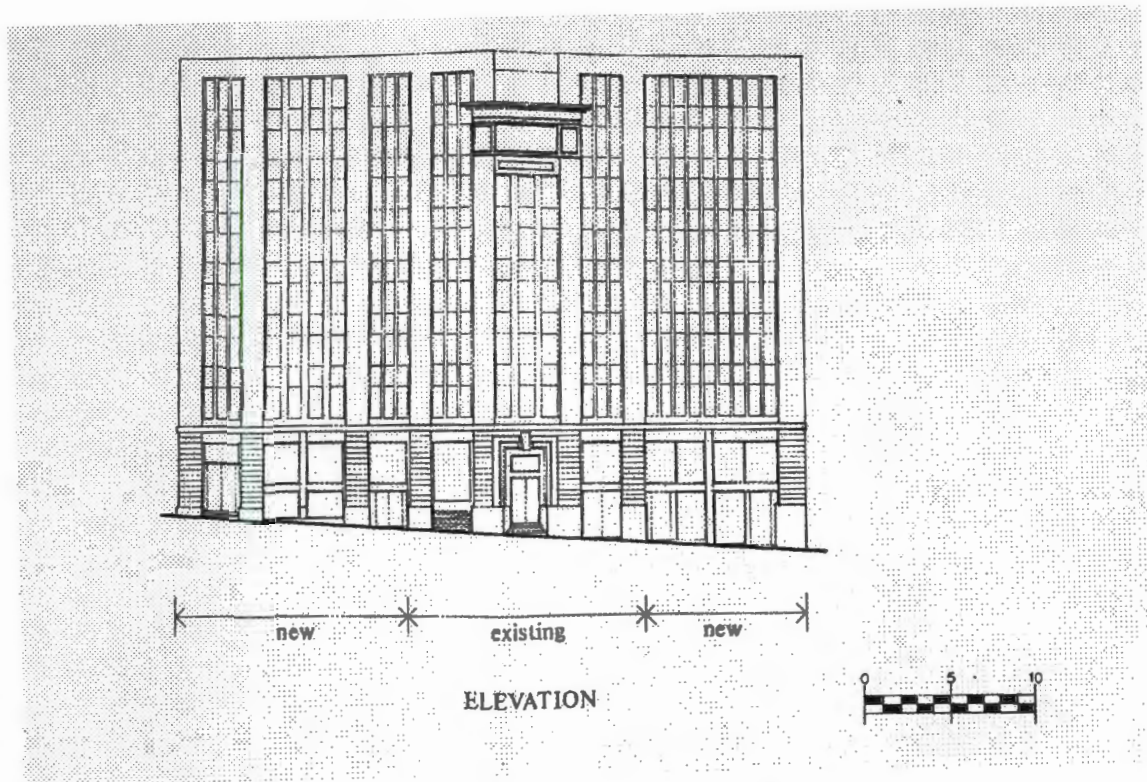
The failure of the Catalogue to identify any conservation-worthiness in any of the three buildings and the conservation of the buildings expected by the Heritage Committee and demanded by the authorities had contradictory results. First, although the development team clearly accepted that the facades should be retained, they did question the extent and nature of the constraints. Indeed, the developer said that although they were aware that the buildings were old and they were prepared for negotiations in this regard, they “couldn’t really believe that there’d be a problem” (Geof Breskal, the client, interview, 25/10/2001). Second, all of the insider key actors believed that the classifications and the gradings had been understated, and that the buildings each had some significance and conservation-worthiness; and they were all critical of both the Catalogue and the Review carried out in 1997. It is clear that each of the three buildings had some, though undefined, intrinsic and contextual significance. That only the oldest building was classified at all, and at that only as “a subject of archaeological or architectural study”, and not one of the three was graded should have been recognised by the UCU and the NMC before proceeding with any negotiations. Indeed, the necessity of a review of the Catalogue is underscored by these opinions. However,

the very purpose of the identification of conservation-worthy buildings is to inform property owners of the likelihood of conservation-oriented controls and to guide officials and decision-makers within the authorities. In cases such as this, where buildings are not classified in a first assessment and again omitted in a review, it is necessary that the authorities either accept that the buildings are not conservation-worthy or they must clearly state that the classifications/gradings (or lack thereof) are wrong. In this case all five key actors from the conservation lobby who were interviewed regarded the assessments of both the Catalogue and the Review to be wrong.

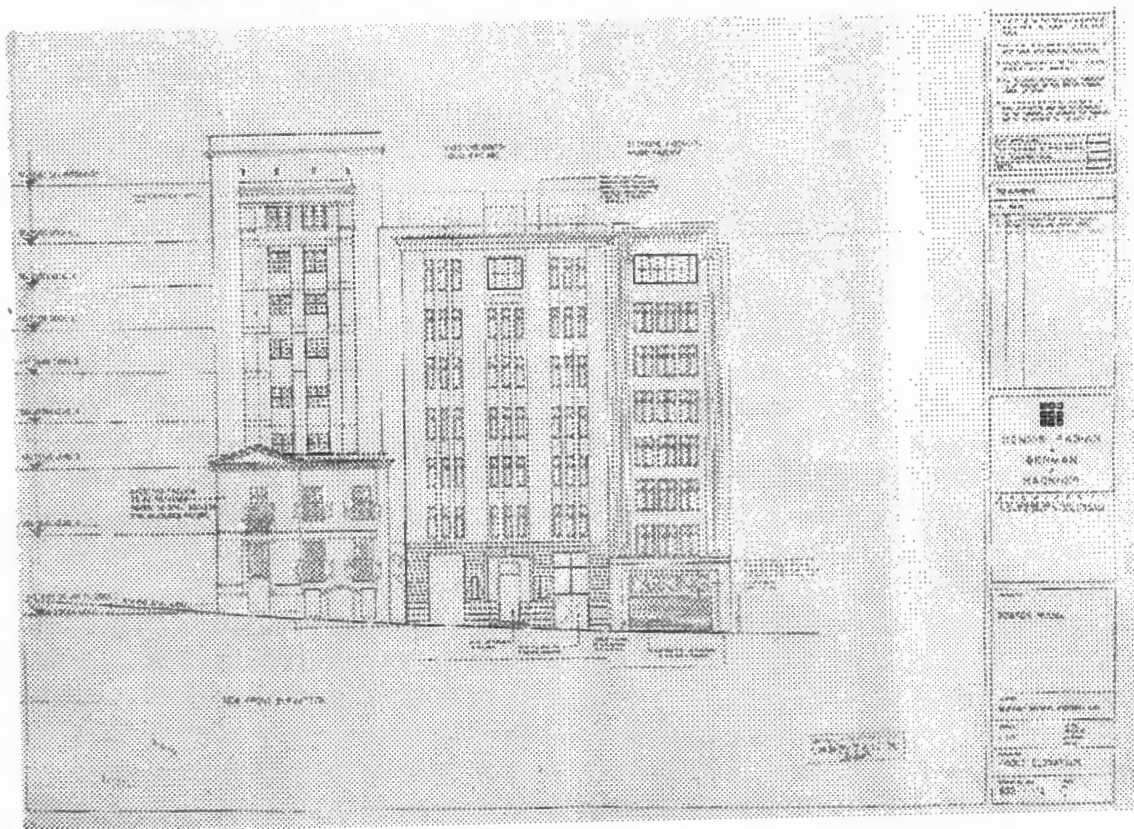
The development rights on this site are considerable and include a bulk factor of 9. However, given that the larger part of the building proposed was for parking (which is excluded from "bulk" calculations), the permissible floor area was not even nearly approached. Furthermore, as the street facades of the existing buildings were to be retained, the setbacks and permitted heights were also not problematic. However, vehicular access across the busy pavement of Strand Street and the use of the ground floor for any use other than for retail were both going to be crucial issues in this proposal (the lower section of Waterkant Street abutting Boston House is pedestrianised and, accordingly, vehicular access was not possible from that side).

The lower reaches of Strand Street are, however, not an attractive environment. The area is dominated by a number of large, badly designed and overbearing modern buildings (including the Southern Suns Hotel and the Pinnacle buildings referred to earlier), but this site is within the then still proposed consolidated central city conservation area. This project was approved just months before the promulgation of the consolidated central city conservation area in August 1997. With hindsight, it appears that the actual qualities of the immediate surroundings were not taken into account during the scrutiny of the project; indeed, the developer has argued that if the environs had *some* merit, the conservation endeavours would have made *some* sense (Geoffrey Breskal, interview, 25/10/2001). All three of the buildings were more than fifty years old and, accordingly, were defined as "historical sites" in terms of the National Monuments Act. The oldest building, though much mutilated, self-evidently contained fabric more than 200 years old. Accordingly, it was clear that the NMC's approval would be required. However, as the three buildings were ungraded, it was not anticipated that the NMC's involvement would be a significant one.

In 1988 the owners of Boston House had proposed to demolish the two flanking buildings and to extend the Boston House facade across both those properties, creating additional office accommodation. At that time the NMC had requested the Heritage Committee's advice and the architects made a presentation to the Heritage Committee in August 1988. The committee advised that the facade and the ancient 18th century structure and fabric that stood forward of the line of the adjacent Picbel Parkade parking garage should be retained (that is, just 2m of the building), and that the facade of the new proposed extension should rise up above the 18th century facade and structure on the line of the Picbel Parkade (Heritage Committee Minutes, 18/8/1988). The committee's opinion of the proposal to demolish the second *art deco* building, Ingenuity House, is not recorded. It appears that the owners decided not to proceed and no further action was taken at that time.



Boston House: the Strand Street elevation of the 1988 proposal; note the distinctive moulding over the central bay of the existing Boston House building only



Boston House: the approved plans for the Strand Street elevation; note the extensions and mutilations to each of the three elevations (FabianBerrnan, Architects, CCC 420776)

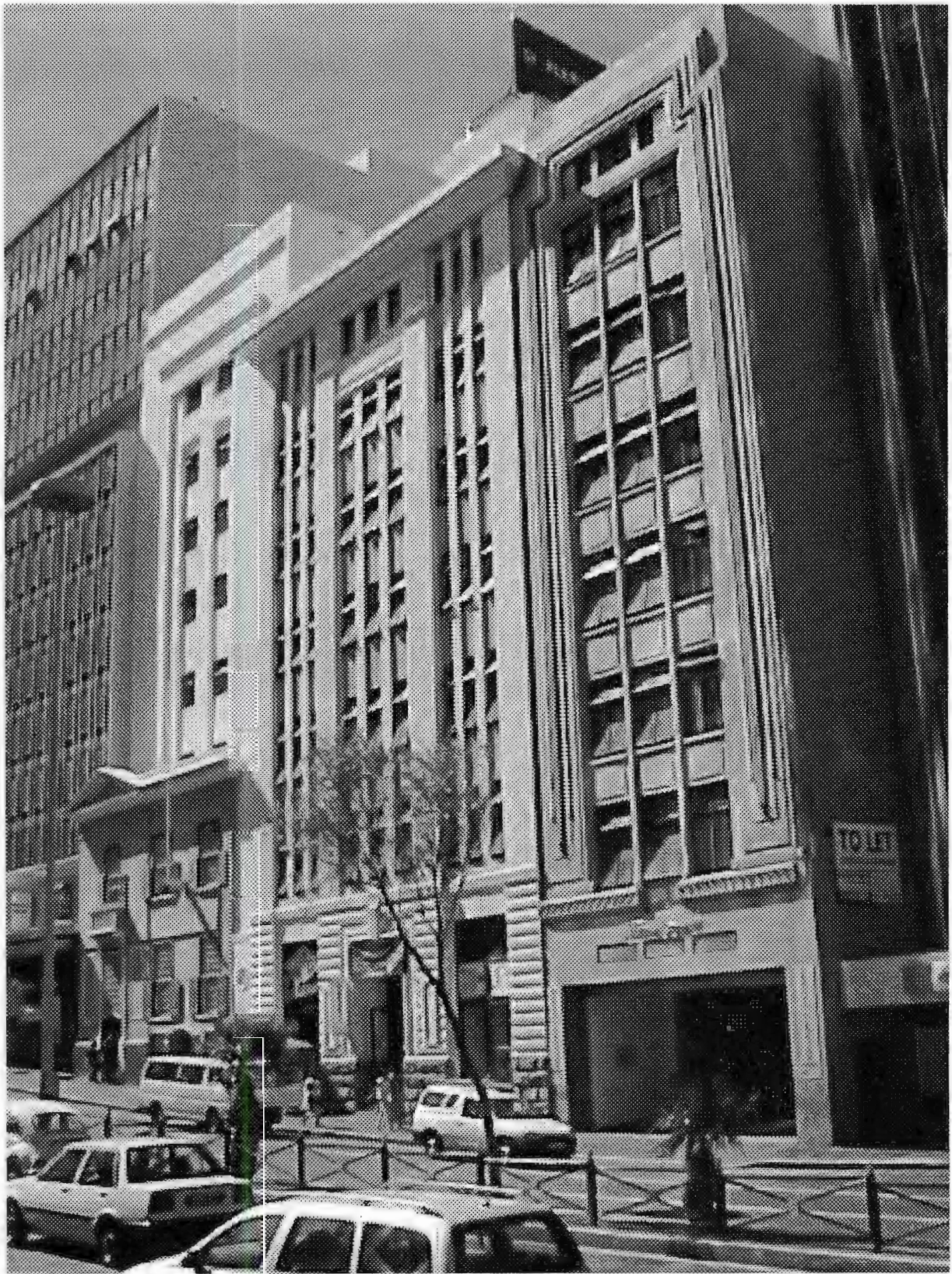
Eight years later, during the second half of 1996, the same architects acting for the same owners had “informal discussions in principle” with officials of the UCU and the NMC regarding a new proposal to redevelop the three buildings (Graham Jacobs, UCU, note on approved plan documentation, 15/10/1996). This new proposal envisaged the demolition of Ingenuity House almost in its entirety saving its facade only, gutting a large part of Boston House leaving its Strand Street facade and 13m of the building and the facade facing onto Waterkant Street, and demolishing all of the 18th century building behind its facade, extending the envelope of the new building above in line with the facade of the adjacent parking garage (as suggested by the Heritage Committee in 1988). With the exception of the section of Boston House facing onto Waterkant Street, which was to remain as offices, the entire envelope was to contain parking.

The informal discussions between the architects and the UCU and NMC during the second half of 1996 did lead to some important amendments. These included moving the vehicular access/egress down Strand Street and not through the 18th century facade, which would have been its final indignity (and perhaps its final demise), but through Ingenuity House. Accordingly, the architects submitted a revised proposal in October 1996. This revised proposal created 358 parking bays on seven floors; 3 400 sqm of office space and some 2 400 sqm of retail at street level on the Strand Street side of the building.

However, notwithstanding the advice given prior to the formal submission of the proposal to the City Council, the officials of both the City’s UCU and of the NMC had reservations regarding the treatment of both the relic of the ancient building being retained and the design of the new seven-storey facade looming above it. This led to a series of discussions between the authorities and the architects during February and March of 1997; and, subsequently, at the request of the NMC, the architects presented the scheme to the Heritage Committee (then chaired by this researcher) in mid-April. The focus of the Heritage Committee’s attention was, however, the impact of the conversion of the two *art deco* buildings to a parking garage; and the committee made a series of recommendations that were designed to ensure that the architectural character of the exterior of Boston House was conserved (Heritage Committee minutes, 17/4/1997). Notwithstanding this advice, the NMC prevaricated, concerned about the impact of the new works on both the interior and the appearance of the 18th century relic. However, after some discussion with the NMC, the UCU cleared the proposal in principle. The City Council ultimately approved the plans 30 July 1997, but without the NMC’s or the UCU’s approval for the new facade above the 18th century remnant which was to be finalised later (CCC, approved plan 411646).

In December the architects submitted a new proposal for the facade, now to the NMC’s satisfaction. This amended proposal dealt not only with the NMC’s primary concerns, the treatment of the preserved remnants of the 18th century facade, but it also added another storey-and-a-half to the height of the new extension behind and above the remnant. It seems that neither the UCU nor the NMC noticed or were concerned about this change. The City Council finally approved the plans on 15 June 1998 (CCC 420776).

It is interesting to observe that at no time in the discussions with the UCU, with the NMC



Boston House today
(photographed 2003)

or with the Heritage Committee did the architects mention that it was proposed to cut the top floor off the 1929 Boston House facade. The drawings do, of course, reflect this intention but it was not discussed. Furthermore, the heavy cornice moulding that capped the central slightly projecting bay below the attic floor (now demolished) was extended across the flanking bays so that it (the cornice) now terminates the building without an attic and without the mastaba-like corners rising above the cornice. This, quite obviously, completely changes, even mutilates the architectural character of this building with a careless insensitivity. It is curious to note that none of the architects could remember how this came about.

An important point to be made about these negotiations is that the developer *needed* to preserve the three facades on Strand Street because the site was affected by a statutory road widening. All of the modern buildings on this side of lower Strand Street had been set back when their sites were redeveloped after 1960. Had the facades not been preserved, the site would have been cut back some 3m, thus affecting some critical internal dimensions. Such a loss would, in the circumstances, have resulted in the project not being viable (Dennis Fabian, architect, interview, 2/8/2001). In other words, the conservation lobby's desire to retain the facades was congruent with the property owner's need to retain the entire site.

It is clear that the NMC was more concerned about the preservation of the facade and the interior of the ancient (in South African terms) building rather than any other impact of the proposal. The NMC had required that archaeologists be engaged with a "watching brief" during the demolitions of the 18th century building and, when a number of interesting (by virtue of their dimensions) 18th century yellowwood beams were found, they demanded that the beams be retained and re-used in the foyer of the new parking garage just behind the ancient facade. This required some guidance; and the conservation architect, Gabriel Fagan, was asked by the NMC to advise the architects in this regard. This left the UCU to deal with the visual impact of the additions and alterations to the two *art deco* buildings which, clearly, was not done. It appears, therefore, that proper attention was not given to all aspects of this redevelopment. Indeed, responsibility for the controls seems to have fallen through the cracks.

Although it is true that the Waterkant Street side of Boston House has been preserved, including most of the original fittings, the completed project is disappointing for a number of reasons. It is clear too that there are divisions in the opinions of the nine key actors interviewed that are mutually exclusive on almost every count:

- First, it is agreed by seven of the nine key actors interviewed that the significance of the 18th century building, already severely compromised by the mutilation suffered in c1962 by the excision of two of its five bays, the removal of its high stoep and cellar, and dwarfed between the 1929 Boston House and the 1962 parking garage, has been further reduced. The two who thought that the preservation of the facades had been worthwhile relied on ideas about the *grain* or *texture* of the city, and of the city as a *palimpsest* (Fagan, interviews, 4 and 26/7/2001 and Jacobs, interview, 22/6/2001);
- Second, the significance of the relic has been further reduced by being over-powered by the new extension which looms above it, barely 2m away and rising seven storeys. The facade of the extension looms too close, too high, higher

than any other part of the complex of facades and volumes fronting onto Strand Street, badly proportioned and decorated with meaningless plaster mouldings; several of the parties interviewed regarded the UCU's attempts to control the design of this new facade to be "amateurish" (Fagan, interview, 4/7/2001) and inappropriate;

- Third, only one of those interviewed believed that the conservation-worthiness of the 18th century relic, already much altered and severely compromised by the many alterations over the decades, even centuries, had not now been stripped of any intrinsic worthiness or meaning by this ultimate disembowelling; even this party, Gabriel Fagan, however, conceded that the architects should have been given more direction and assistance by the authorities so as to arrive at an inventive revitalising reinterpretation of the ancient building *a la* Scarpa (Fagan, interviews, 4 and 26/7/2001). What ancient fabric remains in the forced and uninspired re-use of the yellowwood beams in the lobby to the new lifts is quite meaningless;
- Fourth, the developer, all three of the development team's architects and two of the officials interviewed thought that the 18th century remains should have been demolished and that a modern frontage would have been better;
- Fifth, the Strand Street facade of Boston House has been radically and insensitively transformed by removing the attic floor and continuing the heavy cornice moulding that capped the central slightly projecting bay below the attic floor across the flanking bays so that the cornice now terminates the building without an attic and without the mastaba-like corners rising above the cornice, thus transforming the architectural character of the building, turning it into a nine storied Cape Dutch tower (*a la* Phillip Johnson). This facade is further defaced and made lop-sided by its clumsy extension of approximately 1,5m to one side; and
- Finally, the facade of the smaller *art deco* building, Ingenuity House, too is transformed by the over scaled vehicular entrance which is undisguised, nor is its impact mitigated in any way or given architectural meaning.

It is often argued that the buildings proposed to be demolished have little value other than the *townscape value of the facades or building envelope*. This was the case here and, if we accept that the conservation endeavour in this case was directed primarily at *urban or townscape conservation* rather than architectural conservation, then the preservation of the facades only as the significant elements in the townscape could have been sufficient. However, in this case the very applicability of the argument is in question by virtue of the very poor quality of the environment itself. Indeed, the argument is made nonsense of in this case by the mutilation of both the Boston House and Ingenuity House facades, and by the poor design of the new addition above and behind the much mutilated remnant of the 18th century facade. It is, however, true that the *facadism* has enabled the construction of a parking garage which sits in the townscape rather more comfortably than its neighbour, the 1960s Parkade. But it is also true that the architects would certainly have designed a competent and appropriate modern facade.

