

Preserving the Queen City: A Framework for Protecting Historic Buffalo



New York State Senator Sean Ryan



City of Buffalo Common Council Member David Rivera

City of Buffalo Common Council Member Mitch Nowakowski

INTRODUCTION

Throughout Buffalo's most recent Comprehensive Plan (2006), both formal Historic Preservation, as well as less formal building and neighborhood conservation, undergird many of the recommendations. An understanding of the importance and value of our existing built environment permeates the document, with the 2030 Vision for Buffalo going so far as to state that the future "is rooted in the determination of the people to recapture, restore and enhance the quality of their natural and built environments and their quality of life as they rebuild their economy."

While some significant progress has been made since then on preserving individual buildings and


sites, most local policies and practices governing the built environment have lagged significantly behind the desires of neighborhood residents to protect and better utilize existing buildings, and build upon places of importance to enhance community quality of life. This document is intended to show a path forward for creating, as the Comprehensive Plate recommends: "a Community Preservation Plan to identify, protect and restore Buffalo's historic architecture, and adopting urban and regional design guidelines to make sure that newly built elements of the city are as good as the old."

The built environment is regulated through both local City laws and practices, as well as enabling legislation, laws, and policies at the State level. In addition, in the City of Buffalo, the citizenry and private developers are highly engaged in carrying out much preservation and development work. Thus, the Community Panel created to make these recommendations drew from a cross section of these groups. Official City and State legislative representation was provided by:

NYS Senator Sean Ryan
City of Buffalo Common Council Member David Rivera
City of Buffalo Common Council Member Mitch Nowakowski

City residents with expertise in neighborhood leadership, real estate development, and the law, were represented by:

Catherine Faust
Gretchen Cercone
Jason Yots
Rocco Termini
Terry Alford
Gail Wells
Stephanie Cole Adams






Buffalo, NY


40.4 mi² | Pop: 255,426 | 78th Most Populous U.S. City | Est. 1801

Blocks of older, smaller, mixed-age buildings play a critical role in fostering robust local economies, inclusive neighborhoods, and sustainable cities. The Preservation Green Lab report, *Older, Smaller, Better*, leveraged the ideas of **Jane Jacobs** to show why preservation and building reuse matter for successful communities. The *Atlas of ReUrbanism* expands this research to 50 U.S. cities, demonstrating that **Character Counts**.

In **Buffalo**, compared to areas with large, new structures, character-rich **blocks of older, smaller, mixed-age buildings** contain...

-  **72% greater population density**
-  **Nearly 70% more women and minority-owned businesses**
-  **Higher proportions of foreign-born residents**

The building blocks for an inclusive, diverse, economically vibrant city, Buffalo's older, smaller buildings are irreplaceable assets. For more information about Buffalo's high-character areas, **please see reverse**.

■ **The Atlas of ReUrbanism** | *A Tool for Discovery*
Developed by the **Preservation Green Lab**, the Atlas of ReUrbanism is part of the National Trust for Historic Preservation's **ReUrbanism** initiative. Explore the buildings and blocks of Buffalo and other American cities further by visiting:  www.atlasofreurbanism.com

This National Trust for Historic Preservation report shows the value of Buffalo's existing built environment for ensuring a vibrant, diverse, sustainable city.

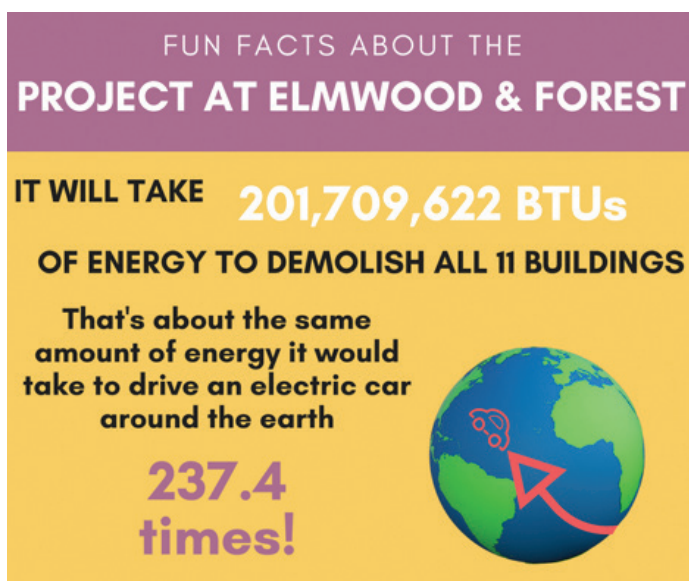
In addition, to ensure that the panel understood the perspectives of those on the City of Buffalo's preservation "front lines," interviews were conducted with and input was sought from:

Gwen Howard, Chair, City of Buffalo
Preservation Board
Louis Petrucci, Deputy Commissioner of
Permits and Inspection Services

While their expertise and experience were invaluable to the final effort, their participation should not be seen as a wholesale endorsement of any element of this plan, nor as an endorsement by the City of Buffalo as an entity.

