CULTURAL HERITAGE, CITY, SUSTAINABILITY: WHAT IS THE ROLE OF URBAN LEGISLATION IN PRESERVATION AND DEVELOPMENT?

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Introduction

Preserve while considering the constant composition of the meanings, identities, and traditions; considering the heritage as a resource for development; and, simultaneously, building the heritage in its social sense, of citizenship and promoting the quality of life for a future that aims for equity, the right to memory and cultural diversity, within an interdisciplinary and interinstitutional strategy, are placed as the main challenges of what is referred to as “sustainability” in the context of heritage policies.

The article considers this question from the discussion of the desirable and necessary integration between spatial planning and sectoral politics, where cultural heritage is effectively taken as a structuring and aggregating element. It analyzes, herein, the articulation between classification and traditional urban tools, based on two recent experiences: the ZEPEC - Special Zone of Cultural Preservation, created by the Strategic Master Plan of São Paulo and complemented by Regional Plans in 2004; and the ZEIPP - Special Interest Zone of Paranapiacaba’s Heritage, instituted by the Participative Master Plan of Santo André (2004) and regulated by specific law in 2007.

Evidently, the intention here is not a comparative study between such distinct and peculiar heritages as their type, their formation process, land tenure and urban and socioeconomic conditions. Goals of this research are the notion of sustainability and the concept of equity, whose expansion suffered in recent decades reveals a healthy approach between various disciplines, as well as how these new approaches are being, or not, articulated to other public policies, using planning regulations as integration and implementation strategies.

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ZEPEC experiences in São Paulo

The São Paulo Strategic Master Plan, instituted by law 13.430/2002 defines, in article 7, twelve guiding principles of the planning and development of the city. Surprisingly, there is nothing among them about the preservation of cultural heritage as a strategic principle of conservation and appreciation of local identities, memory, traditions, knowledge, history or culture in its broadest sense.

On the other hand, the focus shifts to the «preservation and restoration of the natural environment» (section IX), chosen as principle and emphasized throughout the plan. Soon after, the general objectives are defined. Among them, «to raise the quality of the urban environment, through the conservation of natural resources and protection of historical, artistic, cultural, urban, archaeological and landscape heritage” (Art. 8, section IV). The protection of the heritage, thus, is not understood as a goal but as a means to «raise the quality of the urban environment», which can be detailed in both its aesthetic and functional aspects.

The «ordering of the full development of the social functions of the City and socially just and ecologically balanced use» is established as the main objective of urban policy to be achieved, among other guidelines, by: the preservation of the environment, specifically the environmental restoration of public spaces and the visual classification of the urban landscape; and the creation of «points of attractiveness, with the implementation of tourism facilities, events, and business» (Art. 9). The first guideline will result in strategic action «to ensure adequate control of visual interference in areas enveloping preserved real estate» (Art. 90), reproducing a common and questionable practice of the preservation organs (IPHAN, CONDEPHAAT and COMPRESP). The second indicates the direction of tourism to the event and business segment, certainly one of the most important economic activities in São Paulo, but which, on the other hand, reveals the disassociation of actions of heritage preservation as a resource to the development of the city.

In the settings regarding the social function of property, the plan establishes general aspects for compliance (Art. 11), requiring the subordination of property rights to the sorting requirements of the master plan, including, among others: «improving the urban landscape, the preservation of historic sites, natural resources and, in particular, the sources of water supply.” Having said so, the use of the term «historic site» suggests discarding the numerous heritage assets recognized separately from the social function of property, a mistake, surely.

The Master Plan organizes the process of urbanization around four structuring elements and five integrators. Structuring elements «are the axes that constitute the permanent framework of the City» (Art. 101), structural water, road, and public transportation networks, the Axes and Poles of Centralities. While integrators constitute the urban fabric that permeates and houses activities for citizens, housing, social facilities, green areas, public spaces and spaces of commerce, services, and industry. It is made up of social equipment installations for the public and private health services, education, culture, sports, leisure and recreation, catering and security (Art. 129). Thus, the ma-
Cultural heritage, city, sustainability

terial heritage, which does not constitute a «permanent framework of the city,» is also not among the integrative elements, since the policy is structured with an emphasis on maintenance, expansion and construction of new social facilities, focusing on the cultural uses and not the proper preservation.

With regard to the participation process, requirement of the City Statute (Federal Law 10.257/01), it appears that this did not happen satisfactorily. Among the numerous drawbacks, three can be highlighted: the first is the very lack of tradition in social participation in the São Paulo public management; The second is the difficulty in operating in a city with the population size of São Paulo reinforced, at the time, by the absence of a decentralized administration; and the third is the priority in the political approval of the plan before the election year. This conjunction of factors certainly weakens important aspects of the plan. However, it is not unusual in the field of preservation policies, since there is no tradition of popular discussion, the latter being confined to representative participation of a few carriers of the so called «public knowledge”.

Finally, the plan sets out specific objectives and guidelines of heritage policy in the section of sectoral policies. However, they are still general: «document, select, protect and promote the preservation, conservation, recycling, regeneration and disclosure...» (Art. 88). Among the guidelines and strategic actions, the following stand out: «the revitalization of degraded areas, especially the central area and the area of the railroad Perus-Pirapora”; and «preservation and identity of neighborhoods.”

In fact, it appears that this Master Plan does not conceive in a sustainable form the preservation of heritage, in its broadest sense, as a key element of culture and memory, neither as a policy articulated with other sectoral policies, nor as an element and resource capable of guiding the planning and socio-economic and urban development of the city. Inevitably, these issues will be reflected in the misconceptions prevailing in the institution of the ZEPECs.