In conclusion, it is clear that this is a dismal failure as a conservation project. The conservation-worthy characteristics of the three buildings had not been clearly identified

at the outset: and in this regard both of the authorities must be regarded as culpable. Also, or as a consequence, the authorities were not clear in their own minds about the conservation intentions of the project: indeed, the preservation of the 18th century facade and, even more particularly, the re-use of the yellowwood beams in the parking garage's entrance foyer are quite without meaning. One of the NMC officials concluded that she was pleased that the ancient relic had been preserved "because of the whimsy of it", but she conceded that this was certainly not an appropriate act of governance (Laura Robinson, NMC official, interview, 19/6/2001). It must, however, also be kept in mind that the developer actually needed to retain all three facades to avoid losing part of the site to road widening: the developer desperately needed the conservation officials to require the preservation of the facades to avoid the traffic officials expropriating part of the site; the architect has pointed out that this was a decision that should not have been up to the *conservation* authorities, that this was a bigger picture issue that should have been taken at a higher or over-arching level (Dennis Fabian, interview, 2/8/2001).

6.9 Park-On-Long (Approved 1998)

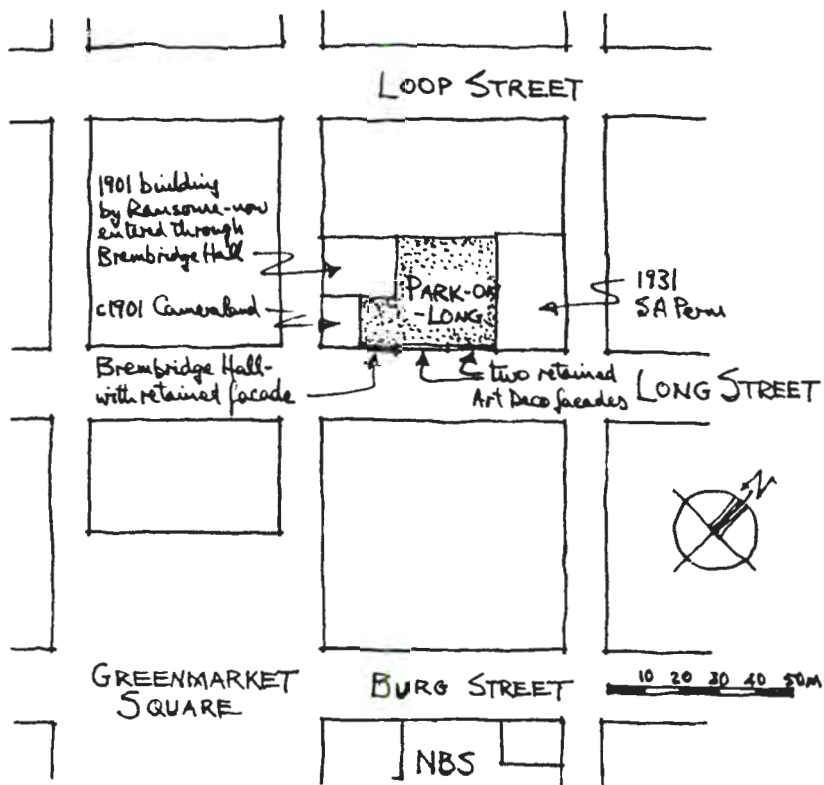
The Park-on-Long project is significant as a case study because it was resoundingly successful in both environmental and financial terms, and because it had appeared to be so without conflict. On closer examination it turned out that there had been considerable tension during and because of the scrutiny process.

The block containing the subject site had been laid out at the very end of the 17th century in 1699 and had been developed over the following decades. But, with the exception of parts of one of the buildings, it is unlikely that any fabric on the site dated from early development of the properties. The site included three buildings:

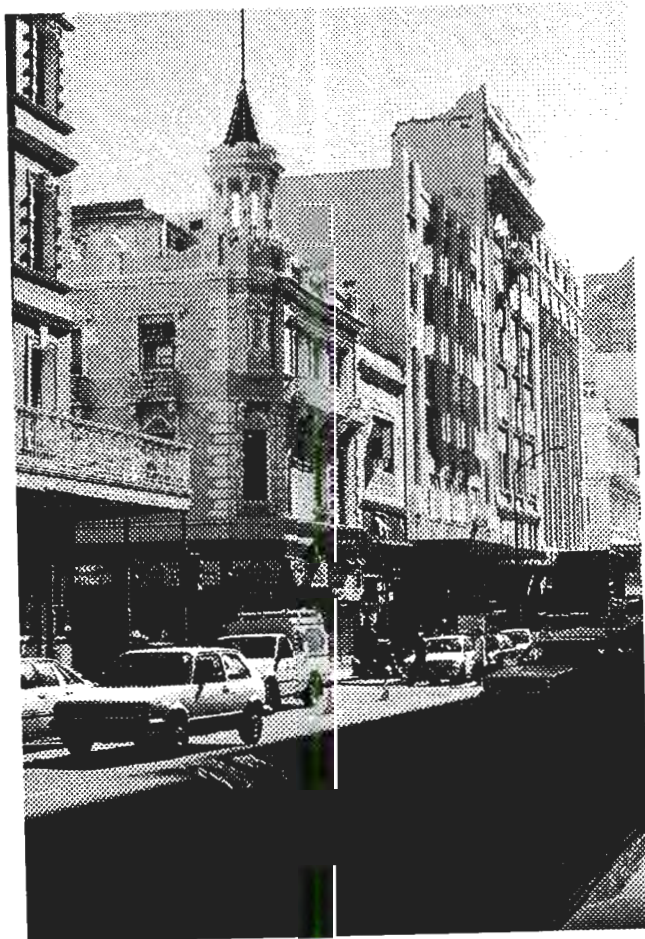
- Brembridge Hall contained remnants of an early 18th century house that had been built by 1729. This house was almost certainly a five bay single-storied house above a high stoep or cellar, thatched and facing onto Long Street, occupying both this property and the adjoining corner property. Subsequently, the house was altered and enlarged several times, most significantly by George Thompson in the 1820s, but later demolished in part and the remainder reduced in height. Accordingly, Brembridge Hall contained an unusually rich and layered history of building fabric, continually altered and added to throughout its almost three hundred years.⁹
- The other two buildings on the site both had re-enforced concrete frames and were *art deco* in style; and had been built in 1935 (by the architect, Ernst Seeliger) and 1938.

Brembridge Hall had been assessed in the Catalogue as a "building which forms a fine grouping of architectural merit" (with the adjoining Cameraland building) and as a "building or site over 100 years of age which should form the subject of archaeological or architectural study". Accordingly, it had been graded as a grade 3 building. However, the gradings derived from the Catalogue (of 1978) were reviewed in 1997 shortly before

⁹ This relatively detailed knowledge of the history of the Brembridge Hall property was not known when the project was first mooted (Archaeology Contracts Office, December, 1997; Historical Archaeology Research Group, November, 1999; and Antonia Malan, 2001). Indeed, it was only when construction was almost complete that Thompson's association with the property was discovered (by Antonia Malan).



Park-on-Long: Location



Park-on-Long: view of Long Street before redevelopment with Cameraland on the corner, then Brembridge Hall and the two Art Deco buildings (photograph c1993)

the proposal was submitted, and Brembridge Hall was given a 2b grading, that is, it was adjudged to be a "good architectural example". The two 1930s buildings clearly contributed to the character of the area particularly by virtue of their *art deco* style, although they were both fairly undistinguished architecturally. Neither had been classified in the Catalogue and, accordingly, neither was graded. However, the review of 1997 did give them both a 2b grading.

This section of Long Street is characterised by a concentration of relatively tall buildings (up to ten storeys high) rising sheer on both sides of the street, though the three-storied Brembridge Hall steps down to the adjacent two-storied Cameraland building on the corner of Shortmarket Street. Most of the buildings in the environs are either "Victorian" or *art deco* in style. The site, close to Greenmarket Square and at the centre of the Long Street conservation area (identified as such in 1982 and formally designated in 1992) is at the heart of the consolidated Central City conservation area (since 1997) with a large number of graded buildings in the immediate surrounds. All three of the buildings were more than fifty years old and, accordingly, were defined as "historical sites" in terms of the National Monuments Act; and it was recognised early on that the building known as Brembridge Hall included remains of an earlier building, having been identified as meriting "architectural or archaeological study". Accordingly, it was clear that the NMC's approval would be required. However, as the three buildings had been relatively low-graded, it was not anticipated by the development team that the NMC's involvement would be a significant one. The re-assessment of these three buildings as grade 2b was clearly a surprise to some members of the development team, and they did initially resist the consequent demand to retain the facades of the two *art deco* buildings. However, now, on reflection, they all agree that the assessments were correct.

The development rights on this site are considerable and include a bulk factor of 9; but, given that the larger part of the building proposed was for parking (which is excluded from bulk calculations), the permissible floor area was not even nearly approached. Furthermore, as the street facades of the existing buildings were to be retained, the setbacks and permitted heights were not problematic. However, vehicular access across the busy pavement of Long Street and the use of the ground floor for any use other than retail were always going to be crucial issues in this proposal, and it is clear that the conservation area designation and the prohibition on parking within 10m of the street boundary at street level gave the City Council all the power necessary to negotiate with the developer.

In mid-1997, in association with the owner of the two *art deco* buildings, a development group investigated the possible upgrading of the two properties. It was intended to provide parking for the immediate neighbourhood, taking vehicular access directly off Long Street. Accordingly, an application to demolish both the buildings was made to the NMC. After consultation with the City's UCU, the demolition of the buildings *behind the facades only* was approved by the NMC. The requirement to retain the facades was not initially well received by the development team who believed that this was an unreasonable demand leading to unnecessary expense. Subsequently, the Brembridge Hall property was included in the proposal and, as the adjoining building had recently been refused a departure to permit parking at ground level, the City Council's officials

had little hesitation or difficulty in persuading the architect that access would not be given off Long Street, but that access from Hout Street via the old SA Perm building would be permitted (and that the owners of that building would more than likely be interested in the proposal). The officials also advised that the facades of both *art deco* buildings would have to be retained thus protecting the character of the streetscape. Furthermore, the ground floor would be required to contain retail; and two additional floors of office accommodation above and back from the tops of the existing facades in accord with the Long Street guidelines were discussed. It is interesting to note that there is some uncertainty between the members or the developing team regarding the intention to provide offices or whether there had been pressure from the Council to do so. It is true that a faction within the City Planner's Department, hoping that public transportation will be improved enough to be able to limit private vehicular access to the city centre, is resistant to parking garages in the city centre. Most of the officials, however, recognise that this will not happen in the medium- or even long-term and that parking provided in the heart of the conservation area will help make the older buildings, which do not have parking, become viable; and that parking should, therefore, be encouraged for conservation reasons. Also, the NMC required that some archaeological research be carried out on Brembridge Hall. Accordingly, in late 1997 a preliminary assessment of the building was carried out (Archaeology Contracts Office, 1997).

Subsequently, the architect formally submitted an amended proposal as a Sketch Plan to the City Council in December 1997. This amended proposal incorporated most of the features discussed. Most importantly, the old Perm Building was now incorporated into the scheme in that vehicular access was now to be taken off Hout Street through this building, thus protecting the pedestrian environment of Long Street and maintaining retail activities for the full Long Street frontage. This amended scheme proposed the entire ground floor as retail, eight floors of parking (250 bays) behind the preserved *art deco* facades, and some office accommodation above Brembridge Hall and above the two taller buildings. The entrance and lifts were accommodated within the carcass of Brembridge Hall. Some discussion did take place regarding the setbacks of the added office accommodation and regarding the shape of the roofs, but these issues were easily resolved; the NMC being content to leave these negotiations to the UCU.

At the same time as the discussions regarding the details of the sketch plan were proceeding with the Council officials (in January and February of 1998), the developer again proposed to demolish Brembridge Hall on the basis of the archaeologists' assessment. The building had been found to incorporate early 18th century fabric and evidence of several layers of building over the centuries and the archaeologists describe the building as having "an incredible history, but being but a skeleton" (Dave Halkett, archaeologist, interview, 6/11/2000). Thus a second application to demolish was made to the NMC on 20 February, 1998 and promptly refused four days later, but the NMC did permit the radical remodelling of the building as the oldest fabric had been much disturbed. It is important to point out that at the time of these discussions the association of George Thompson with this site had not yet been recognized.

The delay and uncertainty arising from the NMC's decision-making and requirements in this regard was clearly the greatest problem faced by the development team. Indeed, one member of the team said the NMC's demands had meant that the project was

“touch and go” for part of the time. He also said that the requirements were a form of “blackmail”, and that the archaeology had been a waste of time and money (James Wilson, development team, interview, 25/10/2000). Although not all of the development team expressed the same degree of frustration, all were critical of the process. It is also true that with the exception of the archaeologists and the NMC officials, most of the other key actors have expressed reservations regarding the archaeology and its necessity. One of the City Council officials thought that it seemed that the tail was wagging the dog and that the story-boards placed in the entrance foyer of the new building (the shell of the old Brembridge Hall) seemed to be there to justify the archaeology rather than to explain the history or significance of the building (Graham Jacobs, UCU official, interview, 5/10/2000). Revel Fox, the renowned architect and highly respected and experienced conservationist, suggested that, in general, archaeological research should not be directly related to development and that it was appropriate to require such research to gain knowledge, but that it was inappropriate to limit development for archaeological reasons, except in very particular circumstances (Revel Fox, City Councillor in this case, interview, 13/10/2000).

The sketch plan described above was reported to the City Council’s Planning Committee in March, 1998 and approved without any difficulty. It bears mentioning that although it was not a statutory requirement to have the proposal approved by the Committee, it was deemed necessary by the UCU in view of the very sensitive nature of the environs close to Greenmarket Square (Graham Jacobs, UCU official, interview, 5/10/2000). This was clearly unnecessary and simply added to the time taken to process the application and to the frustration of the development team.

The NMC approved the remodelling of Brembridge Hall in May. This remodelling has since been questioned by several parties because the remodelled facade, with its new storey of windows which break through the string moulding, “does not make sense” and what remains of the fabric has been radically transformed, again without making sense or adding value. Subsequently, the final building plans were submitted to the City Council in July and approved in November 1998 (CCC, approved plan 425885).

Opinions and advice were solicited very early in the process from the Council and NMC, their recommendations to the architect were clear and appropriate, and, despite their reservations, the developer responded as suggested. As a result the process was largely conflict-free and the suggestions from the authorities improved the result from both environmental and financial points of view. It is relatively infrequent that such a complex project at the heart of the city’s most sensitive quarter should be negotiated quite so smoothly. It is interesting to note that although there was some resistance from the development team to the demands to retain the *art deco* facades of the two large buildings on the site, this is now recognised by them to be both the right thing for the environs and led to a saving on the contract. The only real conflict and frustration came as a result of the delays and uncertainty regarding the configuration of the complex caused by the time taken and apparent ambivalence of the NMC in making decisions.

All members of the development team interviewed are proud of the building and are particularly happy with its remarkable financial success. They do also now accept that the controls relating to the access, the retention of the facades and the setbacks above



Park-on-Long: Bird's-eye-view of the proposal (drawn by Natie Terblanche)



Park-on-Long: during demolition in September 1998; view from within one of the *art deco* buildings



Park-on Long: a view down Long Street after redevelopment
(photograph September 1999)

the retained facades were appropriate and improved the building both from an environmental and financial point of view. It is also worthy of note that all of the parties who were interviewed thought that the architectural character of the new work was appropriately understated and unobtrusive. Paradoxically, one of the NMC officials both praised the new work for being unobtrusive, and criticised it for being unimaginative (Laura Robinson, interview, 4/10/2000). The only seriously voiced reservations were regarding the work on Brembridge Hall, and these comments were very much at odds with each other: the archaeologists regret the loss of the "Dickensian" feel of the building with its odd spaces on many levels and sense of innumerable additive extensions (Tim Hart, interview, 6/11/2000); others were critical of the restraints imposed by the NMC and the badly designed main entrance and lift foyer and the new windows which cut through the string moulding; and, of course, there is the very great frustration experienced by the developing team as a result of the prevarication of the NMC during the scrutiny process.

Notwithstanding these reservations, this has been a remarkable achievement resulting from easy co-operation between several property owners, the architect and developer, the Council officials and the NMC. Apart from the initial differences regarding the significance of the buildings and the necessity of preserving the facades, the key actors now all share views regarding the significance of the buildings, the townscape and the environs generally. Differing expectations did lead to some frustration on the part of the development team, but the firmness of the authorities' position did enable the architect to negotiate a development that has satisfied all parties. One of the officials added that the recent experiences (and failures) of the Boston House redevelopment enabled them to give the better guidance in this case (Chris Snelling, interview, 6/11/2000). The result is a singularly successful low-impact intervention in the townscape; the street facades of the three buildings involved have been upgraded, the pedestrian and retail environment is enhanced, vehicular access is through an existing entrance in a side-street, two hundred and fifty parking bays have been provided, thereby making nearby buildings marketable (four of the adjoining buildings have each taken a floor of the parking), and some additional office space (1600 sqm) has been provided.

Chapter 7

The Findings Derived from the Case Studies and the Attitudinal Survey: And their Evaluation

7.1 Introduction

We are now in a position to draw some conclusions from the sum of the empirical material presented in the study: this data has been presented in the findings of the attitudinal survey reported in Chapter 4, in the history of planning and conservation in the city centre described in Chapter 5 and, in particular, in the case studies analysed in Chapter 6.

At first sight, however, the case study development projects seem to be so complex individually and so varied as a group that, notwithstanding the clear findings of the attitudinal survey and the very rich background material, it appears that no conclusions can be drawn other than to confirm Punter's cautionary regarding development control case study research:

"To attempt to generalise with even the wealth of knowledge that these researches have generated is a dangerous activity, for the clearest impression to emerge from these studies is that each development has a unique set of actors with a wide range of motivations and constraints, set in a specific, but varied, technical, political and developmental context" (Punter, 1985, p8).

However, the questions raised in Chapter 1 can now be put to the case studies both individually and as a group and answered. These questions are as follows: one, whether the approach to or theory of conservation adopted or demanded by the authorities and other key actors is appropriate or not; two, whether the development rights in the city centre are appropriate or not; three, what the impact of the demands of the authorities on the development rights is; four, whether the significance or conservation-worthiness of the buildings, sites and environments being affected by each proposed project has been adequately identified in advance or not; and five, whether the authorities are capable and efficient or not.

Following that, the ultimate question as to the efficacy of the controls in conserving the significance of conservation-worthy buildings, sites and the urban landscape will then be answered using the criteria for evaluation established in Chapter 1.

7.2 The Findings Regarding the Five Questions

The Approaches to or Theories of Conservation Favoured by the Key Actors

The question, or questions, raised at the beginning of the study in this regard were: *what are the approaches favoured by the key actors, do the differences lead to conflict and effect the scrutiny and approval process, and do the differences/conflicts have any effect on the ultimate outcomes, the completed projects?*

It bears noting *en passant* that the Italian literature on conservation, be it polemical or descriptive of practice, is laden with theoretical discussion regarding the conservation approach or theory adopted by the architect. In the English literature, the focus is quite

different and there is seldom more than a reference to an intention to respond to the immediate environs or to re-use, retain or restore certain of the existing buildings. This is also true in South Africa; and it often appears that the critic, commentator or architect, in describing the work, believes that it is enough that the building has been "saved". There are exceptions, of course, but these are relatively few and far between. Although the literature infrequently deals with ideas about conservation it is quite clear, however, that in Cape Town during the past two decades the approach to conservation has been a both material and highly contested factor in the conservation-oriented control of development. It is also clear that this conflict has been both between insiders and outsiders and between opposing wings of the insider group, the conservation-oriented urban governance regime; and in some cases the differences have led to three-way struggles within the regime. Indeed, it is through the analysis of this question that the divisions within the development industry, in general, and the urban governance regime, in particular, are most visible. Nor is this very surprising: conservation has been a field unusually prone to rhetoric of the most flowery kind for more than 200 years.

Of the nine projects analyzed in detail, only three were designed and scrutinized without any conflict regarding *the approach*. Although it is true that one of the criteria for the selection of the cases was potential controversy (and/or conflict), there are, of course, other reasons for controversy and conflict.

The first of these three projects, the *Protea Assurance extension* (approved in 1988), relied on an architectural and conservation approach or strategy that was both *documentary* and *stylistic* in that the existing conservation-worthy Protea building was preserved in its entirety and it was extended/added to in an imaginative way, repeating the architecture of the original, thereby satisfying two particularly important criteria: first, respect of the original authentic material by preserving most of its original building; and second, respect of the significant image and/or character of the existing (building and environs) by virtue of the stylistic consistency, architectural character and the scale. It is probably fair to say that the preservation of the extant significant building and the subtlety of the design ensured the uncontroversial and straight-forward scrutiny and approval of this project. A less assured design adopting the same strategy is more than likely to have been criticized as pastiche and to have been delayed in iterative rounds of negotiation. It bears reiterating the point that this project, facing onto Greenmarket Square and approved in 1988, was proposed in the aftermath of the then still not too distant Sanlam controversy, in an atmosphere in which few developers would court controversy. In other words, notwithstanding my declared antagonism to historicism and to pastiche, there are many circumstances in which an historicist approach to design is the most apposite - particularly if informed, assured and imaginative.