PRESERVATION IN BUFFALO OVERVIEW

By any measure, Buffalo is a historic city with a wealth of architectural resources. Buffalo has approximately 95,000 buildings, of which approximately 85% were built before World War 2, giving it the highest percentage of pre-WW2 buildings of any city in the country. In addition to the sheer volume of older buildings, Buffalo is well represented in the pantheon of high style buildings designed by top architectural firms, and receives frequent recognition for the overall quality of its built environment.



Demolition and re-building has a huge impact on the environment and should be avoided when unnecessary.

In recent years, historic preservation has emerged as the leading economic development factor across the City of Buffalo, with nearly a billion dollars of investment induced through the use of

the Federal and State Historic Tax Credit Program, with nearly a half billion more in the pipeline. This has not only assisted developers in restoring some of our most treasured high style historic buildings, but it has also resulted in millions of dollars of financial assistance to individual homeowners. All of this investment is also a source of high paying jobs for the region, and re-investing in our existing built environment is a key component to fighting climate change.

That said, Buffalo has also lost a staggering amount of its built environment, from vernacular houses to high style architectural treasures. While some of this demolition can be attributed to large scale urban renewal practices of the mid 20th century, much of it can actually be attributed to scattered site demolition intended to deal with vacancy issues in the early 21st century, with the total number of housing units in the City of Buffalo reduced by 33,000 between 2000 – 2010 alone. Another aspect of the demolition story has been neglect: whether intentional or unintentional. There are both elements of intentional demolition by neglect intended to skirt preservation laws, as well as aspects of living in a poor community that sometimes leave people with insufficient help to care for their property.

Following several major losses of fabric, State Senator Sean Ryan and City Council Members David Rivera and Mitch Nowakowski decided that it was important to convene a panel who could not simply point out where public policies were failing to protect Buffalo's historic fabric, but were able to create an actionable plan to move forward. To this end, they requested Preservation Buffalo Niagara to put together a group of community-based experts and guide a process for coming up with recommendations. That committee was first convened in October 2020, had five formal meetings, and studied potential solutions. This document is the culmination of that work.

As New York State is a home-rule state, much of the regulatory burden for identifying and protecting historic resources sits with the City of Buffalo. However, a number of State programs are also involved in either an enabling, incentivizing, funding, and occasionally a regulatory capacity. There are also a wide range of private actors, from Preservation Buffalo Niagara to smaller neighborhood and advocacy organizations,

and including private for-profit and non-profit developers who impact and are impacted by our approach to historic resources. As such, this report contemplates a wide variety of issues, actors, and potential solutions.

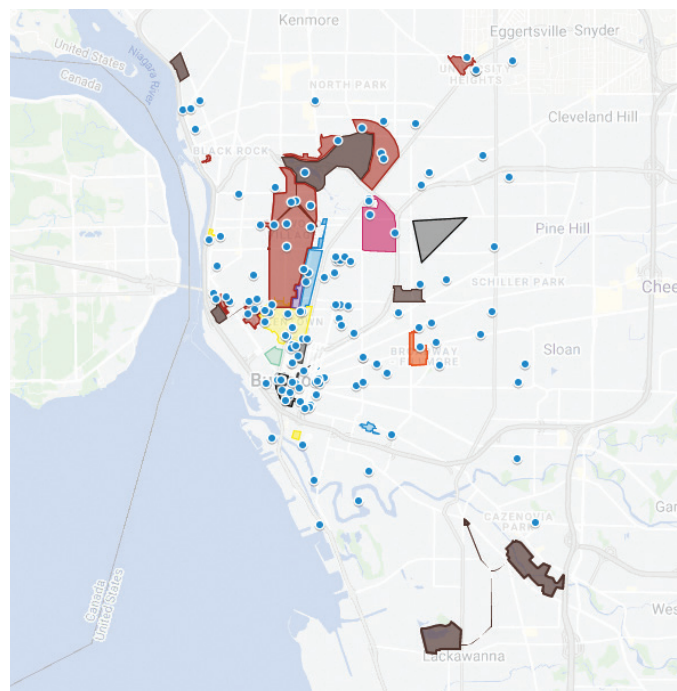
This document is not meant to be a comprehensive Preservation Plan for the City of Buffalo, which should be undertaken. However, many of these are stand alone policy initiatives that could help in the interim, in anticipation of such a plan being implemented. It is also broad in its mission, starting from the presumption that the overall built environment of Buffalo is generally worthy of preservation, regardless of current regulatory status of any particular building. The opportunity and the promise of creating a preservation plan for the City is one that must be carried out on a much larger and more inclusive scale than this initial effort entailed.

Most critically, and as a first step, we recommend immediately implementing the Comprehensive Plan's recommendation that a City-wide demolition moratorium be put in place until such time as a formal Preservation Plan is created and adopted. This will both ensure that all except for life safety demolitions can be avoided while the plan is created, but should help to create a sense of urgency toward developing and implementing the Preservation Plan.

The recommendations in this report are divided into three sections: Existing Local Historic Districts/Local Landmarks; Buildings not Covered through Local Landmark Status; and The Broader Policy Framework. This organization recognizes that there are different issues and different potential solutions depending on the legal status of the site in question, as well as what is possible at the City vs. State level to influence.

EXISTING LOCAL HISTORIC DISTRICTS/ LOCAL LANDMARKS

About 4% of Buffalo's buildings are currently covered by Section 337 of the City Code – known generally as the Preservation Ordinance. Clearly, significant opportunity exists to increase the number of buildings protected by the law, and the Preservation Board, Preservation Buffalo Niagara, and others are engaged in these efforts. In 2017, PBN led efforts to create the first neighborhood scale local district in nearly twenty years in the Broadway Fillmore neighborhood. However, even when buildings are covered by Section 337, they still face threats. These most often fall into the demolition by neglect category, but unfortunate interactions with the Fire Department and Housing Court can play a roll as well. Additionally, Section 337 was adopted over forty years ago, and has had minimal updates to date.



Current City of Buffalo Local and National Register Historic Districts and Landmarks

“An approach to protection of historic resources that emphasizes maintaining the “web of urbanism” through a moratorium on demolitions other than those necessary for the preservation of public health”

– Queen City in the 21st Century, 2006, page 100

The Preservation Ordinance

- Update the Landmark Ordinance to bring it into line with the New York State Model Ordinance and Statewide and National best practices.
- Make the demolition application process more transparent and rigorous by requiring a site visit by or meeting with the Council Member or their designee before it can be added to the Preservation Board agenda

- Update the definition of “hardship” in the Preservation Ordinance to ensure that self-created hardships, such as overpayment for properties, that do not reflect needed stabilization, are not rewarded or encouraged.
- Require Staff Reports for Preservation Board applications similar to those done for projects appearing before the Zoning and Planning Boards that will help outline the relevant issues and statutes for the Board members

Enforcement of the Preservation Ordinance

- Require annual training for all inspectors as to the requirements of Local Historic Districts/ Landmarks.
- Require annual training for all Preservation Board members
- Require annual audits/inspections of commercial and vacant properties in a local historic district or that are locally landmarked
- Hire a new inspector to be specifically assigned to local historic districts and landmarks exclusively
- Offer training to Common Council staff members so that they can understand how historic districts work in their districts
- Create a welcome program for people who buy locally landmarked properties so that they understand the rights and responsibilities of such a purchase
- Offer training to block clubs so they can better understand local landmarking policies
- Provide further guidance to property owners as to how to complete Certificate and Landmarking application forms and add the Landmark application form to the website so that landmarking information is as accessible as demolition information

Emergency Demolitions

- All properties within local historic districts/ local landmarks would require sign-off from an on call engineer prior to being declared an emergency demolition, even in the case of fire
- Identify an organization willing to take title to properties if the City wants to foreclose on locally landmarked properties who are capable of stabilizing and properly re-using the property



The Ferry Street Hardware Building was torn down by the City of Buffalo in 2018 after being left open to the elements and experiencing significant deterioration by an owner who was unable to care for it.