The second of these projects, *Park-on-Long* (approved in 1998), was also potentially controversial in its facadism; but, given the lack of significance of the interiors of the two *art deco* buildings and the considerable contextual value of their facades within this particular streetscape and environs, the design strategy, relying on the preservation of the significant existing elements (the two *art deco* facades and the carcass of the older building, Brembridge Hall) and adding some unobtrusive and architecturally modest extensions, has been acknowledged to be appropriate and successful. It is likely, however, had the history of the Brembridge Hall building and its ownership by George

Thompson been known during the scrutiny, that the demands and approach *vis a vis* the building as a document would have been significantly different.

The third of this first group of three, the *Boston House project* (approved in 1997), is very like Park-on-Long in its use of facadism and the requirement to preserve no more than a mutilated relic. This approach to the conservation problem was accepted by the Heritage Committee and required by both of the authorities without question or conflict. But, as we have seen, Boston House is considerably less successful than Park-on-Long in that each of its three facades was further mutilated, making their preservation meaningless.

These two parking garages, Park-on-Long and Boston House, each behind preserved facades, each with two preserved *art deco* facades and a mutilated much older facade, and approved in 1998 and 1997, were proposed in a period when conservation-oriented controls had become accepted, recognized by all to be appropriate and, most importantly, were anticipated by the developers and their architects: the absence of conflict in these cases is certainly a consequence of the recognition of that necessity, the general acceptance and the success of urban conservation-oriented controls. It is also notable that although there was disquiet about the use of facadism in both of these cases, it was apparent during the processing of these two projects that, because the facadism provided an ideal disguise to these otherwise unsightly parking garages, sustained criticism was limited.

Two earlier cases scrutinized in the late-1980s, *The Terraces* and *Fed-Life*, were highly controversial not only because they were inappropriately scaled and because the initial proposal in each case, first, simply ignored the environs and the significance of the site and the existing buildings entirely and proposed to clear the site and, second, proposed to erect buildings markedly out of scale and character with those environs, using all or most of the development rights. Both proposals initially disregarded all conservation approaches, be it of *historical/stylistic restoration*, of *the building as document*, of *critical conservation* or of *contextually oriented urban conservation*. Both *The Terraces* and *Fed-Life* were controversial throughout their scrutiny and approval processes and remain so today. Both were persuaded to retain parts of the extant conservation-worthy fabric (in large part facades only; although in the *Fed-Life* project two important buildings facing onto Strand Street were "restored"), both were constrained in part to respond "in-keeping" in scale and in architectural character with the abutting townscape, and both ultimately included very large building volumes that are obtrusive in the environs: *The Terraces* because of its height and *Fed-Life* because of its bulkiness, poor design and the very cheapness of its finishes. Both were criticized for the use of facadism and of historicist pastiche. However, both projects were controversial not only for the determination with which they were resisted by Cape Town's conservation-oriented urban governance regime, but also because they opened differences within the regime, at that time still fragile and uncertain of its influence. The essential difference in opinion was between a focus on individual buildings, underpinned by the ideas of both *historical/stylistic restoration* and *conservation of the building and the city as a document* on the one hand, and a wider view of the townscape that relied on the ideas of *traditional* architectural design and city-making and of *critical conservation* on the other. In both the *Terraces* and the *Fed-Life* cases these differences were most

clearly expressed in disagreement between the authorities, that is, between the NMC and the City Council, in essence, because both had to make decisions: the NMC (encouraged by those parties who had for years worked for the *preservation* of the West City) wanted all buildings more than 50 years old preserved and no new buildings taller than four stories, disregarding all property rights and financial value, while the City Council (officials *and* councillors) imagined a more dynamic townscape, continually enhanced by new improvements/layers of the palimpsest and invigorated by new investment. The most heated and the most damaging differences were, however, those where frustrations were taken out on individuals: for example, the attempt to punish or embarrass Dirk Visser by forcing him resign as chairman of the Cape Town Chapter of the Simon van der Stel Foundation, and the revenge taken by big business on Peter de Tolly.

Although of very different origins, for very different reasons and at very different times, the approaches to the conservation problem in three of the cases, the Stuttafords project in 1987, the Rosenhof Court development at 20-22 Kloof Street in 1989-90 and the Heritage Square project in 1996-7 were controversial for the same reason; all three included *reconstructed* buildings or, more accurately, reconstructed *facades*:

In the *Stuttafords* case (approved in 1987), the development team initially proposed a straight-forward project, retaining and remodeling most of the buildings on the site, demolishing two smaller buildings of some significance and introducing a modern building into the gap: in other words, an unself-conscious and traditional approach consistent with the idea of the city as *palimpsest*. It has been recognized that this was more to provide a convenient space from which to conduct building operations on this very constricted city centre site than for any architectural, urban design or theoretical reason. Once the necessity of considering the *preservation of the buildings as documents* had been demanded by the authorities, the development team responded with a series of alternate strategies, ultimately proposing a pragmatic *historical reconstruction* and *facadism*; which, after some argument and some indecision, the NMC approved on *contextual historicist* grounds (and pragmatism). The reconstruction was not initially planned, but suggested as a compromise. During the negotiations in 1987, certain of the component parts of the urban governance regime were still tentative in their participation in development control situations: the "historical sites" clause was as yet untested, the rapport between the officials of the NMC and the UCU was still being established and the Heritage Committee, consisting very largely of architects, was reluctant to pass judgement on the work of other architects, particularly of an esteemed colleague within the urban governance regime. At this time the regime was, despite increasing successes in policy setting, unsure in dealing with the very direct confrontation and disagreement in development control cases, particularly involving close colleagues and old friends.

In the case of the *Rosenhof Court development at 22 Kloof Street* (approved in 1989-90), the reconstruction of the late-18th century "dakkamer huis" was initially suggested (in 1986) by the historical/stylistic *restoration* wing of the Heritage Committee, and was to be accomplished through the removal or excision of later additions to reveal the pre-existing facade of the c1790 "dakkamer huis". This was, at the outset, recognized by some to be not realizable; but, if the truth be told, the older establishment and historical

restoration lobby, first, did not accept that the later layers or strata of the existing building were or could be conservation-worthy and, second (and more importantly), did not accept that there is a significant difference between the saved original fabric freed of later layers and a reconstruction *ab initio*.

On the other hand, at *Heritage Square* (approved in 1996-97), the stripping away of the 1920s balcony and the hypothetical restoration of the building on the corner of Bree and Shortmarket at Heritage Square was an inadequately researched and old-fashioned historical restoration, as was the reconstruction of the floor plan and facade (designed with the help of an early photograph) at 98 Shortmarket (previously the Mourners' Chapel), both presented and argued to be a unique opportunity to restore an early 19th century townscape. This was an extreme demonstration of the *historical restoration* approach but, given the history of the formation and objectives of the urban governance regime from the 1970s, in particular regarding this site in the West City, this should not have been a surprise.

Perhaps the most striking observation to make about these three controversies, the Stuttafords, Rosenhof Court and Heritage Square projects, is the distinct, sustained and unequivocal position of the historical restorers that the reconstructed 'historical' appearance of a building, 'authenticated' most ideally by photographs or by other documentary evidence, was unquestioningly preferred to the 'layered' building and the contribution that such layering has on the palimpsest that is the city. Although the Rosenhof Court and Heritage Square controversies were a decade apart, it is these two projects, promoted vigorously by the older establishment lobby and resisted by a younger group (in the main, with post-graduate specialist conservation training), that most clearly demonstrate the contrasts in approach between adherents of the *historical restoration* (and *historicist*) approach and the followers of a more analytical and inclusive approach that allows both the *conservation of the building as document* and the *critical conservation* approaches. It is also certainly true that the most enthusiastic of the supporters of the restoration of the Cape Dutch "dakkamer huis" were also motivated by historicist chauvinism, but this does not appear as clearly to be the case in the Heritage Square decisions where the motivation was primarily visual or aesthetic, seeking architectural and townscape consistency. Indeed, it is often difficult to separate the impulse to restore to an *historical* appearance (known or hypothetical) for associational reasons from the impulse to restore to a preferred *architectural* appearance for more simply aesthetic reasons.

The controversy in the final case, the *KPMG extension* (approved in 1997), is, in many ways, a result of the most fundamental (and the most architectural) of differences in approach to design: this is the result of the differences between the heroic (and romantic) artist/architect and the socially-oriented, context-sensitive and aware conservationist, and/or between the individualistic conservative focused on self-interested and (hopefully) great art and the equally conservative historicist yearning for reminders of a golden (and heroic) past. This is the perennial architectural, urban and conservation controversy. In this particular case, the case of the KPMG extension, the great majority of the key actors, all insiders within the conservation lobby and, in this case, almost all architects, welcomed the imaginative high-tech design with enthusiasm. However, appropriately cautious UCU officials asked first for the comment of the

Heritage Committee and then even more cautious planning officials later asked the Council's Planning Committee to make the decision. This second ask (of the politicians), of course, led to controversy because the politicians (correctly) expressed what they imagined to be the view of the man-in-street. This case reflected the potential congruence of the *traditional*, *critical conservation* and *conservation of the building as document* approaches, and demonstrated that these approaches can share ends. However, the high-tech modernism of the proposal was (and is) anathema to followers of a *historical and/or stylistic* approach, which is probably the most commonly held lay view of architectural and urban conservation.

The Development Rights Attached to Property

The question to be examined in this regard is: *what precisely are the development rights in the historical city centre and are they appropriate?*

The rights are, of course, no more and no less than what the laws permit or do not prohibit, so it is somewhat artificial to try to talk about them separately or to imply that they are separable concepts. Throughout the study, however, the term "development rights" has been used to refer to those uses and building forms that are described in the zoning scheme of a town and *are permitted*. The term "conservation constraints" has been used to refer both to the *conservation-oriented laws* that have been promulgated relatively recently and to *those additional* conservation-oriented restrictions imposed by the authorities *during* the scrutiny of development proposals.

This is the heart of the problem: the "rights" are easily quantified and described and they have, for the most part, been established for many decades; the "conservation constraints" are not only not easily described, they are recent and they are often not given detailed attention until a development proposal is made. As a consequence, the conservation-oriented *constraints* appear very often to be arbitrary, imposed belatedly and apparently at the whim of an official. It must be said that this also applies to design or "aesthetic" control for much the same reason: because the appearance of the proposal or its impacts *can only be assessed once a proposal has been made*.

It is difficult to draw conclusions about the appropriateness or otherwise of the development rights in the city centre from these case studies, as extensive as the rights may be: the permissible floor area factor ranged from 10,1 to 9 for the majority of the cases to 5,6 (KPMG) and 3,7 (Kloof Street) on the periphery of the CBD, with permissible heights of 60m for the majority of the cases.

The only development project case study that was scrutinised and approved without any conflict at all and that is widely agreed to be the best 'infill' building in the historic city centre, the Protea, is a very large building that *used all of its permissible floor area*; indeed, it is the only one of the nine case studies that used all of its development rights. Although not reported here as a *case study*, but analysed as a case in the same multiple-case study (Townsend, 2001), the NBS *did also use all of its permissible floor area* and it, too, is a very large building that is regarded as amongst the best modernist buildings in the city centre.

On the other hand, the two projects that provoked the greatest conflict did so because

of the relative bulkiness of the initial proposals and the visual impact of that bulk on their environs: both of them were considerably reduced in scale and bulk through negotiation (The Terraces to 76% and Fed-Life to only 51% of the permitted floor area), but both are *still* criticised because of their size and visual impact. In none of the other six projects was bulk an issue; and it would appear that the difficulties in accessing the rights because of the difficulties in assembling sites large enough referred to by Dave Jack (interview, 20/6/2001) and/or in using the rights any distance from the land of highest value referred to by Louis Karol (interview, 30/11/2000) are why relatively few projects are or will be proposed in which bulk *per se* is a problem. Indeed, The Terraces and Fed-Life projects were both in the relatively underdeveloped West City, and the visual impact was an effect of the *contrast* between the proposed buildings and the immediate surroundings. In other words, it is a problem of relative rather than absolute size.

It does appear, then, that the perceptions of the outsiders (85% of whom thought that the rights are appropriate) are more likely to be apposite in the inner city, but that, as the periphery is approached where the scale of the extant fabric reduces, the opinions of the insiders (90% of whom thought that the rights are excessive) are apposite. This finding is, with hindsight, not surprising. Indeed, the focus of the conservation-oriented regime's attention has, since the early 1970s, fallen on the West City where the potential for negative impacts of large over-scaled buildings has been greatest and where the greatest controversies have occurred.

It does appear, also, that the exclusion of the floor area used for parking from bulk calculations is an aberration in Cape Town's Zoning Scheme: the parts of buildings accommodating parking are not included in floor area ("bulk") calculations and there appears to be no good reason for this. Further, it must be emphasized that the Zoning Scheme is designed to create certainty and that restrictions are attractive precisely for the reason given by Judge Clayton in 1948: "It is the restrictions affecting his neighbours which appeal to the buyer" (quoted in van Wyk, 1991, p39). The current regulations, which enable a building of unlimited *bulk* if it accommodates parking only, are inconsistent with the primary underlying principle of zoning schemes, namely, the creation of certainty. This exclusion, coupled in Cape Town with the currently gradually (some say rapidly) declining public transportation systems, has led increasingly to large buildings in which parking occupies as much as half of the actual floor area in new buildings. This provision should be amended. But it does also bear reiterating that the Land Use Planning Ordinance of 1985 included a provision that, put simply, ensured that development rights not used by July 2001 would lapse (this date has been postponed to July 2003). The significance of this is that, in the fairly short term, the "excessive" rights will, in all probability, be erased. This should solve the problem of excessive rights in the under-developed West and East City quarters in the near future. However, in the interim, it does also appear that height and set-back departures that enable inappropriate eaves heights and the consequent visually oppressive building volumes should, as a matter of policy, be refused in all cases. Such a measure, together with current market forces, is likely to ensure that the scale of the historic city centre will be protected in the short to medium term.

The Impact of Conservation-Oriented Requirements on Development Rights

The first question to be examined in this regard was: *were the property rights of each proposal effected by the conservation-oriented requirements of the authorities?* The second question was: *was there a direct relationship between the degree to which the rights were effected and the degree of significance of the building or environment?*

Although the first question is directly associated with the conclusions regarding the "excessive" rights in the city centre just reported, it is still with some surprise that the conclusion is reached here that in only two of the nine cases were the development rights *per se* reduced or interfered with through the imposition of the conservation-oriented controls. These two were The Terraces and the Fed-Life projects. This is an interesting conclusion: particularly in that the developer was ultimately pleased with the finally approved scale and form of The Terraces and, therefore, with the extent of the rights taken up.

It does appear, then, that in only one of the case study projects, Fed-Life, were the development rights reduced through the imposition of the conservation-oriented controls; but, even in this case, the developer was able to deliver the "turn-key" project contracted with Fed-Life, even though only 51% of the permissible floor area was being used. When I interviewed the architect he was surprised to learn that such a small fraction of the rights had been used; my own recall of the negotiations was that the developer and the architects were simply too committed to the building forms initially proposed and, as a result, the authorities simply demanded the preservation of several buildings and smaller building volumes where the visual impacts were deemed to be unacceptable; and the architects simply could not re-configure the necessary volumes into a coherent design. However, the reduction in rights in this case seems to be in the nature of a *deprivation* rather than an *expropriation* as discussed in the earlier chapter on the law and administration of development; and it does seem that this deprivation, and others like it, would satisfy Tribe's criteria for the avoidance of compensation (Tribe, 1988, pp597-598; quoted from Eduard Fagan, 2002).

Of the other seven projects, only the Protea achieved 100% of its permissible floor area and, self-evidently, the development rights were not adversely affected. The Heritage Square project had been preceded by many years of debate about the conservation of the properties and when, ultimately, the properties were redeveloped, the rights had been reduced to the existing envelopes by *the property owner*, the City Council. In the remaining five projects, the Stuttafords, 22 Kloof Street, KPMG, Boston House and Park-on-Long projects, the extent of the available development rights taken up was, in each case, determined by the developer without interference by the authorities: in other words, the take-up or use of the available rights was determined by the market. It must be pointed out, however, that the history of negotiation between the property owners of 20-22 Kloof Street and the NMC (advised by the Heritage Committee) could be described as the reduction of rights by the *threat* of interference; but in the event, the property was eventually purchased by a developer who designed a project consistent with the controls *out of choice*.

This is a most interesting conclusion because it is at odds with the primary argument made for decades against the imposition of conservation-oriented controls. Indeed, in

South Africa, where existing property rights have been consistently protected by the courts, although perhaps “not held in quite such high regard” as in the USA (Eduard Fagan, 2002, p4), conservation-oriented controls have long been held to erode, if not radically reduce existing property rights. This finding indicates that the controls do not, *in practice*, have the impact feared.

This may, however, go some way in suggesting or implying a reason for the conservation-oriented urban governance regime’s success in Cape Town’s city centre during this period: if it had been recognised, even subliminally, by other groups or an urban governance regime holding to a progrowth rather than growth management agenda, that conservation-oriented controls did *not* adversely affect the exploitation and enjoyment of development rights, it would no longer be necessary to resist such controls. Indeed, if this were true and if these controls were inclined to ensure design excellence “only”, then the big property owners would not be inclined to resist such controls. Robert Cameron, an expert on local government politics, has, perhaps more cynically, suggested that “maybe they had just become more sophisticated in getting their own way” (Robert Cameron, personal communication, 23/10/2002).

The second question being examined here can only be answered in cases where rights were effected by the controls: that is, The Terraces, Fed-Life and Rosenhof Court projects. This question was: *was there a direct relationship between the degree to which the rights were effected and the degree of significance of the building or environs?* And the answer must be in the affirmative: certainly in each of these cases there were very old (in South African terms) buildings on the properties being redeveloped and the environs were clearly conservation-worthy. In the Rosenhof Court case the extant building was deemed to be particularly significant by a most historicist and chauvinistic group and their view was supported by the NMC; in The Terraces case, the presence of a circa 1810 building, the close proximity of the Lutheran Church, and the position of the subject property on the edge of a very fine late-19th and early 20th century townscape all meant that restrictive controls should be imposed on the significant parts of the site, at least; and in the Fed-Life case, the presence of two late-18th century buildings (already identified by the NMC as significant and meriting promulgation as national monuments) and the position of the subject property on the edge of a very fine late-19th and early 20th century townscape meant that here too restrictive controls should be imposed on the significant parts of the site.

The Identification of Conservation-Worthiness

The question to be examined in this regard was: *are all the conservation-worthy buildings, sites and environments identified, is the degree of significance explicit, and is this identification and grading system accessible and well-known to the development industry?*

The *identification* of conservation-worthiness is the essential first step in the design and then the scrutiny of any development proposal subject to conservation-oriented control. The creation of a system for the identification of conservation-worthy buildings, sites and/or environments is, therefore, *the* essential pre-requisite for coherent and rational conservation planning and control (Townsend, 1996, p36; also 1993, p29). The need to identify the actual subjects of the conservation-oriented controls and the objectives

of the controls in each case (building, site or environment) *in advance* of any endeavours to control their use and development has been clearly demonstrated in the study.

The study has also shown that this has long been recognized in Cape Town. Indeed, in as early as 1959 the need for an inventory of conservation-worthy buildings and sites was recognized and proposed (see several of the papers and commentaries in Immelman and Quinn, 1968) and the Simon van der Stel Foundation's 1970 list was an important first attempt, but it was not until 1978 that the Catalogue of *The Buildings of Central Cape Town* was published (CPIA, 1978). It is readily apparent that the Catalogue has more than served its purpose: the identification and classification of all the buildings in the city centre has been the bed-rock of conservation-oriented planning and development control in the city centre; the publication in 1984 of the second phase of the Catalogue which surveyed the Bokaap, the north-west part of the city and the docks (CPIA, 1984); and the unpublished Catalogue of the buildings of the Upper Table Valley (completed in 1995) together sustained that endeavour and have created a firm base for the identification/delimitation of conservation areas and for the control of alterations and demolitions of existing buildings and the design of new buildings in these environs abutting the city centre; and the continued programme of conservation studies has given the necessary basis for conservation planning in the rest of the historic city (Townsend, 1996, pp36-41).

However, as we have seen in several of the case studies, neither the "classifications" adopted by the Catalogues, nor the range of categories of significance used in the several conservation studies carried out between 1986 and 1995 were sufficiently clear as to their meaning. As a consequence, neither architects nor property owners were able to understand the impact of the classifications on their development proposals and, therefore, on their development rights. Indeed, "the bottom line for property owners and authorities alike must be clarity as to the effect of a classification or grading on the development rights and the responsibilities of all parties" (Townsend, 1996, p39). As a consequence in 1994 the City Council's Urban Conservation Unit, in consultation with the CIA's resurrected Catalogue Committee, developed a three-grade classification system of conservation-worthiness that in principle paralleled the British listing system and that was intended to "indicate both the degree or extent of the significance of each property and the rigor of the scrutiny to be conducted by the City Council and the NMC" (CCC, 1994; Townsend, 1996, p39-40). The grades of the buildings in the city centre were based solely on the classifications in the 1978 Catalogue. However, increasingly as time passed, it was recognized that the assessments were out of date and no longer appropriate, and in 1997 a review of the gradings was conducted.

It has, however, been clear in several of the case studies that the project development team was either not aware of the Catalogue and its classifications or they contested the significance that the authorities assigned to the classifications or (after 1994) they were unaware of the grading system and its import for development. It is also clear that in several cases one of the authorities has either *not been aware* of an evaluation of significance by the other authority or has disagreed over such an evaluation. It is also true that in several cases the classifications/gradings had clearly been based on inadequate research, and that during the scrutiny and negotiation process new

information about the building or site led to a higher classification/grading and to more limiting requirements from the authorities.

For all the admitted imperfections of the Catalogue and the slow, even tortuous, process of declaring conservation areas between 1979 and the ultimate designation of the entire ancient city centre in 1997, it is difficult to understand why so many of the development project case studies were bedevilled by inadequate knowledge of the buildings involved and/or incomplete recognition of their significance.

The Protea project, clearly benefitting from the fall-out of the Sanlam controversy and the guidelines developed in 1982 by City Council, did not, as consequence, suffer from these difficulties; the Heritage Square project too, benefitting from the Simon van der Stel "list", the 1978 Catalogue and the numerous studies of these properties commissioned between 1986 and 1995 by the UCU, did not suffer from a failure to identify conservation-worthiness or significance; and the KPMG project, by virtue of the relative insignificance of the subject buildings and the high-tech design strategy, avoided the necessity of these questions.

The remaining six projects each suffered from the failure of the development team to do sufficient research, in some cases to do even the most basic research or to even make enquiries of the authorities before committing themselves to advanced stages of design.

The Stuttafords and The Terraces projects both suffered because, notwithstanding the presence of a singularly knowledgeable conservationist in the development team, there was significant disagreement between the development team on the one hand, and the authorities and the conservation-oriented urban governance regime on the other, over the extent/degree of the significance and, therefore, about the appropriate design response. In the event, both projects suffered not only because of the dispute, but because the NMC, with the primary decision-making role in the urban governance regime, was not sufficiently confident in its decision-making. The Park-on-Long project did also suffer from these same differences initially, but the project was redeemed, in large part, by the excellent, if belated, research by the developers' archaeologists and the "happy accidents" in the design process resolving the vehicular access and knitting this project into the block as a whole. All three of these projects, although troubled by differences regarding the identification of significance and the consequent conflict about the details of the proposals, were rescued by negotiations between the authorities and the development teams and, ultimately, by the abilities of the architects.

In the remaining three cases, the Fed-Life, Rosenhof Court and the Boston House projects, the failure of the development team and their architects to do any research at all was compounded by the failure of the authorities (in particular the NMC) to be clear about the significance that they attached to the extant buildings. In each of these three cases this led to confusion, conflict and, ultimately, to failure in conservation terms. Indeed, these three projects are failures, apparently without redeeming features; and all three failures are due primarily to the failures of the architects and of the authorities. It is true, too, that in each of these cases the architects, all outsiders, failed dismally to respond appropriately to the environmental- or conservation-related aspects of the

project. It may be precisely because they were outsiders that they were unable to understand or unwilling to accept the authorities' or the urban governance regime's position, advice and guidance. However, three failures out of nine is an unacceptably high number, and it signifies that the identification of significance and that the impact of such significance on the rights must be *explicit* are absolute pre-conditions for successful control.

The Capability and Efficiency of the Authorities

The questions to be examined in this regard were: *did the authorities have the necessary information readily available, were interactions and negotiations conducted speedily and were decisions made promptly and rationally?*

Although urban conservation-oriented controls have been debunked by some commentators as "the commodification of culture" and as "the last refuge of the nostalgic", the management of the historic townscape has been recognised and accepted to be as necessary as, for example, the regulation of the disposal of refuse and sewage; and in many European countries historic townscape management is completely integrated into or even synonymous with the planning regulations. Indeed, this study found that 96% of the key actors in development in the city centre of Cape Town recognise and accept the need for the controls. As I have remarked earlier, this is a most surprising finding, but it demonstrates the widespread recognition in contemporary society that the environment and the significant heritage resources and landmarks within it do need to be protected.

But the practicalities of urban conservation or townscape management and the interests and perceptions of society regarding such management are still ill and incompletely resolved.

Indeed, it has been quite clear from the events described, from the case studies, and from the opinions of the key actors, that the actual process of working up a development proposal and negotiating permission in Cape Town is fraught with uncertainty regarding both outcome and delay. This is for a number of reasons, but most clearly because of the inadequacies and inefficiencies of the authorities.

Although the City Council's Town Planning Branch had created the Urban Conservation Unit in early 1987, the sheer volume of work undertaken by this small team limited their ability to do all of the tasks in their very large geographical area of jurisdiction. Indeed, as we have seen, during the period between 1986 and 1994 a considerable amount of attention was given to the identification and grading of conservation-worthy buildings and to the delimitation and declaration of conservation areas, and a provision was added to the Zoning Scheme enabling urban conservation controls. As a consequence, the resources required for the appropriate servicing of development proposals was limited and, according to the majority of the key actors interviewed in the attitudinal survey, clearly inadequate. This was also borne out in the case studies. This conclusion regarding the inadequate guidance to developers and their architects in Cape Town mirrors Punter's findings in his Reading and Bristol studies where delays were caused primarily by negotiations over amendments and the failure of the authorities to identify priorities for the officials (see 1985, p179 and 1990, pp372-3 respectively).

It has become increasingly clear during this study that Booth's two certainties, certainty of outcome and certainty of delay (the time taken to reach a decision), are the criteria by which *applicants* evaluate the efficiency of the authorities; and that Keeble's "appearance of development which gains planning approval" is the primary criterion by which the *general public* evaluate the effectiveness of the system and of the authorities (reported by Punter, 1987, p58). This difference in view, of course, corresponds to the difference in interest. The effectiveness sought by applicants is closer to efficiency: applicants wish the authorities to carry out all the responsibilities of *governance*; the general public wishes the authorities to implement public policy as it is contained in law. In other words, applicants want *efficient* administration; the general public want *effective* administration.

Although the study did not attempt to evaluate the applicant's/developer's confidence *vis a vis* the likely outcome and the likely delay in each case, it did explore the key actors' opinions of the information given to the development teams by the two authorities regarding, one, the conservation-worthiness of the sites and environs and, two, the effect or impact of that worthiness on the development intentions. As we have just seen, it appears that in as many as six of the nine development project case studies that the NMC did not, in the first instance, give clear information about the conservation-worthiness of the buildings or, in the second, about the implications of such significance for the proposed development. It is also clear that in as many as six of the cases the NMC vacillated in its decision-making, leading to uncertainty and frustration, and in several cases even reversed its position during negotiations. The City Council, on the other hand, has sustained over two decades its endeavours to identify conservation-worthy buildings, sites and areas; and, in the development project case studies, it did in each case (with the exception of the Boston House project) give clear and immediate information both about the worthiness of the buildings and environs in question and the effect of such significance on the proposal. It is, therefore, not surprising that as many as 50% of the key actors interviewed in this regard were critical of the NMC and 12% were critical of the City Council.

It bears noting that several of these critics of the authorities were insiders. This could be imagined to reflect personal and professional jealousies, but it rather more likely signifies concern about the effectiveness *and* the efficiency of the conservation-oriented urban governance regime. Indeed, the authorities' effectiveness is an important measure of the regime's effectiveness.

Interestingly, the study has demonstrated precisely how differences *within* either the conservation lobby or between the authorities has led directly and inevitably to delay, to indecision and, ultimately, to the detriment and even to the loss of the objects of conservation-oriented attention. In other words, the study has revealed how differences internal to the urban governance regime have resulted in the regime's ineffectiveness. This is probably in large part because the regime is, as are urban governance regimes, informal and, in its structure and coherence, unself-conscious about its influence.

Given that conservation-oriented controls, *urban* conservation-oriented controls in particular, are reliant on a series of judgements and, as a consequence, are fraught with uncertainty and conflict, it is clear that the perceived efficiency of the authorities will be

reliant on the following factors: first, the authorities must be clear in the *identification* of the objects of their attention; second, they must be clear as to *the effect* that the significance will have on their requirements regarding protection; and, third, they must be clear, articulate and *explicit in their guidance*. In Britain the planning policy guidance note on planning and the historic environment, for example (DoE, 1994), contains 60 pages of very considerable and very detailed advice; but it is still very general and really does no more than set a framework for local development plans and policies, and for very considerable discretion. This is the heart of conservation-related dispute: discretion without sufficient clarity regarding the reasons for decision-making. In South Africa, almost inevitably, the guidance published is of the most general (and most unhelpful) nature: the guidelines published by the Cape Town City Council for Wynberg Village, for Sea Point and Green Point, and for Woodstock and Salt River (all in Cape Town), for Simons Town and for Franschoek, for example, are all filled with architectural and conservation platitudes and give very little help to the home-owner or architect contemplating any form of development in these carefully controlled conservation areas. Incidentally, the very deterministic and pragmatic guidelines for Greenmarket Square and its surrounds drawn up in early 1982 were designed by architects and urban designers and not conservationists; they are quite unique in their explicitness and in their recognition of the development rights available and, as a consequence, they were and are uniquely useful.

These case studies have demonstrated the absolute necessity for clear quantifiable guidance that is akin to an instruction; and they have demonstrated the absolute necessity of the authorities to devote sufficient resources of adequate expertise and with the authority to speak confidently on behalf of the decision-makers within the authorities.

7.3 The Efficacy of the Controls

"Effectiveness may be regarded as the extent to which planning aims are translated successfully into development which takes place or is prevented" (PIEDA, 1992, piii).

A two-fold question was put in Chapter 1: *do the controls have an impact on the form of development approved and, if so, what is that impact?* The efficacy of the controls could be measured in a variety of ways, but it was argued in the introductory chapter that unless a carefully designed system of measurement is established in advance of monitoring and data gathering, the system of controls cannot be measured objectively (Wong, 2000). Given this, it was proposed to measure the effectiveness of the controls, first, by carefully reconstructing the events and developing, with the assistance of the other key actors in each case, an assessment of both the process and the outcome in a limited number of individual cases; and, second, through the assessment of each outcome, each completed project, applying criteria adopted from and based on the *critical conservation approach*, on the Nara Document on Authenticity and on an environmental rather than "monumental" approach to urban conservation. A distillation of these criteria was proposed as follows: *the authenticated (proven through proper research) authentic conservation-worthy fabric of the buildings, the texture, grain and scale of the townscape, and the people-oriented functioning of the urban environment should, at least, be conserved, if not enriched and enhanced, by each endeavour/*

intervention in and on the city.

When we apply this complex or 'distilled criterion', which emphasizes the revitalisation of city life and the urban and urbane qualities of the city and townscape, to each of the case study projects it is clear that, although several of the projects were regarded as relative failures by at least some of the parties involved, *all nine projects satisfy significant aspects* of this distilled criterion; and it is clear that the satisfactory aspects of each project were all the direct or indirect result of the controls:

- The *Protea extension* (approved 1987) satisfies all aspects, preserving the authentic old building and disguising its bulkiness by cleverly extending the 1930 facade of the old Protea Assurance building and adopting different design strategies on different facades, retaining appropriate activities at street level, and contributing to Greenmarket Square's monumentality without over-statement.
- *Stuttafords* (approved 1989), likewise, satisfies all aspects of the criterion excepting that aspect referring to the authenticity of the fabric (in truth, a *conservation of the building as document* criterion). In particular, its internal street and "public" space as well as its outward interaction with street life (much improved over the previous internally-oriented department store) significantly added to the city's vitality. The purist criticism of the reconstruction and facadism components of the design pale into insignificance in the light of this criterion.
- *The Terraces* (approved 1989) does not, however, satisfy all of the aspects of the evaluative distilled criterion: although the scale and appearance of the two and three-storied buildings on Waterkant and Bree Streets was restored/retained, the scale and *appearance* of the character of the immediate Waterkant Street townscape have been protected (both elements of the completed project arrived at through negotiations with the City Council), and the development did encourage further investment in the precinct, the sterility of the entire complex at street level, the infamous and inhospitable "mermaid" tower ("handsome above the waist, but sterile below", according to Clive Keegan, chairman of the Planning Committee), has a distinctly unfriendly impact on pedestrian life, and the overall impact of the tower is oppressive. There has, apparently, recently been some exploration of the possibility of converting the ground floor to retail and the upper levels to luxury residential: this would significantly improve the effect of this project on the West City (though not, of course, the visual impact of the tower).
- Much the same applies to *Fed-Life* (approved 1990), although the demands of the City Council that the ground floor be occupied by retail activity, that the existing colonnades be preserved and improved and that additional colonnades be added, did ensure that this complex contribute positively to the ambiance and life of the precinct and that it complement street life in the precinct in a positive manner. The architectural quality and the scale of both the parking garage and the office tower components are, however, so poor as to constitute an eyesore. In this regard, in both *The Terraces* and *Fed-Life* the controls failed, but it must be remembered that both of these proposals were negotiated before the Zoning Scheme regulation enabling conservation area control was formally promulgated (in 1990).
- Although the recreation of the "dakkamer huis" at *22 Kloof Street* (approved

1990) is clearly without any conservation or cultural significance (at all), the scale of the building, the whimsy of its decoration, and the arrangement of the access to the office complex behind the reconstructed building is successful; and it must be conceded that the development does make a meaningful townscape contribution to this part of the city and, although, the scale of the development was market-driven, ultimately, the early interest of the authorities dissuaded consideration of a larger, and almost certainly more intrusive, building.

- *Heritage Square* (approved 1997), however, with the exception of the two contrived reconstructions/restorations, satisfies all aspects of the criterion in an exemplary manner; but this should not be surprising as this block had been the subject of the conservation lobby's attention since the early 1970s. Indeed, it appears to be the ideal urban conservation project, marred only by the historicist reconstructions. However, it must be pointed out that the project was based on quite artificial circumstances: the land and the buildings were granted at no cost to the Cape Town Heritage Trust. As a consequence, Heritage Square cannot be regarded as an exemplar for conservation practice. Indeed, it could be construed to prove that conservation-generated urban revitalisation is impractical and unsustainable.
- Although it could be argued, and it certainly has been by the historicists, that the *KPMG* project (approved 1997) was not a conservation-oriented development at all and that it is quite out of keeping with its surroundings, it *does* satisfy all of the aspects of the distilled criterion which refer in particular to *urban* conservation very well: it *does* respect the existing fabric (sitting above it), it *is* in keeping with the scale and grain of the precinct (probably better than any other way of adding to the building would have), it *is* imaginative and exciting, and it *does* enrich the environs. Indeed, given that it was so enthusiastically received by the Heritage Committee, by the NMC and the UCU, it is likely to encourage other bold and imaginative interventions.
- Although the *Boston House* project (approved 1997) does maintain the scale and visual grain of the existing environs and it does retain the three pre-existing facades marking the earlier (original) line of frontages on Strand Street (in large part, although significantly mutilating each), it must be regarded as a singular failure, particularly in that the will and authority to ensure proper conservation was available. The mutilation of all three facades raises questions about an always questionable practice (facadism), and the continued deterioration from an interesting and varied streetscape to a degraded motor vehicle-centred environment is sustained by the treatment at street level (with hindsight, it is clear that the vehicular entrance should have been through the adjacent Picbel parking garage as insisted on in the Park-on-Long development).
- *Park-on-Long* (approved 1998) has been criticised for its facadism and the bowdlerisation of the ancient Brembridge Hall, but, apart from this loss of the authentic bodies of the three buildings, it is singularly successful: it sustains the texture and grain of the precinct, it adds to the adjoining buildings, making them economically viable (which no other device could do), it revitalizes the shopping precinct and the street scene, and it imaginatively gives a new richness to the upper reaches of the buildings and the sky-line. Indeed, this is perhaps the best possible vindication of the *controls* because every one of these features was introduced at the City Council's insistence *and* because the project was

unusually successful in financial terms.

Given these assessments of the nine completed development projects against the evaluative 'distilled criterion' developed earlier in Chapter 1, it is clear that the imposition of the conservation-oriented controls by the authorities, sustained by the continued participation of Cape Town's conservation-oriented urban governance regime, has been singularly (and unexpectedly) effective. While it is clear too that the authorities and the regime have often failed to act appropriately, and the system and the bureaucracies administering the controls have often been inefficient and (say some) officious and, as we saw earlier, three of the nine case study projects were adjudged to be failures in the more narrowly framed and purist conservation terms and *apparently* without redeeming features, *we see now that the outcome of each project, almost without fail, has been a resounding success when measured against the wider city-oriented criterion.* This rather different conclusion is because the focus has shifted subtly but distinctly: the shared view of the key actors, dominated by conservationists and architects, focussed on individual buildings, whereas the distilled criterion explicitly and deliberately focusses on the activities and life within and about the case study projects, the urban and urbane qualities of the completed project and its contribution to the city as an organism, a living organism.

Chapter 8 Conclusions

8.1 Introduction

The study set out to demonstrate how conservation-oriented controls work in practice and why the key actors involved in the design, scrutiny and approval of conservation-related development projects behave in the way that they do. The primary intention, however, was to assess whether conservation-oriented controls are effective. Do the controls work? Is public policy served by the controls? Do the controls contribute to the protection of heritage resources, be they individual buildings or environments of special character and significance? The study set out with the recognition that the ideas about conservation have long been controversial; that the conservation expected by the public at large and demanded by the authorities often has a significant impact on intended development; and that each individual conservation-oriented endeavour to control or guide development is particularly controversial in relation to established development rights. As a consequence, a number of questions and avenues have been explored in order to come to grips with the relationship between development rights and conservation constraints. It was also argued in Chapter 1 that these questions can only be answered for a particular time and place, and that the case study method is not suited to the enabling of generalisations (see Punter, 1985, p6); but it was also argued that the place of the study is not the object of the study (Geertz, quoted in Booth, 1989, p37), and that the value of an interpretation is not so much in its source but its coherence, depth and richness, enabling the reader to include the case in his/her "usable repertoire of unique cases" (Watson, 2002, p8). The situation was observed and described from the position of an insider, an official in one of the authorities responsible for the management of conservation-oriented control of development (the Cape Town City Council), a member of the most influential agency in civil society in this regard (the Cape Institute of Architects and its Heritage Committee) and an actor within a conservation-oriented urban governance regime involved in these events throughout the focal period of the study, that is, for the duration of the final form of the National Monuments Act which was the most influential piece of conservation legislation during this time between 1986 and 2000.

The conclusions reached regarding the system of controls and their efficacy are presented here in four parts: first, the conclusions regarding the system of rights and constraints in Cape Town and the authorities' capacities in this regard; second, the conclusions regarding the approach or theory of conservation adopted by the authorities and key actors; third, conclusions regarding the underlying intentions of urban conservation-oriented controls in Cape Town, the criteria for the evaluation of the endeavours and the efficacy of the controls themselves; and, fourth, conclusions regarding Cape Town's conservation-oriented urban governance regime.

8.2 The Regulatory System: The Rights, Constraints and Administrative Efficiencies

Perhaps the most striking, and unexpected, finding to emerge from the study is that conservation-oriented controls have not had the adverse impact on development rights and, therefore, on property values contended by opponents of such controls from the

time that they were first mooted and that have been such an important component of discussion about conservation ever since.

The point has been made more than once that rights are no more and no less than what the law permits or does not prohibit, and that it is artificial to talk about rights and constraints separately or to imply that they are separable concepts. The term 'development rights', however, is commonly used to refer to those activities and building forms which are ordinarily permitted by law and are, therefore, ordinarily presumed to be a 'right'. In South Africa the development control system is, and has been since the 1940s, based on 'zoning schemes' which were very specifically designed to give certainty as to the permitted form of development. The study has described how, during the past two decades, the *certainty* of both the extent and the character of permitted development has been eroded; and it has described how new 'constraints' have been incorporated into the zoning schemes and through other over-lapping laws like the old and much amended National Monuments Act and its replacement, the National Heritage Resources Act of 1999. It is the certainty of *outcome*, of what will or probably will be approved, that has been eroded.

It is, however, apparent that the new conservation-oriented 'constraints' examined in this study, principally those created in 1986 (when the "historical sites" clause was added in an amendment to the NM Act) and in 1990 (when conservation area controls were added to Cape Town's Zoning Scheme), did not impact directly or immediately on the 'development rights', but that the *administration* or *application* of these new constraints by the authorities (in this case, the National Monuments Council and the Cape Town City Council) *when, and only when*, development is proposed has been the cause of considerable controversy and conflict between the parties involved. The *administration* of these new 'constraints' has eroded the second certainty demanded by every intending developer/property owner, that is, the certainty of the *time required* to get a decision regarding the proposal.