Identifying additional properties that need protection

- Ensure that all areas of the City are surveyed and that older surveys are updated regularly
- Create a vacant building registry
- Have the Preservation Staff person submit all local landmark applications to SHPO for a Determination of Eligibility as part of its normal course of work.
- Create a crowdsourced/unofficial Google Map or Google Sheet of buildings/parcels that people think are important to look into preserving – an unofficial inventory anyone could add to
- Create or re-work existing incentives available to locally landmarked properties, to ensure that preservation is a tool available at all socio-economic levels throughout Buffalo

SITES NOT COVERED THROUGH LOCAL LANDMARK STATUS

Not every building or community is necessarily ever going to be covered by the Preservation Ordinance, but that doesn't mean that the potential redevelopment of these parcels and the resultant changes in community character that these changes represent, aren't important to the communities in which they are located. As such, it is important that all land use laws and policies take existing community character and community goals into account in the approvals process. 95% of properties in the City of Buffalo are not within local historic districts, and so the other codes and policies that impact existing

and future land use and development must be updated to ensure that they are meeting the Comprehensive Plan's goals of ensuring a strong web of urbanism that protects and builds upon existing community character.

Unified Development Ordinance (Green Code) Updates

- Broaden the category of parcels/zoning classifications which require a site plan before a demolition request is able to be approved
- Require performance bonds prior to issuing demolition permits, where the permit is based on an approved site plan
- Shift the burden for community participation from the neighborhood to the developer by requiring a certain threshold of participation to be met before the Planning, Zoning, or Preservation Boards are required to act
- Broaden the notification requirements to include the 100 closest residents and/or business owners, not just property owners within a certain number of feet
- Lengthen the notification period to 60 days from 30 days for Planning and Zoning Board notifications
- Ensure that Common Council members are given notification every month of any projects that may be appearing before any of the three boards
- Reduce the acreage minimum that triggers



Because these houses on Delavan Avenue were each torn down separately for proposed individual townhouses, they were able to go through Minor Site Plan Review. Despite the demolition being approved based on the proposed new homes to be built, two years later, the sites remain vacant lots.

Major Site Plan review

- Change the language making vacant lot an acceptable site use
- Explore additional ways of making the Unified Development Ordinance incorporate re-use of existing structures as the standard and demolition the deviation
- Create a conservation district overlay that would allow neighborhoods to opt into a conservation district that would more stringently regulate demolition without having to go through the full scale local historic district process
- Conduct trainings for block clubs on how the zoning for their neighborhood works and how to best participate in the process
- Incorporate notification to block clubs and/or Council Members into the land use notification rules



40 Cottage Street is an example of the innovative public-private partnerships that can result in saving the fabric of our communities.

Intractable/Absent Property Owners (demolition by neglect whether willful or unintentional):

- Consider "taking" properties through governmental action. Existing available mechanisms include: take the property per Article 3 of the Common Council's power to acquire property (by deed, eminent domain, etc), or via Article 2, the City's general power to take property for a "public purpose."; Buffalo and Erie County Land Bank or another approved receiver such as PBN could acquire the property per a broad interpretation of its mission with the express charge of preserving the property

- Support and make more robust the Preservation Receivership program that PBN is currently pioneering.
- Have a City budget line for emergency repairs rather than demolitions in upcoming budget.
- Allow use of City Funds for mothballing rather than demolishing deteriorating buildings as allowed by law.

Broader Planning/Community Planning

- Implement the recommendations of the City of Buffalo's 2006 Comprehensive Plan, as related to preservation (pages 98 – 100). This includes calling for the immediate implementation of this key recommendation: a moratorium on demolitions other than those necessary for the preservation of public health.
- Per City of Buffalo Code Section 18-53, the City's Environmental Board could convene a hearing on the issue and make recommendations to legal counsel and seek an injunction if demolition would violate any laws/ordinances.

THE BROADER POLICY FRAMEWORK

While New York State is a home-rule state and much policy related to land use originates at the local level, the State does have a significant interest in ensuring that historic resources are cared for, and the State provides significant resources to the City based on its historic assets. Below are some ways that the State can help ensure that localities are properly managing their resources.

- Pass enabling legislation that allows localities to set up Community Preservation Funds funded through real estate transfer taxes, bringing an additional funding source to communities willing to create and implement preservation plans
- Require communities using the State Historic Tax Credit to report demolition of properties listed on the National Register of historic places numbers and direct SHPO to annually review the status of communities that are losing historic fabric within these districts above a set threshold
- Create enabling legislation for a preservation-based receivership program that would set rules for how to deal with vacant properties where there is no rent (the program being pioneered by PBN in Buffalo)