It has also been shown in the study that many of the causes of conflict are the result of inadequacy or failure of the authorities: the primary of these causes are a set of related factors integral to the system of *identification* of conservation-worthiness, the system of grading of the *degree* of conservation-worthiness and the *impact* of such grading on potential development. These are components of the over-all system of controls that the authorities are responsible for and are in control of. Although the identification system has been in place since 1978 (the Catalogue) and the grading system since 1994, the *effects* of these components of the system are not clear until a proposal has been made and has been assessed by the officials of both authorities. The uncertainties associated with such a system and practice are exacerbated when the officials are uncertain or disempowered through inexperience, lack of training or, deliberately, by their employer who, in the case of the NMC, refused to delegate decision-making authority to its officials. It is also clear that, in a number of cases, one or other of the authorities had a definite opinion regarding the relative conservation-worthiness of a building or the environs that was not communicated to the other authority, to the property owner, or to the world at large. The consequence of such failures to communicate clearly, as in the cases of the Terraces and Fed-Life projects, in particular, has been conflict, controversy and relative failure. I must add, if in

parenthesis, that this set of causes of conflict appears to pertain in many other situations too.

Given that development rights have been shown, in the context pertaining here, not to be reduced or eroded through the creation of conservation-oriented constraints, it is concluded that the oft-voiced antagonism to conservation is not the result of the constraints *per se* but is rather a consequence of the way that they are administered by the authorities. This is, of course, a corollary of the finding that the controls do not effect the rights directly. This finding was clearly expressed in the survey of the attitudes of the key actors: 96% of all the parties interviewed agreed that conservation-oriented controls are necessary; but as many as two-thirds are concerned that the authorities be adequately resourced, that they carry out the necessary research, and that they give the necessary guidance timeously and efficiently.

However, it has also been shown that the *approach* to the conservation-related component of each development proposal favoured or demanded by the authorities is the source of considerable, if not most, conflict and controversy.

8.3 The Theories of and Approaches to Architectural and Urban Conservation

The most frequent causes of the most vigorous disputes discussed in the study have been, predictably, the theories of and approaches to architectural and urban conservation adopted by the various key actors, be they representatives of the authorities, insiders within Cape Town's conservation-oriented urban governance regime or speculative property developers and their architects. The questions and disputes about approaches to both architectural and urban conservation often echo the debate about identity and authenticity reported by Plutarch almost two millennia ago and discussed at some length in Chapter 2; and it is clear that we are still struggling to make sense of these questions.

Cape Town is a relatively young city: in its centre examined here there are very few buildings more than 200 years old and only one more than 300, and the character of the city centre is established primarily by the late Victorian, the early 20th century hybrid styles and by modernism. Yet the desire to protect the city from the interruptions in scale and character created by large and over-scaled modern buildings constructed in the two decades between the mid-1960s and the mid-1980s, and the attitudes of civil society with regard to the intentions of architectural and urban conservation and the necessary system of development control closely parallel attitudes in many other countries of the world. The attitudes of the key actors and of those within the conservation-oriented urban governance regime, of the users and occupants of the city towards the city itself and are not dissimilar *in effect* from the attitudes pertaining in Britain (and elsewhere). This study shows that the conflicts between the key actors in development in Cape Town, holding to different views, often only implicit, of architectural and of urban conservation, of the city, and of the way that such views should impinge on the practical programmatic requirements of property owners and developers, have reflected precisely the conflicts between the essential stances of the four approaches to *architectural* conservation described in Chapter 2 and how these approaches are congruent (or not) with the approaches to *urban* conservation desired or demanded by the key actors in Cape Town. Indeed, it is apparent that neither of the

authorities nor any of the other parties involved has had an explicit and coherent theory of *urban* conservation that they have been able to articulate clearly or that they have held to consistently.

The traditional approach to architectural conservation contains no trace of historicism. This view can be described as unself-conscious modernism: “the architects invoke the rights of artists” (Choay, 2001, p5), and it favours private rights over public interest. Indeed, this view should be described as anti-*architectural* conservation. But it is not necessarily antithetical to *urban* conservation because a-historical modern architectural and urban design does, or can, allow the influence of the urban context. This anti-conservation and anti-contextual view was promoted initially in several of the case study projects by architects and developers intending to ignore extant conservation-worthy buildings and the urban context (in, for example, The Terraces and Fed-Life projects). In these cases the controls ensured that the ultimately constructed buildings were obliged to address and respond to their urban contexts.

The two approaches to *architectural* conservation described as the *historical/stylistic approach* and the *conservation of the building as document approach* are, in essence, both historicist. While the adherents to these two positions may regard different characteristics to be *the* essential defining characteristic that gives meaning and significance (conservation-worthiness) to the building or site, these two approaches reflect the millennia-old dispute between the philosophers reported by Plutarch: the first view regards the form and/or *appearance* to be the primary or defining characteristic as, for example, argued by the ‘reconstructionists’ in the 22 Kloof Street and the Heritage Square projects; the second insists that the *substance* of the building be ‘original’ or is assigned special meaning regardless of other factors as, for example, argued by both authorities in the Stuttafords and the Boston House projects. Both views are regarded as “purist” although, obviously, for different reasons. Importantly, both views, in their pure or doctrinal forms, are incorporated into *urban* conservation endeavours only with great difficulty, particularly in those cases where the city and its townscape is functionally and economically vital. However, it is clear that these two approaches have increasingly and overly influenced the theories and practices of *urban* conservation, inhibiting its development and the articulation of its theory, and preventing a positive resolution of Worskett’s “needs” referred to in section 2.6 of Chapter 2 and discussed in the following section 8.4. In essence, the historicist approaches of *architectural* conservation/restoration/preservation are ill-adapted to the tasks and subject matter of *urban* conservation, except in those cases where the city, town or precinct is a tourism-focused “gem” city of homogenous age. It is the principled endeavours of the purists that attract the derision of even sympathetic commentators like Lowenthal and Choay:

“Authenticity is an ancient and still compelling cult. But it is only an appendage of a still older tradition of fantastic invention” (Lowenthal, 1992, p190); and
 “We must cease confusing the architectural and urban realizations of the pre-industrial era with all those which have followed till now. In other words, we must escape from the narcissistic fiction. We must denounce the amalgamation in which it limns us and which makes us confuse history with memory” (Choay, 2001, p171).

As a consequence of the mis-matching of these historicist theories of architectural conservation and their introduction into urban conservation endeavours, much urban conservation has appeared to be architectural preservation writ large. In turn, such attempts have provoked conflict and derision, and urban conservation endeavours have increasingly been questioned for their historicism. Most of the case study development projects described in the study, but excluding the KPMG and the earlier NBS projects, have fitted this profile (in varying degrees and in a variety of ways) and, while the projects have been, to a degree, successful when measured against the 'distilled criterion' established early in the study, it is also clear that such success has been in large part incidental to the values and endeavours of most of the key actors in each case. Certainly, the older historicist members of Cape Town's urban governance regime have frequently been critical of urban conservation endeavours: for example, Revel Fox, who has played a central role in conservation successes in Cape Town over the past three decades, has frequently in recent years in CIA Heritage Committee meetings and in City Council Planning Committee meetings railed against the controls which appear, to him and to many others, to be toothless and ineffectual.

On the other hand, the fourth approach, that of *critical conservation*, has been shown to be readily adaptable to *urban* conservation practice. Indeed, the principle characteristics of critical conservation seem to be designed for both architectural *and* for urban conservation. This approach has a methodology that, first, focuses on analysing and identifying the *significance* of the building and/or the environs and, then, in a creative act, integrates the old pre-existing conservation-worthy buildings and/or elements of the environs and the new architectural and/or urban components into a revitalised but completely new unity. This method respects the significance of the pre-existing, gives it new vigour *and* sustains the demands of modernism and current life (Bonelli, 1959). Four of the case studies could be described as following this approach regarding the conservation-worthy fabric on the site and, more particularly, regarding the texture, grain and scale of the townscape and, most particularly, regarding the city as a living and functioning organism. Each of the four has done this in a different way: the very large NBS building, threaded in between the surrounding buildings, carefully responded in shape and scale (faceted and broken) to its neighbours and to the nearby Greenmarket Square, to the grain and functioning of the precinct, and is unashamedly modern, a corporate statement clad in shiny stone; the very large *Protea* extension also responded carefully to its abutting buildings and its surrounds, but in a subtle, inventive and appropriately derivative architectural language (even pastiche); the small KPMG addition, by virtue of its scale, position and its 'high tech' yacht-like construction, floats above its parent building and its neighbours, enlivening the precinct; and the *Park-on-Long* parking garage, responding very carefully to the grain and functioning of the precinct, transforms and knits together its neighbours, giving them all new economic viability by providing them each with parking (one of the adjoining buildings now uses the Park-on-Long entrance as *its* entrance and it and two others have direct access to the floors of Park-on-Long that accommodate *their* parking. Indeed, it truly revitalises the block and the precinct.

We can conclude, therefore, from the case studies and from the endeavours of the urban governance regime throughout the past 25 years, that there have been two separate debates *about urban conservation* conducted within conservation and

architectural circles in Cape Town:

The first debate has taken place in those instances in which the urban governance regime has focussed on the development project as an *architectural* conservation project. In such cases, the study has shown how the differences and periodic conflict between the older establishment wing favouring an *historical and/or stylistic conservation approach* and the younger more modern wing favouring a *conservation of the building-as-document approach* has bedevilled the process and, in several cases, led to the failure of the project in narrowly architectural conservation terms. The historical/stylistic restoration approach predominated until the late-1980s when the conservation of the building-as-document approach gained ground; and this building-as-document approach has steadily gained ground during the 1990s. The historicism common to both approaches has, however, enabled the periodical recovery of this historical/stylistic restoration approach. This is not only because in Cape Town the older more influential establishment wing of the regime holds to this view, but because, as both Lowenthal (1992, pp189-90) and Whitehand (1992, p208) have pointed out, the man-in-the-street is not persuaded by the "academic" notion that only buildings comprised of authentic "original" material can be conservation-worthy and he/she is not disturbed by "fakes". This was demonstrated most clearly in the 1989 "dakkamer huis" project in Kloof Street and in the 1997 Heritage Square projects, which both relied on hypothetical reconstructions. It appears, then, that there is something of a stand-off between the two historicist approaches: the *historical/stylistic approach* reliant on appearances is preferred by an older conservative wing and by the man (and woman) in the street; and the *building as document approach*, reliant on authenticity of material, is preferred by a more modern wing and by the international conservation community. These two approaches are usually equally inappropriate in their pure or doctrinal forms in the context of vital living cities.

A second debate, sometimes over-lapping with the first, has arisen in those instances in which the scrutiny and negotiation process has focussed on the development project as an integral part of its precinct and its contribution to the revitalisation of the city itself: in these cases, the question has been whether the primary contribution of the *project* was *architectural* or *urban*. In those cases where the site included buildings identified as conservation-worthy, even if of relatively low significance, it is clear that the historicism embedded within both the historical/stylistic and the building-as-document approaches has blurred the issues, and the debate has often been confused, with proponents of conflicting views applying quite different sets of criteria. In this study, the Heritage Square dispute best demonstrates this confusion: the two groups of historicists debated the choice between the 'authentic' *appearance* of the buildings based reliably on photographic evidence and the preservation of the 'authentic' *material* of the historically layered buildings, while a third group promoted the imaginative re-use and remodelling of the existing buildings, proposing to add a new modernist layer, adding to the palimpsest. In those projects where the site did not contain any buildings of great significance, the majority of the urban regime, the architects, in particular, were inclined to respond positively and supportively to proposals to build modern buildings, on condition only that the proposal respect the scale of the environs and contribute to the grain, texture and functioning of the city.

We can conclude, therefore, that there has been considerable divergence in the underlying intentions of the proponents and the administrators of policy and its implementation in Cape Town during the past 25 years. Given the history of architectural and urban conservation theory and practice, this should not be surprising.

8.4 Urban Conservation Controls in Cape Town and the Criteria for Measuring Their Efficacy

Although distinctly *urban* conservation laws were first created in the 1960s (for example, the Loi Malraux in 1962 in France, the Civic Amenities Act in 1967 in Britain, and the regulatory plans of the large Italian cities in the early 1960s), the necessary clarity regarding what we really intend by urban conservation, what the practicalities of townscape management are and how we see our cities and city life, has not yet been developed anywhere. This conclusion has been reiterated for decades: for example, by Worskett in 1982 (pp151-161), by Whitehand in 1992 (pp201-214) and by Larkham in 1996 (pp251-252). The need to redefine our way of seeing the historic town and townscape, the vital alive and economically sustainable city, the need to develop a philosophical position regarding its conservation that is consistent with that new definition of the city and that, most importantly, accommodates change, growth and invention, and the need to demonstrate practical applications of such a new perception and philosophical position is widely recognised; and in Cape Town the key actors in development have wrestled with these same questions, if relatively inarticulately, for the past two and a half decades.

Although there has been very little difference of opinion between the key actors involved in conservation-oriented development and control regarding the *identification* of these buildings and environments, there has been incomplete identification of the *character* of the environments ("character appraisals") being conserved in Cape Town. It appears, implicitly at least, that 'character' has not been an important concept in urban conservation in Cape Town during the past three decades. Indeed, the provision of the Zoning Scheme that creates the power to control development in declared conservation areas refers specifically to the "architectural, aesthetic and/or historical *significance*, as the case may be, of the area" rather than to *character* (and has since first proposed in 1979). The *contribution* of individual buildings to *fine* groupings, *fine* settings, squares or spaces of *significance* is, however, a factor that has explicitly been taken account of since the production of the first Catalogue during the late-1970s and its publication in 1978 (CPIA, 1978, p43). It has, therefore, been explicit since 1978 that *architectural and/or townscape excellence*, rather than "historical" or existing *character*, is and has been the primary underpinning factor establishing *significance* in Cape Town.

The reason for preferring the term 'significance' in favour of 'character' has also been referred to throughout the study: this is that the very considerable development rights created by the Zoning Scheme imply a gradual, inexorable and irresistible change in the character of the city. Indeed, it was self-evident to the architects and planning officials in the City Council who worked in the late 1970s and 1980s on the creation of the conservation area provision in the Zoning Scheme that *the city's significance could and should be preserved*, but that its character could not. On the other hand, it is clear, too, that the leading proponents of conservation in the conservation-oriented urban governance regime in the 1970s and 1980s implicitly intended or expected to *preserve*

both the matter and character of the historical city, the West City, in particular.

We have gradually exposed the most important reasons for many of the conflicts and confusions between conservationists, between architects, between administrators, between makers and users of the city: in essence, these are differences of intention and expectation about the *object* of urban conservation endeavours. On one hand are those who see an urban townscape, with a texture of a particular image and character comprised of innumerable ancient buildings, themselves comprised of ancient fabric which together create that image, that character; on the other are those who see an ever-changing urban organism, constantly renewing itself, always the same great tree, but always changing, always growing, always growing older and richer.

But, while the reasons for the conflicts may be revealed, we do not expect that resolution should follow. But the arguments for a particular course of action, for one set of criteria rather than another, are rather more clear now. So, if we return to Chapter 1, the apparently hastily motivated 'distilled criterion' seems now to have a rather more firm basis: this is because Cape Town is a relatively new and unevenly developed city, because very considerable property rights exist, because the regional economy demands growth and development, and because significance rather than character is or should be the primary goal of urban conservation-oriented endeavours here. The congruence of these several factors has meant that there has always been an intellectual undercurrent in Cape Town that both implicitly and explicitly favoured ideas about conservation that incorporated growth and creativity; and this 'distilled criterion', adopted from and based on the core ideas underpinning the critical conservation approach, on the Nara Document on Authenticity and on an 'environmental' rather than 'monumental' approach to the urban environment, has a ready and natural place in conservation-oriented control of development in Cape Town.

The 'distilled criterion', "*the authenticated (proven through proper research) authentic conservation-worthy fabric of the buildings, the texture, grain and scale of the townscape, and the people-oriented functioning of the urban environment should, at least, be conserved if not enriched and enhanced by each endeavour/intervention in and on the city*", is very much reliant on these several sets of values (or criteria) and on the environmental and intellectual contexts outlined in the study. It is not argued here that this criterion is or should be applicable or generalisable to other circumstances (though it may well be). Indeed, Yin has pointed out that although case study research yields conclusions that are specific to the case, the conclusions drawn from a particular case can be used to generate propositions that can be tested in other circumstances (Yin, 1994, p36).

In the previous chapter this criterion was used to evaluate the success or otherwise of the processes and outcomes generated by the controls during the period from 1986 to 2000 and, although there had been and there remain considerable difference of opinion about some of the outcomes, I was able to show that the controls had, almost despite themselves and their often questionable administration, been singularly and unexpectedly successful in almost every case. We can conclude, therefore, that the system itself, notwithstanding its many faults and inadequacies, has been effective, at least in the city centre during the period 1986 to 2000.

8.5 Cape Town's Conservation-Oriented Urban Governance Regime

Interestingly, because this was not an issue or question asked at the outset, a conclusion that can be drawn from the study with confidence is that in Cape Town, contrary to Peter Larkham's assertion that "indirect agents have little visible effect upon the form of development" (Larkham, 1996, p138), the conservation officials, planning officials, the planning committees and agencies from civil society like the Cape Institute of Architects' Heritage Committee and the Simon van der Stel Foundation have had and continue to have a very considerable and beneficial impact on the shape, form and character of development. Larkham's conclusion is, perhaps, more likely to be correct in those circumstances in which networks between like-minded conservation-interested groups do not enable them to be effective except in isolated cases, and it has been suggested that urban regime formation is difficult in the "context of centralised and sectoralised government", as in Britain (see Healey *et al*, 2002, p19). It is, however, clear that an increasingly effective conservation-oriented urban governance regime had been established in Cape Town by the mid-1970s, and that this regime has had a very considerable effect in setting policy, pressurising the authorities, and contributing to development control outcomes ever since.

The regime's most significant accomplishments have included the Catalogues (CPIA, 1978 and 1984), which were to be the basis of all the conservation-oriented endeavours and successes in the following years. Those successes included the creation in 1979 of the West City Action Area, intended to become a preserved quarter of the old city; the associated redesign of the Buitengracht freeway scheme at ground level in 1979; the first proposals, also in 1979, to create a provision in the town planning scheme enabling conservation area controls; the successful public controversies ("successful" in that the proposals were dropped or significantly amended) over the visual impact of the Sanlam proposals on Greenmarket Square in 1981-82, over the tentative proposals to put parking under Greenmarket Square in mid-1988, and over the visual impact of The Terraces on the Lutheran Church in late-1988; the pedestrianisation of much of the central "heart of the city" precinct from 1986; the creation of the Cape Town Heritage Trust in 1988; the eventual inclusion of the conservation area controls in the new zoning scheme in 1990 and the phased designation of approximately 40 conservation areas throughout the historical city, culminating in the designation of the entire historic city centre as a single consolidated conservation area in 1997; and the completion of the Heritage Square project at the heart of the West City in 1998.

However, the effectiveness of the urban governance regime was not always as clear-cut as it has been since 1997 when the entire historic city centre was designated as a conservation area. A property owning progrowth regime was influential until about 1990 when the conservation area provision was finally included in the Zoning Scheme. It is also quite clear that there has periodically been considerable difference of opinion within the architectural profession regarding conservation controls: during the 15 years from late-1983 to late-1998, five presidents of the Cape Institute of Architects (at the helm for 11 years, usually for two years each) were pro-conservation, but the Institute of Architects is not a body with an intrinsic or natural tendency to favour growth management strategies or policies. Indeed, in general architects are, by temperament and training, inclined to favour development. These differences were manifest most

clearly at the height of the Sanlam controversy when, in the face of very considerable professional and public support for the protection of the finest public space in the city in early 1982, the leader of the student group circulating the petition was invited to a meeting at the offices of the Institute where it was suggested by a group of four senior architects, including two past-presidents of the Institute, that he should adopt a more moderate stance *vis a vis* the proposals (Etienne Bruwer, personal communication, 18/10/2002).

Indeed, it is quite clear that the conservation-oriented urban regime has been increasingly effective within the fairly narrow confines of its agenda since 1975, first enunciated with considerable prescience in the *City for the People* report (CCC, 1875) by Jalmer Rudner in the last act of Solly Morris's lengthy and largely destructive career (*vis a vis* the environment) as City Engineer. It does also appear that the influence of the regime, consistent with public opinion regarding the city centre, has inhibited (if belatedly) even the state in its various forms in that the last of the seven buildings so destructive of the grain and scale of the city discussed earlier was completed in 1983.

A number of theorists and researchers have criticised urban regime formation for being "un-democratic", condoning the development of "more or less formal ways in which privileged groups, usually from the business sector, are able to influence how public agendas are set" (Healey *et al*, 2002, p13). These criticisms centre around three issues: first, the issue of transparency, as such forms of governance are not open and because decisions take place in private; second, the issue of accountability, because these forums are accountable only to their own constituents; and third, the issue of membership, because regimes naturally exclude groups with different interests. Flyvbjerg describes precisely this attack on democracy by Aalborg's "Machiavellian Princes" in his 1998 *Rationality and Power: Democracy in Practice*, and he argues:

"(T)he policy studies literature is replete with examples of failed policies, confused administration, and unbalanced planning... (and that) 'The description of what went wrong and why contains many elements familiar to anyone who works with planning in practice'" (1998, pp225-6).

This study, set in Cape Town, has described the process of formulating and reformulating a public policy over many years and its over-lapping implementation through the realisation of some of its projects. While the study has not identified any "Machiavellian Princes" in Cape Town's conservation community (or certainly none devious or manipulative enough to be described as such), it has shown how the growth management agenda of this urban regime has been pursued in the interest of the community at large. Indeed, the study could be described as a confirmation of much of Flyvbjerg's critique, *but with a positive outcome*: the widely held and publicly approved objectives of the conservation and enhancement of the historical city centre of Cape Town have been and continue to be pursued and realised. In other words, while urban regimes *may* work against democratically established public policy, they can also do precisely the opposite and work *for* the greater good.

8.6 Future Research and Work

This account and analysis have, I hope, given a clear explanation of the legal and administrative system and how it has attempted to sustain a balance between public

and private influence in development in conservation-worthy environments in Cape Town during the period between c1975 and 2000. Although the new National Heritage Resources Act, which came into effect in April 2000, is significantly different from the previous much amended National Monuments Act of 1969 in that it creates a very different administrative structure and considerably more power for the heritage authorities to require research and impact assessments, the same range of actors will have to wrestle with the same range of issues and potential for conflict.

The study has also identified or confirmed a number of issues and questions that require research and resolution. These include:

- A clearer vision of what urban conservation objectives are, or should be, in both the city centre and elsewhere in Cape Town;
- The design of a process for developing a 'sufficient consensus' between the authorities and an appropriate range of parties from civil society regarding this vision;
- A clearer statement of the kinds of significance, the degrees of significance and the impact of such significance on development potentials and rights in Cape Town, both in the city centre and elsewhere;
- The design and installation of a system for the monitoring and evaluation of both individual projects and of the development control system as the implementation of public policy;
- An analysis of the appropriate skills and training necessary for officials in conservation-oriented development control and for other professionals involved in townscape and conservation-related management; and for the conservation-oriented urban regime and the conservation lobby more generally to pursue the establishment of such training at the universities and/or technical colleges.

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APPENDIX 1: RESEARCH METHODS

This study is a case study, and it has made use of an adaption of the case study method: this is the well-tried development control case study methodology which is a form of the multiple-case method. The case being examined here is the functioning of urban conservation controls in the city centre of Cape Town during the period 1986 - 2000. This Appendix is intended to clearly articulate the primary or central research questions, to justify the use of the case study approach, to explain the choices made in selecting the case and in designing the multiple-case study and the attitudinal study, to give a brief description of the sources of information, to describe the procedures and processes followed in the multiple-case study research leading, ultimately, to the thesis, and to demonstrate the study's *construct validity*, *internal validity*, *external validity* and *reliability* (Yin's criteria for judging research, 1994, pp32-38).

Central Research Questions

The primary endeavour in this study is to analyse the workings of the mechanisms used in the imposition of urban conservation-oriented constraints and to evaluate their efficacy; the secondary, but directly related endeavour, is to explore the effect of these mechanisms on development rights.

In brief, the study sets out to explore the themes "conservation constraints" and "development rights" and their relationship so that, ultimately, conclusions regarding the efficacy of the conservation-oriented controls can be drawn. In order to do this the following questions are examined: one, whether the approach to or theory of conservation adopted or demanded by the authorities and/or other key role-players is appropriate or not; two, whether the development rights in the city centre are appropriate or not; three, what the impact of the demands of the authorities on the development rights is; four, whether the significance or conservation-worthiness of the buildings, sites and environments being affected by each proposed project has been completely/adequately identified or not; and five, whether the authorities are capable or efficient. The ultimate question regards the efficacy of the controls in conserving the significance of conservation-worthy buildings, sites and the urban landscape.

The Classical Development Control Case Study Method

The development control case study methodology combines a reading of the local authority's case files of a relatively small number of projects with an intimate and detailed study of the applicable law and policy, and informed by interviews with a limited selection of the key actors. This method has been used to examine the implementation of policy in practice, as in Booth's work on certainty and discretion in decision-making (1987, 1989 and 1996), in Punter's on design control in Reading and Bristol (1985 and 1990 respectively), and by the urban morphologists to measure change in the English townscape, but using a variation of this method which excludes the development project case studies but includes a more detailed analysis of the physical environment and surveys (Conzen, 1966; Whitehand, 1984 and 1992; Freeman, 1986; Larkham, 1986, 1991a and 1991b).

The study, therefore, fits into a tried and tested, and largely British, development control case study research tradition (Booth, 1989, p30). In this method a particular

environment, town or city is presented as an appropriate "laboratory" (Punter's term, 1990, p9) for the study of a particular aspect of planning or development control practice, and a limited number and limited range of project cases that have been processed within a limited period are examined in great detail: for example, one of Punter's earlier studies on design (or "aesthetic") control examined 15 office developments initiated and completed (or in construction) in Reading between 1970 and 1984 (Punter JV an LB, 1984, referred to in Punter, 1985, pp1-9); Curtis's related study of design control in Bristol examined 16 major office developments initiated or completed between 1981 and 1986 (Curtis, 1985; Punter, 1990, p10); Booth's study of discretion and certainty in decision-making examined seven developments of varied type in various environs within the Lyon region that were approved within a year, April 1985 - April 1986 (Booth, 1989, pp33-37); and Loew's study of the process of approval of buildings in historic areas in France examined 13 projects in rather less detail (Loew, 1995, pp95-144). This study includes ten developments within the city centre of Cape Town which were scrutinised and approved between 1985 and 2000.

In this context, Stake's remark that "case study is not a methodological choice, but a choice of object to be studied" (1998, p86) is significant; and he emphasises that the although the case may be interesting in itself, there is "always another agenda - to learn from the case about some class of things" (Perkin, 1986, quoted from Stake, 1998, p88).

The Design of the Multiple-Case Study

The research method devised for this study combines the multiple-case methodology of the classic development control case study which has been developed over decades in Britain with that of a qualitative survey, an Attitudinal Survey, which will be described in the following section.

This study attempts to overcome the intrinsic problems of the case study method by being rooted, even revelling, in the realities of the insider position of the researcher and the detailed examination of the attitudes and the roles played by the key actors in the case study development projects who were all interviewed. A large number of them were also insiders themselves in the real object of study, that is, the conduct and practice of urban conservation-oriented development control in Cape Town. That the study, by an insider, is of the expectations and the actions of a limited number of parties, many of them insiders themselves, within a relatively short period is precisely its strength. This study then, like Punter's 1985 Reading study and his 1990 Bristol study on design control, is designed to describe a unique case in such a way and with such richness of contextual background and of such detail as to enable some limited generalising about conservation-oriented controls in Cape Town at least and in South Africa more generally. As Yin has noted, in many case studies the boundaries between the phenomenon being studied and the context are not clearly evident (Yin, 1994, p13). This is particularly true in development control case studies, both because each development project is profoundly rich in variable aspects and because each aspect is quite so complex. However, although "the purpose of case study is not to represent the world, but to represent the case" (Stake, 1998, p104), instrumental collective case studies such as this can be devised to enable generalised insight into and understanding of particular issues (Stake, 1998, p88).

There are, of course, many potential weaknesses in this particular case study design: Cape Town is different from other South African cities and towns in several senses that are significant; and its city centre is rather different from its own other conservation-worthy environs. The study has been designed so as *to limit some of the significant contextual variables*, for example, topography, townscape, development rights, applicable legislation, key actors, and so to enable as focused a multiple-case study as possible, enabling insights of the greatest possible clarity. In other words, clarity or depth of insight is an underlying goal, rather than breadth or generalisability. Indeed, it is contended that by limiting the contextual variables and limiting the range of cases to be examined, a degree of clarity in the findings is enabled that would otherwise be unattainable.

Also, the very complexity of the *value judgements* made in the day-to-day practice of conservation-oriented development control that are described and analysed in the case studies makes even apparently straight-forward description susceptible to personal bias or preference and, therefore, to inaccuracy. As a result, the recording and analysis of the scrutinies and processes followed in the approvals of each of the case study projects required a special investigative method, namely, the repeated presentation of the draft case study reports to the parties interviewed and the over-lapping of the attitudinal study with the case studies.

The Attitudinal Survey

A parallel survey of the attitudes of the 56 key actors who were involved in the development cases was conducted at the same time as these individuals were interviewed about their roles in the case study development projects. This survey of the attitudes of these key actors regarding several issues identified as significant in the underpinning of conservation-oriented controls is incomplete *by itself*, and it is not intended that this survey stand on its own. It is an exploration of the attitudes of the key actors in these individual cases regarding general questions that are germane and pertinent to the understanding or explanation of their expectations and behaviour during each of the scrutiny and approval processes analysed in the case studies. It is not argued that the findings of this survey suggest any general conclusions, although the temptation is great; and these findings are intended primarily to add richness and depth to the analysis of the case studies. They are not expected to enable descriptions of the group(s) or to enable predictions about their behaviour.

The Choice of Cape Town as a Laboratory

It must, of course, be asked what makes Cape Town an appropriate laboratory (Punter's term, 1990, p9) for the examination of the exercising of conservation-oriented controls?

In essence, it is because of the presence of all the necessary factors for such an examination. The necessary factors referred to here include an environment deemed worthy of protective measures, a well-documented process of identifying the conservation-worthiness of the environs and the elements within it, a mature planning and legal system directed to protect and control development, administrative organs active in such endeavours, proper record-keeping by these administrative organs, and a vigorous and professional development industry. It is also the city in which I have lived

for most of my professional life, that is since 1967 (with some breaks) and, more specifically, where I have worked in the fields of development control and of conservation-oriented control since 1985.

Sources of Information

The sources of information, the data base, for the multiple-case study were the following:

Participant-Observation

I have worked for the Cape Town City Council, one of the authorities responsible for the administration of urban conservation controls in Cape Town, from 1985 until the present which includes the period under examination, that is, from 1986 to 2000; I was a key actor in nine of the ten case study development projects; and I have been active within the Cape Institute of Architects for much of this period¹. I have, therefore, been deeply immersed within the urban governance regime that has played a significant role in the making and implementation of conservation policy in Cape Town during the focal period of the study; and I have clearly been very much a participant. Indeed, in a limited sense, the study could be described as autobiographical.

There are, self-evidently, considerable advantages in being an insider, in particular, in gathering information and in having/gaining insight about the processes and about the internal dynamics of the groups central to the study and, perhaps most importantly, having insight about the "reality" of those engaged within the "case" being studied (Yin, 1994, pp87-88).

The major problems of the participant-observer position of the researcher are the effects of potential biases (Yin, 1994, p89). In this case several of these potential difficulties are mitigated by the process adopted regarding the interviews: each key actor/interviewee was given iterative opportunities to correct, add to or comment on the case studies. It is also true that the events and processes described in the case studies took place over 15 years from 1984 to 1998. In other words, all of the case study development projects had been processed in the relatively recent past; but my role as researcher and interviewer from mid-1999 to late-2002 has been quite distinct from my role as participant in the events described; indeed, the differing roles are reflected in the terms used in referring to myself, variously, in the first person or as "this researcher" or "this interviewer".

Another problem for participant-observers is that identified by Janet Malcolm, the literary critic, who has explored what she calls the "deceit" at the heart of every interview relationship (Malcolm, 1991 and 1994). This difficulty appears to be recognised by most ethnographical researchers as a problem of trust. The deceit is, she argues, concealed within the relationship between the interviewee and the interviewer: the interviewee has a story that he/she wants to tell or is persuaded to tell (it is his/her story or it is a story or subject in which he/she is interested/involved) and who is beguiled into telling it; but

¹ I was elected to the CIA's Main Committee in 1988 and remained on that Committee until 1999; and I chaired its Planning and Environment Committee and then its Heritage Committee for a total of ten years.

the interviewer has no intention of telling the interviewee's story: the interviewer has his/her own story.

"The disparity between what seems to be the intention of the interview as it is taking place and what it actually turns out to have been in aid of always comes as a shock to the subject" (Malcolm, 1991, pp3-4).

For the professional researcher writing from the outside or even briefly from the inside, as a participant-observer, this betrayal is 'just' an inevitable and habitual or routine fact of his/her professional life. For the insider, the permanently and deeply immersed participant intending to remain within the observed group after the completion of the study, the use and/or transformation of others' stories into his/her own must inevitably inhibit criticism that is too direct.

Applicable Legislation

While statutes are not ordinarily categorised in case study methodology as a source of information, the underlying structure or framework for decision-making in development control is, of course, set by the applicable legislation. In the case of the development project cases examined here the most important of these included:

- National Building Regulations and Building Standards Act 103 of 1977
- National Monuments Act 28 of 1969
- War Graves and National Monuments Amendment Act 11 of 1986
- Land Use Planning Ordinance 15 of 1985
- Revised Final Statement of the Proposed Town Planning Scheme, adopted 1964
- Cape Town's Zoning Scheme, 1990

A considerable amount of the detail of these statutes and the consequent administrative processes have to be appreciated before the dynamics of each of the cases can be recognised, studied and understood. There are also many other statutes that have been referred to in the development project case studies and in the thesis: these are listed on page viii.

Applicable Decision-Making Reports and Policy Documents

It is trite that the authorities are "creatures of statute". It is less obvious to most, however, that every action carried out, every decision made, by the authorities or their officials must be made in terms of a law, or a policy that is to guide the authority and its officials in the implementation of that law. In the case of this multiple-case study and this thesis, these include reports that are written by either officials or private consultants engaged by the authorities to investigate a subject and recommend an action or series of actions to be carried out. The authority (or an official who has been delegated to take such decisions) then formally approves such a recommendation(s); and the bureaucracies then carry out those instructions. The most important and most influential of the reports and policies that have directed and informed the actions of the Cape Town City Council and its officials in this regard, that is, in guiding and controlling development, in implementing certain works in the public realm (in this case, in the construction of road infrastructure and in the surfacing, landscaping and use of public streets and squares), are as follows:

- A number of reports by officials and approved by the City Council from 1979 proposing the creation of laws and regulations to enable the urban conservation-oriented control of private development in the city centre;

- A number of reports by officials and/or consultants and approved by the City Council also from 1979 that identified conservation-worthy buildings, sites and environments and proposed their formal protection;
- A number of reports by officials and/or consultants and approved by the City Council from 1975 that proposed the pedestrianisation of much of the city centre's road and public space network, thus transforming the city and the way in which it functioned.

These many reports are listed in the References, all under "Cape Town City Council" (CCC).

Formal Minutes of Meetings and Records of Decisions

Formal minuted records are kept of all formal meetings of the City Council's standing committees. The most significant of the committees referred to in this study has been the Planning Committee (also known as the Urban Planning or Town Planning Committee at different times). These minutes are usually very complete and, in many cases, are close to *verbatim* accounts of the discussion. These minutes are kept in files housed in a variety of locations.

The minutes of the NMC's Plans Committee meetings are in the form of records of decisions, rather than summaries or records of proceedings.

City Council Approved Plans and Their Documentation

The Cape Town City Council has an archive containing all plans approved since 1884 (in practice dispersed to a variety of locations depending on the age of the plan). Each of these plans is kept in an envelope with the documentation of its scrutiny. Such documentation typically includes the following: noting sheets with calculations of floor area, coverage, etc; a complete record of the dates of the processing (this record has also been retained on computer since c1988, although changes in the hardware means this information is currently only available from c 1998); and the notes of officials in the branches including, most importantly in this context, of the Urban Conservation Unit and of the Zoning Administration Section. The approved plans, of course, give all the details of the extent of the proposed works. All approved plans are given a unique (sequential) number which has been given in the text, for example, CCC 451772.

City Council and National Monuments Council Files

Each controversial matter (or significant for some reason or other) is usually given its own file if the property in question does not already have a file. In the case of the City Council records, although much of the documentation may be attached to the plans and be stored in its envelope, controversial matters inevitably generate considerably more correspondence and other documentation which may be filed separately; very often documentation of this sort is held in the archives of several branches, for example, the documentation of The Terraces case, scrutinised in 1988-89, was found in the files of the Building Survey and Town Planning Branches and of the Town Planning Committee Secretariat, and that of the Fed-Life case, scrutinised in 1989-90, was found in the files of the Building Survey, Town Planning and Estates Branches and of the Executive Committee Secretariat.

Personal Notebooks

My own personal notebooks compiled during the period from 1985 to 1998 include notes of meetings, conversations and observations made during the scrutiny of and negotiations regarding seven of the ten development project cases.

Published and Unpublished Annual Reports, Bulletins and Minutes

Published Annual Reports, their Bulletins or Newsletters, and the unpublished Minutes of meetings of organisations like the National Monuments Council, the Cape Institute of Architects and its Heritage Committee, the South African National Society, and of the Simon van der Stel Foundation have all been singularly informative as to the internal dynamics and as to the attitudes and actions of each of these organisations regarding the development projects and related matters.

The weaknesses of minutes, notebooks and the like as a reliable source of information have been raised by other researchers, for example, their availability (retrievability), incompleteness as a set, reporting bias, etc (Yin, 1994, pp80-82). In the cases of the minutes of the monthly meetings of the CIA's Heritage Committee and of the Cape Town Chapter of the Simon van der Stel Foundation, these potential weaknesses can be discounted: I have my own almost complete set of Heritage Committee minutes from 1986 to 2000 (surprisingly, the CIA has not kept this record and their set of Heritage Committee minutes goes back to 1994 only); the Simon van der Stel's record is maintained in the Cape Archives; and reporting bias is reduced (or legitimised) by the practice in both cases of formally adopting the minutes each month, in other words, through the agreement of all of the members of these committees.

Interviews

Almost all of the individuals who had played a role of any significance in the design, scrutiny, negotiation and/or approval of each of the ten development project cases were interviewed: 95 interviews were conducted with 56 individuals (15 were interviewed more than once, in some cases three, four or five times; see Table 4: List of Persons Interviewed and the Development Projects). The people who were interviewed more than once were either officials from the NMC or City Council, or were recognised conservation experts who, because of their expertise, had been employed or consulted in more than one case and/or capacity. Only three people who were asked to be interviewed declined and only five other significant actors in the cases could not be interviewed (due to their demise in two cases, or due to emigration). The categories of interviewees included:

- Officials and Councillors of the City Council;
- Officials and Members of the National Monuments Council and their advisers;
- The property owner(s) or the developer(s) and/or their representatives;
- The project architect(s);
- Other professionals on the development team; and
- Representatives of interested NGOs like the CIA's Heritage Committee and the Simon van der Stel Foundation.

The identification of these key actors was, in all cases, easily determined: because I had, in all cases but one, been a central actor in the processing of each of these projects, I was aware of most of the parties who had played key roles in the processes.

In each case, as I interviewed those parties, I enquired who else should be interviewed; and so ensured that all necessary actors were included. The initial focus was on the officials of the NMC and of the City Council, the developers, the project architects, and members of the CIA's Heritage Committee. This did not change during the 95 interviews, but it did gradually become obvious that the key actors fell into one of only two groups: insiders and outsiders.

The interviews were designed, first, to elicit personally-known details regarding each of the ten project case studies and, second, to establish and explore the attitudes and opinions of the various actors and of the interested and affected parties regarding conservation-oriented development control in Cape Town in general during the past decade and a half. Thus the interviews bridge and connect the intentions of the case studies and of the attitudinal survey.

Research Procedures and the Process Followed

This section will outline the process and the steps taken in the research, in compiling the multiple-case study document, in deriving findings from the attitudinal study, in evaluating the efficacy of the controls, and in writing the final report, that is, the dissertation itself. These processes were not, of course, carried out and completed in separate and discrete steps or sequentially. Indeed, many of these processes mutually informed each other throughout the period of the study. The identifiable processes were the following:

A Review of the Relevant Literatures

In practice, the first step of any study is a literature review; it is also the only step or process that continues throughout the study. The subject of this study, the workings of urban conservation-oriented control of development, crosses three distinct but related disciplines: one, physical planning and its hand-maiden, development control (also known as land use management); two, urban conservation or townscape management; and, three, architectural conservation theory. The literatures of these three disciplines are quite distinct; and they are wide-ranging.

There is a very considerable literature on development control that has explored a large number of subjects and aspects of the discipline. These range from development rights, the effectiveness of zoning in the control of development, design or "aesthetic" control, negotiating agreements, the effects of delay, discretion and flexibility in decision-making, appeals against decisions, and the implementation of planning policy through the control of development. This review of the development control literature demonstrated the distance between the practice-based work of researchers working in development control and the value-based explorations of those working in the fields of architectural and urban conservation. The development control literature did also reveal the parallel or similar interests of those researchers and of administrators like me. Certainly Punter's very detailed studies of the exercising of design control in Reading between 1954 and 1984 (Punter, 1985) and in Bristol between 1940 and 1990 (Punter, 1990), and Booth's explorations into the relationship between discretion and certainty, between flexibility and accountability, in decision-making, were particularly revealing of the issues that had to be explored in my own study.

There is also a very considerable literature on the planning and management of urban conservation areas; and there is a great deal known about the process of designating conservation areas, the effects of public participation, the proliferation of these areas and the consequent change in the intent and management of these areas, and the relationship between conservation area management and tourism planning; and we must include in this literature the extensive, often rich in its rhetoric, criticism of these controls found particularly in the professional planning and architectural periodicals.

There is an older and even more extensive literature of the ideas and theories of architectural and urban conservation: this literature includes discussion of the history of restoration, polemic about theories, practices and principles, the history of the international charters, debate about principles internal to the subject like authenticity, the relationship between architecture and conservation, and the development of these ideas into the 20th century concept of urban conservation. This literature is centuries old and extends into, often relying on, other disciplines like the parallel activities of art restoration and conservation, museology, art and architectural criticism. This review of the architectural conservation literature enabled a clear articulation of the values and positions held by the protagonists in the centuries-long (even millennia-long) debates about conservation intentions and achievements, and the extension of these ideas into urban conservation. In essence, this literature enabled an exploration of the underlying intentions and pretensions of the now approved public policy of urban conservation, both in general and in Cape Town specifically. This review also enabled me to articulate a set of criteria, both based on precedent and personal, that would be used for the evaluation of practice and of the case study projects.

With regard to the methodology adopted, Punter's multiple-case case studies of Reading and Bristol were also immediately apparent as *exemplars* of the multiple-case case study methodology: indeed, the very exhaustive nature of these two studies were inspiring, but could clearly not be emulated in a doctoral dissertation (both were reliant on earlier funded studies). Both Booth's and Loew's doctoral dissertations (of 1989 and 1995 respectively), exploring aspects of development control practice, also adopted multiple-case case study methodologies, but of realisable proportions: and were clearly good examples of the sort of multiple-case exploration in which I was to be engaged. Yin (1994), Denzin (1989) and Stake (1998) were all helpful in developing insight from a sociological perspective about the protocols of case study research.

The Selection of the Development Project Cases

The selection of the ten development project cases studied relied on the following criteria: the single most important requisite was that each case have a significant conservation component and be, at least potentially, controversial; it was the intention at the outset to reduce the number and extent of the variables as much as possible; all the cases had to have been scrutinised by both the City Council's Urban Conservation Unit and by the National Monuments Council; all of the cases (with one exception, discussed below) were scrutinised and approved within one legislative regime; all the cases are within the city centre or on its immediate fringes where the development rights are generous; all of the cases are commercial projects, that is, all the cases contain a mix of retail, office and parking (residential projects were specifically excluded because quite different rights and dynamics pertain); and all of the cases were

completed, that is, scrutinised, negotiated, approved and constructed, thus enabling an assessment of *every* phase of the developments that make up the environment (projects not ultimately constructed were, therefore, excluded).

In order to satisfy the requirement that all cases be scrutinised and approved within the constraints of the same legislative regime, all of the development project cases studied were processed during the "life" of the final form of the National Monuments Act of 1969. The last of the numerous amendments to this Act, promulgated in January of 1986, created the provision known as the "historical sites" clause (NM Act, Section 12(2A)(f)). This provision required the scrutiny by the NMC of any proposal to demolish or alter any building more than 50 years old. It was this provision, more than any other, that enabled the NMC to intervene in and take part in urban conservation-oriented control at the local level. One exception, the earliest, the Natal Building Society Building (NBS), was processed during 1983 and 1984 and approved in 1985. This case was included because the site had, in 1981-82, been the site of what was the most significant conservation-related controversy in Cape Town's history, the Sanlam controversy. Given this furore and because the new NBS building was ultimately approved with relatively little fuss, it appeared at the outset that this case should be examined in detail; hence its inclusion. However, although it was included in the multiple-case study and the opinions of its key actors are included in the Attitudinal Survey, it has not been described in the thesis itself as a *case study*. The thesis does, therefore, deal with nine development project cases only (Chapter 6) and discussion of the NBS case is included in the chapter on planning and conservation in the city centre (Chapter 5).

Notwithstanding the intention to have cases that had been scrutinised under a single legislative regime, I must concede that there were two significant variations in the applicable controls during this period: the first variation was a consequence of the ongoing identification and designation of a number of conservation areas within the city centre by the City Council during this period. The history of the *designation* of conservation areas in the city centre commences in 1979 and concludes in 1997 with the designation of the entire city centre as one single consolidated conservation area (this history is described in detail in Chapter 5). While it was initially feared that this variation in the legal constraints might introduce variables that would be difficult to evaluate, it has proved to be a factor that *explains* variations in attitude and behaviour rather than raising new questions. The second variation in law was the introduction, in 1993, of the interim Constitution and then, in 1996, the final Constitution. However, these, otherwise profoundly significant, laws had no effect at all on the *administration* of development control in the city centre of Cape Town because the Constitution specifically protects property rights.

Given these criteria for the selection of the case study projects, there was, in fact, effectively no selection necessary. The ten projects ultimately selected were the *only* projects of any size that satisfied *all of the criteria for selection* (excluding the NBS). A number of projects initially considered were excluded because they had not (yet) been constructed, were too far outside the city centre and did not have significant rights, or because once the significant buildings on the site had been demolished there was no conservation-related concern. Also, buildings disposed of by the City Council subject

to conservation-oriented restrictions were excluded because the central issue of *property rights* had been removed as a factor (this applied to the Heritage Square project too, but it was included because of its scale and because it demonstrated the differences *within* the conservation lobby rather more clearly than any other).

It had initially been intended that the cases would *all* have been sufficiently controversial to have attracted public attention and controversy: it appears, however, that in the city centre, the extent of the existing development rights and the depth of established policy has in large part described parameters for development that were economically feasible and which the authorities would permit. As a consequence, developers have been able to steer away from *public* controversy. It is also apparent that the periodical controversies that have arisen in Cape Town during the past two and a half decades have dissuaded most developers from controversial proposals. Accordingly, the key actors in the cases selected were the authorities and their officials, representatives of property owners or developers, professionals from the development teams (including architects, engineers, archaeologists, etc), and *relatively few representatives* of the public interest.

The Conduct of the Multiple-Case Study Research

The ten development project case studies were conducted as follows:

Each of the ten projects was first researched using the wide range of documentary sources described above including Cape Town City Council departmental reports, committee minutes, file documentation, approved plans and their documentation, the National Monuments Council's files, the minutes of the Cape Institute of Architects' Heritage Committee, my own personal note books, and any available published research and commentary including newspaper articles and periodicals on architecture and building.

On the basis of this research, the plan approval process and the building finally completed of each of the ten projects was described in some detail in a Draft Outline of each project.

The Draft Outline of each of the projects was then sent to each of the actors and interested/affected parties involved in each project. They were also given the List of Questions that would be asked in the interview.

Each of these parties was then approached and interviewed separately.

The interviews were structured by a List of Questions that had been given to the interviewees in advance (the List of Questions is attached as Appendix 2). Because some of the cases had been scrutinised and approved as many as 15 years earlier the interviewees were asked to read the Draft Outline in advance to have their memories pricked and their recall and opinions of their parts in the process challenged. The List was structured to enable the interviewees to see the relationship between the Draft Outlines and the Questions. It bears mentioning that the sections of the Draft Outlines assessing the roles played by the various parties and the sections assessing the success or otherwise of the completed projects were, in several cases, deliberately

written in a way designed to provoke at least some of the parties. In all such cases the parties responded as anticipated and gave full motivations for choices and actions that might otherwise have been glossed over.

Notwithstanding these challenging descriptions, not one interviewee thought that any of the Draft Outlines had been significantly wrong, inadequate or had serious omissions. The first interview of each person lasted between one and two-and-a-half hours. Subsequent interviews were shorter because the general questions designed to explore their attitudes did not need to be asked; and these subsequent interviews lasted between thirty minutes and an hour. All interviews were conducted by me in person.

First, the general questions were asked which were devised to explore the opinions, expectations and attitudes of the interviewees *vis a vis* the existing system of development rights and the scale of those rights in the city centre, their opinions of the objectives and success (or otherwise) of conservation-oriented controls generally, their opinions of the system of identification of conservation-worthiness currently in place, their opinions of the benefits of conservation generally, etc. These many and lengthy interviews have enabled the identification and description of the attitudes and opinions of this relatively small but very significant sample regarding the issues described above.

Second, in each development project an average of ten (between five, the NBS, and fourteen, Heritage Square) parties were interviewed regarding each project. The questions asked about each project followed or paralleled the general questions, so that the general questions asked were enlarged on or explored further through parallel questions relating to each individual case study. For example, the general question, "what do you think about property rights in general and more particularly in the city centre?" was followed by "what is your opinion of the rights attached to this property?". In other words, the answers regarding each individual case tested or enlarged on the answers regarding the general.

The Questions were aimed at eliciting the following:

- Opinions regarding the system of property rights generally, the existing property rights in the city centre generally; and specifically the rights attached to each the project site in question;
- Opinions regarding the identification of conservation-worthiness of the buildings and environs of the city centre; and opinions regarding the conservation-worthiness of any existing buildings on or adjacent to the project site and of the immediate environs;
- The interviewees' understanding of the existing zoning rights/restrictions in the case of the project under discussion and their opinions of the administration/enforcement of these controls, including the application of any planning policies;
- Opinions regarding conservation-oriented controls generally, both with regard to individual buildings and sites (usually implying both preservation measures and aesthetic controls) and to the urban environment itself (implying aesthetic controls and, more importantly, limitations to the bulk of new buildings); and the interviewees' understanding of the conservation-oriented controls that could be brought to bear in each case; and their opinions as to the appropriateness (or otherwise) of the way in which both the City Council and the National

- Monuments Council had administered the controls;
- Opinions as to the efficacy of any negotiations and pressure brought to bear by the authorities or other parties in order to persuade the developer to amend the initial development proposal and their opinions as to whether the changes were significant improvements in conservation and/or aesthetic terms;
- The cost to the developer of this "interference";
- Opinions as to the success or otherwise of the building ultimately completed, the contribution of the controls to that success (or otherwise), the possibility that, with different management by the authorities, greater improvements could have been attained; and
- Opinions regarding the benefits of conservation-oriented controls in general.

The interviews were not tape-recorded and all responses were noted in long-hand (an example of the List of Questions with my notes of the responses of a key actor is included as Appendix 3). The 95 interviews were conducted between September 2000 and October 2001; the first 20 interviews, in the Pilot Study (see below), were conducted between September and November of 2000.

Subsequent to the interviews, each of the Draft Outlines was revised to incorporate the memories, opinions and arguments of each of the key actors interviewed. In many cases additional documentary research was also conducted, in some cases as a result of discussions in the interviews. The Amended Case Study Reports were completed as the interviews for each case were completed; and the last of the reports was completed in October 2001.

These Amended Case Study Reports were then returned to each of the interviewees and their corrections and/or further opinions requested. It is significant that all of the interviewees who responded confirmed that they found the Amended Case Study Report to be correct and to incorporate their views on both the process leading to the approval, their opinions of the authorities' performance and on the success or otherwise of the completed building. Those parties who did not explicitly validate the Amended Reports were assumed to have accepted the conclusions. Indeed, the letter soliciting their opinions and attached to the Amended Report said that if the interviewee did not respond within three weeks, it would be assumed that they were "happy with the description of the process and the project".

Once the Amended Reports had been "validated" in this way by the interviewees, they were then finalised and will be bound together with appropriate illustrations into a single document which will be available in the Built Environment Section of the Library of the University of Cape Town and in the Reference Library of the Cape Town City Council.

The data of the Attitudinal Survey, derived from the expressed attitudes and opinions of the interviewees *vis a vis* the more general questions relating to their opinions regarding development rights and conservation constraints, was evaluated separately so as to establish a general picture (or pictures) of the views held by the interviewees *vis a vis* development rights and conservation constraints. The Findings of this survey are incorporated in Chapter 4 of the thesis.

The Pilot Study

A Pilot Study consisting of two projects was conducted during September to October 2000 before work on the bulk of the cases was started. The two projects were The Terraces and the Park-on-Long projects, scrutinised and approved in 1988-89 and 1997-98 respectively. Ten key actors were interviewed in each of these two pilot cases, although additional actors were interviewed later in both cases. Some difficulty in separating opinions on related aspects was experienced and, as a consequence, the Outline was re-ordered and the List of Questions was re-ordered and several of the questions were rephrased. None of these changes was significant. Also, an additional question regarding the benefits of conservation was added (this question was put telephonically to all those interviewees who were not being re-interviewed).

The Organisation and Writing of the Dissertation

It has already been noted that in case studies the boundaries between the phenomenon being studied and the context are not always clearly evident (Yin, 1994, p13). This is particularly true in multiple-case development control studies, both because each development is profoundly rich in variable aspects, because each such aspect is quite so complex; and because each group of key actors engages in each case with such divergent intentions. As a consequence, a relatively large amount of contextualizing material has been included in the dissertation.

Indeed, it is essential to describe certain of the component fields in the context in considerable detail so that the attitudes of the participants, the administrative processes of the controls, and the findings the survey and of the multiple-case study can be interpreted and understood. Indeed, it is contended that the usefulness of the research and its conclusions will, in large part, be determined by the depth and richness of the contextualising detail underpinning the core of the study, that is, the account of the actual workings of the conservation-oriented controls themselves in the ten case studies. These aspects of the context, the intellectual, legal, institutional and physical contexts, are not written as "histories" or as the stories of the development of each such aspect, but my intention has been to present the relevant detail of the primary components of the context of each set of interactions in each case study of the workings of the controls in a series of contextual studies or "archaeologies".

The first of these contextual studies is an 'archaeology' of the approaches and theories of architectural (or monument) conservation and of the development of the related ideas and practices of urban (or townscape) conservation. The first part of this 'archaeology' is "in search of origins but not of history" (Choay, 2001, p6) of the development of the ideas and theories of conservation. The second part, which deals with the ideas underpinning urban conservation, does seek to make some contribution to the understanding of this development. These discursive pieces have been included in the study because of the particularly contentious and conflictual nature of the judgements that must be made in conservation-oriented control. In conservation practice today, the often mutually exclusive ideas in this intellectual background are re-made or revisited; and are, therefore, an important part of the background to every proposal, disagreement and decision. The correctness of this assumption has been demonstrated by the finding in the Attitudinal Survey that 92% of the architects engaged by developers in Cape Town are concerned about the approach to conservation adopted

or demanded by the authorities. Such judgements are a particular form of aesthetic decision (Eaton, 1988) and are notorious for the accompanying controversy and conflict. Indeed, the history of conservation can be described as a history of controversy about the aesthetic decisions made regarding the protection and/or the re-use of certain significant cultural symbols. Given Renato Bonelli's dictum that conservation is historical criticism in action, this should not be surprising (Bonelli, 1959).

For the same reasons, the main streams in conservation theory in South Africa (such as is expressed) and practice in Cape Town also needs to be described. However, because the ideas and theories underpinning conservation practice have not often been particularly rigorously or clearly articulated in South Africa (see Townsend, 2000), this has been accomplished in this dissertation through architects' accounts and explanations of the restoration works and conservation endeavours themselves; and these accounts have been woven into the chapter dealing with the development of Cape Town's city centre and changing values in this regard. Even though conservation theory may not be rigorously articulated in South Africa, because precisely half of the key actors involved in the case studies are insiders within the conservation lobby, the repeated occurrence of similar conflicts underlines the necessity of including these incidents as contextual background.

The second contextual aspect that requires careful and detailed description is the system of laws regulating development in South Africa, in particular those laws that enable conservation-oriented control, and that establish and empower the agencies of the state whose responsibility it is to effect and administer these controls. This chapter (Chapter 3) relied in some part on the reading and comment of several ex-officials of both the then National Monuments Council and of the City Council's Urban Conservation Unit.

Directly related to and reliant on this earlier chapter on the framework of the applicable law is a chapter (Chapter 4) describing the key actors in the administration and imposition of the controls. These actors, their attitudes (derived from the findings of the Attitudinal Survey), and their relationships (including discussion about the participation of many of these key actors a conservation-oriented urban governance regime) are described in some detail.

The fourth contextual study is an account of the planning and conservation-oriented control of the growth and development of the city centre of Cape Town. It begins with a contextualising and abbreviated description of the establishment and growth of the colonial city from 1652 to the present; it describes the transportation planning, urban design and conservation intentions, policy and the implementation of these plans between the 1930s and 1980s; and it includes a description of the process of identifying and designating conservation areas within the city centre.

Following these chapters, which are intended to suggest the 'archaeology' of the knowledge and the intellectual frameworks and contexts, the core of the dissertation, the multiple-case study, is presented in Chapter 6. These cases are very heavily reliant on the final case study reports completed in October 2001, but are abbreviated to include only the material relevant for the understanding of the dynamics within each

scrutiny and approval process. Significant illustrations are included.

The most complex step in the development and writing of the dissertation was the evaluation of the efficacy of the controls: this complexity is the effect of the necessity of making judgements about different orders and from different positions. Ultimately, three orders of evaluation of the controls were made:

First, the efficacy of the controls with respect to each of the nine development projects were evaluated by 'referendum', that is, each case study includes an assessment of the benefits (or otherwise) derived from the exercising of the controls *in that case*. I have described this assessment as by 'referendum' because I have taken the consensus of the key actors interviewed in each case to be the assessment; and, as a participant, I have included my own opinion in this assessment. These assessments are included in the discussion of each case in Chapter 6.

Second, the central research questions articulated at the beginning of this Appendix and in Chapter 1 of the dissertation, were applied to the case studies both individually and as a group. Furthermore, the efficacy of the controls in each case was measured against my 'distilled' criterion for evaluation established at the end of Chapter 1. These Findings form the substance of Chapter 7 of the dissertation.

Third, the central research questions and the distilled criterion for evaluation were applied to the system of controls and administrative measures as a whole; these conclusions form the substance of the final chapter of the dissertation.

Validity and Reliability

It has been argued that all empirical social research must satisfy four criteria or tests (Yin, 1994, pp32-38). These are: construct validity, internal validity, external validity and reliability.

Construct Validity

Construct validity, that is, establishing the correct operational research practices appropriate to the subject and the concepts being studied, is particularly problematic in case study research (Yin, 1994, p34). Yin argues that these difficulties can be overcome if the case study design includes the use of *multiple sources of evidence*, if the draft case study report is *reviewed by key informants*, and if *chains of evidence* are established both during data collection and in the report (Yin, 1994, p34).

This study has adopted all three of these tactics: numerous sources of information have been used, enabling multiple triangulation; each of the ten case study reports were read/reviewed *twice* by each of the interviewees/key actors (an average of ten per case), first in a draft form and again after their opinions and memories had been solicited in interviews and incorporated; and the chains of evidence are very clearly established by the enumeration of the primary questions in the introduction and sustaining a clear articulation and separation of these issues throughout the subsequent chapters:

"(S)o to allow an external observer - the reader of the case study, for example - to follow the derivation of any evidence from initial research questions to ultimate

case study conclusions" (Yin, 1994, p98).

Internal Validity

Yin points out that internal validity is a particular concern for causal or explanatory case study research, but less so for descriptive or exploratory studies (Yin, 1994, p35). Most development control case studies are, in essence, descriptive but almost inevitably seek also to evaluate identified aspects of or dynamics within development control practice. Indeed, each of Punter's studies of Reading and Bristol was initially "conceived of as a pilot study of the principles, practice and impact of aesthetic control in particular locations through the in-depth study of one locality" (Punter, 1990, p xv) and both were initially reliant on a limited number of project case studies. This study has been conceived of as the detailed description, analysis and evaluation of the ideas, practice and effects of conservation-oriented control through the in-depth study of these activities in one particular locality during a specific period.

A second concern over internal validity in case study research "may be extended to the broader problem of making inferences" (Yin, 1994, p35). Yin concedes that solving both of these sets of problems is particularly difficult in case study research, but suggests that the tactics of *pattern-matching* and of *explanation-building* are suitable ways of addressing internal validity. In this study the questions posed and the implied and/or explicit predicted answers have enabled a considerable degree of *pattern-matching* (the comparison of a predicted pattern with an empirically based one), thus demonstrating the internal validity of the research.

Explanation-building in this study is largely reliant on the cumulative information and pattern-building in the multiple cases and the creation of a cross-case analysis, and by virtue of the detailed contextual or background research enabling "thick" description and interpretation of events (Denzin, 1989, pp159-160).

External Validity

The external validity of research is established within the domain within which the study's findings can be generalised. Case study research is generally recognised not to be easily generalised. This is particularly true of development control case study research. The danger in drawing general conclusions from an examination, however deep, of a few cases is great. Punter's 1985 examination of design control practice in Reading relies primarily on 15 development case studies, but also includes 29 major office development appeals ("ready-made case studies") and all post-1981 development was monitored through committee reports (Punter, 1985, p6), but he insists:

"To attempt to generalise with even the wealth of knowledge that these researches have generated is a dangerous activity, for the clearest impression to emerge from these studies is that each development has a unique set of actors, with a wide range of motivations and constraints, set in a specific, but varied, technical, political and developmental context" (1985, p8).

Indeed, the complexity of each individual case in development control multiple-case studies demonstrates precisely how difficult it is to generalise in this sort of research. Yin, however, argues that case study research relies of *analytical* generalisation (rather

than *statistical* generalisation which surveys rely on); that “in analytical generalization, the researcher is trying to generalize a particular set of results to some broader theory”; and that:

“For example, the theory of neighbourhood change that led to a case study in the first place is the same theory that will help to identify the other cases to which the results are generalizable” (Yin, 1994, p36).

But he emphasizes that such generalization is not automatic and that the theory must be tested through replications in a second or third neighbourhood or locality.

In other words, the findings and conclusions of this study, directed at describing and evaluating the working of urban conservation-oriented controls in a particular locality, are not generalizable without replication.

Reliability

“(T)he goal of reliability is to minimise the errors and biases in a study” (Yin, 1994, p36); and it is attained by demonstrating that the operations of the study can be repeated with the same results (p33); and

“The general way of approaching the reliability problem is to make as many steps as operational as possible and to conduct research as if someone were always looking over your shoulder” (Yin, 1994, p37).

This Appendix on Research Methods is designed precisely to demonstrate *reliability*: the sources of information and their locations are described at some length (and referenced in both the individual development project case studies and in the dissertation itself), the processes and procedures followed are described in detail (including the steps of letting every interviewee see the Draft Outline and the Amended Report on the project regarding which they were interviewed), and the primary case study data base (the ten detailed illustrated reports of the ten development project case studies) will be available for consultation/scrutiny.

APPENDIX 2: LIST OF QUESTIONS

SURVEY OF CONSERVATION-ORIENTED DEVELOPMENT CONTROL LIST OF QUESTIONS TO BE READ WITH THE OUTLINE DESCRIPTION OF EACH PROJECT

1. **Property Details** and 2. **Details of Developing Team and the attached List of Actors and Interested/Affected Parties**

Please correct any details you think I may have got wrong.

3. **Conservation-Significance**

- 3.1 What is your opinion of the assessments of conservation-worthiness of the building(s)?
- 3.2 What is your opinion of the assessments of the character/value of the environs?
- 3.3 What is your opinion of the conservation study(s) that made these assessments?

4. **Development Rights**

- 4.1 Please give whatever opinion you may have regarding property rights/zoning rights in Cape Town in general and, more specifically, in the CBD.
- 4.2 What is your opinion of the rights attached to this property ?

5. **The Controls**

- 5.1 Had you understood all the implications of the Zoning Scheme?
Where you happy with the way the Zoning Scheme was interpreted and administered by the Council?
- 5.2 Was there a local area policy plan that was applicable to this project?
Were you aware of it before hand?
In your opinion, was it correctly interpreted by the Council?
- 5.3 Were you aware of the conservation-worthiness of the property and the environs as decribed in paragraph 3 above?
And were you aware of the conservation-oriented controls that would be imposed?
Did you accept these conservation-oriented controls as appropriate?
Were you happy with the way that these controls were imposed and administered?
In your opinion, did the City Council act appropriately?
And timeously?
In your opinion, did the NMC act appropriately ?
And timeously ?

5.4 What is your opinion of conservation-oriented controls in general?

In order to protect individual buildings?

In order to protect the character of areas and/or environments?

6. Development Intentions

Please expand on or correct my Outline regarding the property owner's initial expectations/intentions.

7. Conservation-oriented Alternatives/Changes/etc

7.1 Did any party attempt to persuade or pressure the developer to investigate any alternatives/changes?

7.1.1 The NMC;

7.1.2 The City Council;

7.1.3 Any other party ?

7.2 Did these suggestions or proposals effect the size or floor area of the initial proposal?
What was your opinion of these suggestions?

7.3 Did the alternatives suggested affected the intended uses? How ?

7.4 Did the alternatives/changes suggested affect or amend the architectural design or the architectural character of the initial proposal?
In what way ?

7.5 What is your opinion of the alternates/changes suggested by:

7.5.1 The NMC;

7.5.2 The City Council;

7.5.3 Any other party?

7.6 In your opinion, were the alternates/changes suggested real improvements on the initial intentions of the developer/property owner in aesthetic and/or conservation terms?
Please explain why ?

8. Positions of the Authorities and their Decisions

8.1 What is your opinion of the position adopted by the NMC during the negotiations? In your opinion, did they try to do the right thing and did they do it in the right way?

- 8.2 What is your opinion of the position adopted by the City Council during the negotiations? In your opinion did they try to do the right thing and did they do it the right way?
- 8.3 Did either the NMC or the City Council, in their final decision, reverse or go back on the results of negotiations?
- 8.4 In your opinion, did the authorities (NMC and CCC) have enough power to influence and/or control the development? In other words, did they abuse their position by making excessive demands or did they not exert their power adequately?
- 9. Financial Implications of the Controls**
- 9.1 What were the financial implications of the conservation-oriented controls on the project?
- 9.1.1 Was there a time delay?
- 9.1.2 Was the effect of the controls to limit the bulk or floor area?
- 9.1.3 What were the effects on the architectural design?
- 9.2 What was the actual cost of these controls?
- 10. The Building Ultimately Completed**
- 10.1 What is your opinion of the building ultimately completed?
- 10.2 Given the conservation-worthiness of the building(s) and the environs, did the controls improve the building ultimately completed? How?
- 10.3 With hindsight, could the controls have lead to a better building? In what way could the building have been better? In what way could the process have been better?
- 10.4 Do you think any real benefits are derived from conservation-oriented controls? What are they?

APPENDIX 3: EXAMPLE OF ANNOTATED LIST OF QUESTIONS

This example of an Annotated List of Questions was completed during an interview with Ashley Lillie, then Director of the Cape Town Heritage Trust, on 5 January 2001 in connection with his part in the Heritage Square project

Interview with Ashley Lillie
on Friday 5 January 2001

**SURVEY OF CONSERVATION-ORIENTED DEVELOPMENT CONTROL
LIST OF QUESTIONS TO BE READ WITH THE OUTLINE DESCRIPTION OF EACH PROJECT**

1. **Property Details** and 2. **Details of Developing Team and the attached List of Actors and Interested/Affected Parties**

Please correct any details you think I may have got wrong.

3. Conservation-Significance

- 3.1 What is your opinion of the assessments of conservation-worthiness of the building(s)?
- 3.2 What is your opinion of the assessments of the character/value of the environs?
- 3.3 What is your opinion of the conservation study(s) that made these assessments?

Correct. Agree re 10B as being under-valued.

OK.

(Classification)
Catalogue didn't identify degree of significance - only flag cons-worthiness.
- Catalogue also ignores environs largely.

4. Development Rights

- 4.1 Please give whatever opinion you may have regarding property rights/zoning rights in Cape Town in general and, more specifically, in the CED.
- 4.2 What is your opinion of the rights attached to this property?

Scary. Essentially, we have a limited no of 10th C sites but these sites have rights. Each site must be considered de novo. One has to consider "absurd" activities - and some will slip thro despite their absurdity, S.10B doesn't help enough.

5. The Controls

- 5.1 Had you understood all the implications of the Zoning Scheme? Where you happy with the way the Zoning Scheme was interpreted and administered by the Council?
- 5.2 Was there a local area policy plan that was applicable to this project? Were you aware of it before hand? In your opinion, was it correctly interpreted by the Council?

Wasn't an issue - did want to go up higher. worked architecturally, but not commercially.

No problems. Never an issue.

direct consequence and further block

H.S. was the culmination of CHTA spots etc.

- 5.3 Were you aware of the conservation-worthiness of the property and the environs as described in paragraph 3 above? And were you aware of the conservation-oriented controls that would be imposed? Did you accept these conservation-oriented controls as appropriate? Were you happy with the way that these controls were imposed and administered? In your opinion, did the City Council act appropriately? And timeously? In your opinion, did the NMC act appropriately? And timeously?

Of course.

Yes.

Yes.

Bureaucratic processes were fine. Problem more with architect's direction of the process.

No problem. fine.

problem acceptance, presenting a ref. to Planning Committee.

never learned (Bridges, Kinahan). ~~Just does not make a good client (thinks like professional in bldg ind.)~~
Just was always intended as an example.

5.4 What is your opinion of conservation-oriented controls in general?
In order to protect individual buildings?
In order to protect the character of areas and/or environments?

Cons. controls in C7/SA often are facade control - must also be about qualities of bldg -

Problem there re detail; controls ~~don't~~ ^{never} really protect quality of the bldgs. Just not happen. If someone else had got these bldgs would have been a disaster.

6. Development Intentions
Please expand on or correct my Outline regarding the property owner's initial expectations/intentions.

This was the Trust's first bldg project - Naive intentions re craft market, etc, some of the trustees

As client, we set out to achieve certain qualities, two phases of project.

7. Conservation-oriented Alternatives/Changes/etc
7.1 Did any party attempt to persuade or pressure the developer to investigate any alternatives/changes?
7.1.1 The NMC;
7.1.2 The City Council;
7.1.3 Any other party?

Phase One - to clear and redevelop.
Controlly authorities do not require enough research/documentation - (no photos etc) - cons. community too easy. Fortunately, CCC had done lots of research.

7.2 Did these suggestions or proposals effect the size or floor area of the initial proposal?
What was your opinion of these suggestions?
7.3 Did the alternatives suggested affected the intended uses? How?

Arch. wanted to remove 150 year old door for aesthetic consistency - Ashley's view.
re the balcony; largest room of 18th C facade and balcony was not unique, chapel had significantly altered old facade; this upper levels did exist; also the hotel had to go into upper floor
- mixture of aesthetic and commercial, plus value of bldg work; did preserve a "brake date"

7.4 Did the alternatives/changes suggested affect or amend the architectural design or the architectural character of the initial proposal? In what way?

Montei wanted to keep the balcony for cost reasons but was same cost.
but hotel did not say they needed the balcony
architects never "resolved" the real issues of the new design: see discuss with Virginia
- agreement wasn't handled properly
re the cur front/Bunter's arch also exposed archaeological
- inadequate research - see Bunter's arch facade at pp 11. at cw.

7.5 What is your opinion of the alternatives/changes suggested by:
7.5.1 The NMC;
7.5.2 The City Council;
7.5.3 Any other party?

7.6 In your opinion, were the alternates/changes suggested real improvements on the initial intentions of the developer/property owner in aesthetic and/or conservation terms? Please explain why?

8. Positions of the Authorities and their Decisions
8.1 What is your opinion of the position adopted by the NMC during the negotiations? In your opinion, did they try to do the right thing and did they do it in the right way?

Ambivalent.
NMC did not seem to take a great interest in the project, never on site.

8.2 What is your opinion of the position adopted by the City Council during the negotiations? In your opinion did they try to do the right thing and did they do it the right way?

Given at least had the courage of his convictions. Only reason for it was motivation - pot factor. (and didn't get it wrong).

8.3 Did either the NMC or the City Council, in their final decision, reverse or go back on the results of negotiations?

No.

8.4 In your opinion, did the authorities (NMC and CCC) have enough power to influence and/or control the development? In other words, did they abuse their position by making excessive demands or did they not exert their power adequately?

*Oh.
Only concerned re interior detail etc.*

9. Financial Implications of the Controls

9.1 What were the financial implications of the conservation-oriented controls on the project?

9.1.1 Was there a time delay? *R 200 - 300 000 cost to the delay on the balcony.*

9.1.2 Was the effect of the controls to limit the bulk or floor area?

9.1.3 What were the effects on the architectural design? *XX.*

9.2 What was the actual cost of these controls?

10. The Building Ultimately Completed

10.1 What is your opinion of the building ultimately completed?

Overall, successful cos (tho there were train swatches) of OB is very successful. where plaster had to be stripped, did (patina) - have a lot of work. has many layers of new work. went to great lengths to preserve ancient material. splicing of spliced lintel, etc.

Overall, with some, lose some, but the happy.

10.2 Given the conservation-worthiness of the building(s) and the environs, did the controls improve the building ultimately completed? How? *Not rec. in this case, cos of nature of the client. original lintel in OB found, excavated, glazed over - all cost ± R 30 000. retained all plaster that could have been preserved.*

10.3 With hindsight, could the controls have lead to a better building? In what way could the building have been better? In what way could the process have been better?

Documentation not good enough. Proper reporting is not done.

10.4 Do you think any real benefits are derived from conservation-oriented controls? What are they?

They evoke cons. of cult / hist/arch heritage. not all clients are like the HC. Controls are important - must be strengthened and applied properly. Proper system of grading is essential. Also documentation is even essential.

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Most of these sources are unreferenced in the text of the thesis, but are the basis of the individual development project case studies and are properly referenced in the individual case study reports completed in 2001.

The Cape Town City Council files are held in a number of Branches, as indicated by the letter-prefix, all in the Civic Centre on the Foreshore. The NMC files are at present held in their archives at their head office in Harrington Street (this is likely to change when the Provincial Heritage Resources Agency takes responsibility for the control of these properties).

Planning and Development of Cape Town

TP 2/6	ICS/Power Station Site	
TP 297/5	Tower blocks in Central City (Proposed Provisions for the Control of the Erection of Tower Blocks in the Central City Area)	
TP 701	Greenmarket Square Development	Vols. 1-4, May 1959-present
TP 877	Victoria and Alfred Waterfront: Development Framework	
TP 877/1	V&A: Heads of Agreement	
TP 1932	Foreshore Freeway Cape Town	Vols. 4-6, 1973-1981
TP 2428	Buildings of Historical and Architectural Interest (van der Stel Foundation /National Monuments Council)	Vols. 1-5, July 1978-May 1996
TP 2428/1a	Cataloguing of Buildings of Historic and Architectural Significance	Vol. 1, Sept 1976-July 1978
TP 2428/44	Central City Conservation Area	
TP 3399	West City Action Area	
TP 3399/1	Bree-Shortmarket Block	

NBS

Sketch Plan, Card 2975/1984	Submitted	18/6/1984
	Approved	31/7/84
Approved Plan 290598	Submitted	
	Approved	28/6/1985
Approved Plan (rider or deviation plan) 299269	Submitted	
	Approved	23/4/1986
	Building work completed	May, 1988

City Council Files: TP. 701
TP. 2428

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Stuttafords

Approved Plans:

No 317958	Submission initiated	8/9/1987
	Fees payed	11/9/1987
	Plans approved	19/11/1987
	Works completed	9/6/1989
No 325327	Submission initiated	12/2/1988
	Fees payed	18/2/1988
	Plans approved	25/7/1988

No 325329

Works completed	9/11/1989
Submission initiated	7/6/1988
Fees paid	16/6/1988
Plans approved	25/7/1988
Works completed	12/6/1989

CCC Files: TP. 3410

NMC Files: 3/K/Kaa/142

(See PP memorandum of c 16/7/87)

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CPIA, Minutes of the Heritage Committee of 1987

Architect and Builder, January 1989

Protea

Demo Application (the old NBS Building on erf 2416):	Submitted	22/4/1988
	NMC approval	4/7/1988
	CCC approval	26/7/1988
Demo Application (Lincoln House on erf 2418):	Submitted	16 May, 1988
	CCC approval	26/7/1988
Approved Plan 331548	Submitted	14/10/1988
	Approved by CCC	7/2/1989
	Notice to commence building work	15/2/1989
	Occupied	31/7/1990
	Building works completed	April/May 1992

CCC Files: B. 4927 (old Lincoln House file)
 B. 8844 (old NBS Building file)
 B. 9113
 TP. 701

NMC File: 3/K/Kaa/164

CPIA, Minutes of Heritage Committee, July 1988

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The Terraces

Demolition Application	Submitted	14/9/1988
	Approved by TP Committee	5/10/1988
	Approved by NMC	16/2/1989
Sketch Plan, Card 116/1989	Submitted	1/3/1989
	Approved	29/5/1989
Approved Plan No 336063	Submitted	22/3/1989
	Approved	11/7/1989
Approved Plan (Rider) No 356498	Approved	27/5/1991

CCC files: B.24406. Vol I, Vol. II and Vol. III.

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TP. 2428/24 (Waterkant Street Conservation Area)

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Fed-Life

Demolition Application(to NMC):	Submitted:	8 June 1989
	Approved (in part only):	27 June 1989
Application to Purchase Pallas Lane:	Submitted:	26 June 1989
	Approved:	31 October 1989
Approved Plans: No. 349521	Submission initiated:	23/1/1990
	Fee paid:	14/3/1990
	NMC approval	31/7/1990
	Plans approved	24/8/1990
	Works completed; apparently	May 1991
	Completion certificate	12/9/1996

CCC Files: B.108915
TP. 3633

NMC Files: 3/K/Kaa/176

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22 Kloof Street

Approved Plan 348413	Submitted	February 1990
	Approved	20 August 1990

CCC Files: 89727 Erf 94438, Kloof Street (property abutting 22 Kloof Street)
TP 433 Kloof Street Widening (includes info on 20-22 Kloof Street)

NMC File: 3/K/Kaa/146

CCC, *The Buildings of the Upper Table Valley*, unpublished survey carried out 1988-1990 by the City Council's Urban Conservation Unit

Stephen Townsend, Personal Notebooks

CPIA, Heritage Committee Minutes of 1986-8.

Campbell Album of 1820, an unpublished sketch book, in the Manuscripts Collection of the SA Library.

Trevor Versfeld, unpublished student research, c 1986.

Various newspaper reports, including The Cape Times, The Argus and The City, June 1987 to August 1990.

Heritage Square

Approved Plans:

97, 99 and 101 Hout Street and 59 and 61 Buitengracht (CT Heritage Trust):

No 413429

(Card 6077)

Submission initiated 3/9/1996

Submitted (fees paid) 15/4/1997

NMC approved 27/11/1996

UCU approved 13/3/1997

Fire protection approval: after 18/8/1997

Plan approved 10/9/1997

Works initiated 7/10/1997

90, 92 and 94 Bree Street and 98, 102 and 104 Shortmarket Street (Montsi Props):

No 413910
(Card 6078)

Submission initiated 3/9/1996
Fees paid 15/4/1997
NMC approved 3/2/1997
Planning Committee approved 19/3/1997
UCU cleared 26/8/1997
Fire protection approval 22/8/1997
Plan approved 25/9/1997
Works initiated 7/10/1997

108 Shortmarket Street (CT Heritage Trust):

No 408796
(Card 8621)

Submission initiated 5/12/1996
Fees paid 19/12/1996
UCU cleared 12/12/1996
Fire protection approved 21/1/1997
Plan approved 6/3/1997
Works initiated 13/6/1997
Works completed 16/4/1998

108 Shortmarket Street (rider plan):

No 440449
(Card 6209)

Submission initiated 6/9/1999
Submission completed 5/1/2000
NMC approved 13/9/1999
UCU cleared 29/9/1999
Fire protection approved 19/5/2000
Plan approved 9/6/2000

CCC Files: B. 21399

TP. 3399/1, Volumes 1,2 and 3.

NMC Files: 9/2/018/0128 or 107 60/96/05/057/21

CPIA, Minutes of the Heritage Committee of 1996.

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KPMG

First Approved Plan 403519 (Charl Roux)

Submitted 11/10/1996
Approved 25/11/1996

Approved Plan 411659 (Horne and Lutz)

Submitted ..1/1997
Approved 1/7/1997

Occupation Certificate: 20/11/1997

CCC files : B 59240

Erf 4016, 72 Keerom Street, Cape Town (KPMG)

TP.2428/44 and 2428/5

CCC Planning Committee Minutes of 18 and 23 June 1997

CIA Heritage Committee Minutes of February, March, June and July 1997

Archaeology Contracts Office, UCT (Dennis Neville, Tim Hart and Dave Halkett), "Archaeological Assessment of a Ground Floor Room (an Old Courtyard) at 72 and 72A Keerom Street, Cape Town, an unpublished report prepared for Horne Lutz Architects, May 1997.

Boston House

Approved Plan No 411 646

Submission initiated 14/10/1996

Demolition of rear of Alkin House approved by NMC 25/2/1997

Approved by NMC in principle 23/4/97

Fees Paid 30/4/1997

Approved 30/7/1997

Approved Plan (Rider) No 420 776

Submission initiated 8/12/1997

Approved by NMC 15/12/1997

Fees Paid 2/2/1998

Approved 15/6/1998

Works Commenced 23/9/1997

Works Completed 16/11/1999

CIA, Minutes of the Heritage Committee, October 1987, August 1988 and April 1997.

Archaeology Contracts Office, UCT, "Archaeological monitoring of the demolition and earthworks at Boston House, Strand, Cape Town" carried out for Dennis Fabian, Berman and Hackner, Architects, 1997.

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Park-on-Long

Sketch Plan: Card 8694/97 Ref. 372/98

Submitted 24/12/1997

NMC approval 28/5/1998

Planning Comm approval 11/3/1998

Approved Plan 425885

Submitted 23/7/1998

Final Approval 6/11/1998

Notice to commence building work 13/11/1998

Building work completed c August 1999

CCC Files: TP 2428/44 (Central City Conservation Area file)

B 11838

Archaeology Contracts Office, UCT (Tim Hart and Dave Halkett), "An Assessment of a Building at No 64 Long Street, Cape Town", an unpublished report prepared for Vision Projects, December 1997.

Historical Archaeology Research Group, UCT (Antonia Malan), "Three Hundred Years of Living and Working in Long Street: An Architectural and Social History of Block O, Long Street, Cape Town from 1700 to 2000", an unpublished brochure prepared for Park-On-Long, November 1999.

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