Special zones are «portions of the territory with different characteristics or specific allocation and their own norms of use and occupation of land, construction, located in any macro-zone of the City» (art.167 PD). Among them were created the ZEPECs that «are portions of the territory for the preservation, restoration and maintenance of historic, artistic and archaeological heritage, and may be configured as sites, buildings or urban clusters» (art.168). All “property either classified or preserved by local, state or Federal areas as well as the properties classified as Z8-200ii”, automatically classify as ZEPECs, excluding only the classified neighborhoods (art. 168)iii, mistake already corrected in the Regional Plans in 2004.

Although the Master Plan creates the ZEPECs and establishes general and mistakenly “automatic” definitions, its demarcation will be established only by Regional Plans (São Paulo, 2004), classifying them into three categories (art. 116): the Representative Real Estate (ZEPEC-BIR), which are «properties or sets of properties of historical significance or exceptional artistic, cultural or scenic values , including those which have reference value to the community»; Areas of Special Urbanization (ZEPEC-EOR) , which are «Urban sets with homogeneous characteristics of road layout, vegetation and urban indices, which are forms of urbanization of a given time, which should be preserved for
their environmental qualities»; and Landscape Protection Areas (ZEPEC-APP), which are «public parks and sites with environmental, natural or manmade features, such as parks, gardens, squares, monuments, overpasses, bridges, walkways and significant natural formations, among others».


It appears, therefore, that the first major mistake is in the very conception of ZEPECs, also including isolated buildings, plazas, walkways and the like as a “zone”, a semantic contradiction in urban discipline, reproducing the logic of Z8-200 and classification of goods alone. Exactly what instrument that should insert the heritage element in the urban context and reading the whole landscape. Moreover, the understanding of the urban poor functioning of special areas is expressed, as it would be the ideal place to override the zoning creating exceptions, in order to ensure specific planning norms and regulations of preservation, usage, overcoming the inadequacies of the application of the classification to urban heritage areas (SANT’ANNA, 1995).

Moreover, this design reflects vices still strongly rooted in the practice of granting equity value. Based on the idea of monument and on a fragmented vision of urban heritage, of urbanization and the city, this model of ZEPEC further reinforces the dichotomous relationship of the building with its surroundings. This relationship imposes a hierarchy that is most often disconnected from urban and architectural proposal for its original deployment or time of classification, reifying even modest buildings to the urban context. It reproduces, thus, a baroque vision of the construction of the urban landscape, where the “work of art”, featured from the idea of “exceptional value”, is framed as a monumental object to be valued. Aligned to a Western conception of landscape, i.e. within an aesthetic and pictorial construction perspective, this still represents the dominant rhetoric in the field of preservation (CAUQUELIN, 2003), resulting in the delineation of such envelopes.

Only to limit the discussion to the morphological and visual matteriv, it is worth remembering that many authors dealt with issues concerning the construction of land-
Cultural, heritage, city, sustainability

Scape, urban design and city image, such as the classics: Camilo Sitte (1992), Gordon Cullen (1986), and Kevin Lynch (1985).

Sitte, since the nineteenth century, criticizes the construction of baroque visual axes and its monumentality, stressing the value of that of the “picturesque”, the vernacular architecture and minor scales, closer to human seizure and daily life. Cullen proposes a new way of perception of the urban landscape, which is called “serial vision” working the perception in building a route, where the expectation, the mystery, “silhouettes”, “strictures” and “accidents”, for example, make up a substantial part of the seizure of the urban landscape, in contrast to the monotonous and predictable construction of grand perspective that fits and values as a focal point of a single monument, usually highlighting the places of political, religious and economic power of the cities. Lynch develops a methodology where the perception of the city is through urban elements (roads, boundaries, districts, nodes and landmarks) that are linked inseparably and interact in the construction and reading of the image of the city, therefore working together.

If we look at these issues applied to the reality of downtown São Paulo, we have the scale of the problems. More than 1,500 buildings in Centro Velho, Anhangabaú, Luz and Bela Vista (Resolution 22/02) are legally protected by CONPRESP. Most have partial classification of Level 3 and 4, with protection of the facades, external architectural elements, template, volumetry and recessions.

Figure 4. Left: Resolution 37/1992. Vale do Anhangabaú: 293 classified properties (levels P1, P2 e P3), 9 public sites and 258 properties with level P4 (considered “envelopment space” with preservation of volumetry and template). Figure 5. Resolution 17/2007. Centro Velho – Triângulo Histórico Sé. Classification levels 1 e 2 (149 properties, 7 parks, 4 overpasses and 20 public art works), the others are envelopment areas. Some buildings were classified previously, like the City Market. Source: PMSP/DPH.
Thus, to indiscriminately isolate buildings, public parks and artworks of the urban context and its social significance, and in seeking the illusion of homogeneity through the control of templates, the conflict with the very cultural dynamics of the city is strengthened, many times stopping, without purpose, contrast or combination between modernity and tradition, so present in Brazilian culture, especially in downtown São Paulo (since its genesis), inevitably generating socioeconomic barriers to its use and ownership.

It also highlights the difficulty of understanding the heterogeneity in the urban fabric as an equity value. Within a reading of cultural landscape, considering the periods of urbanization, their meanings, where the overlaps and diversity depict the history of urban metropolis, moreover, with a significant number of classifications, why not consider all of Centro Velho and Anhangabaú as ZEPEC?

As stressed by SANT’ANNA (1995), this type of practice is reflected in the final consecration of the misconception of implementing conservation practices of heritage monuments to urban areas, whose theoretical foundation is anchored itself in the Venice Charter (1964), or in their application of their recommendations to the São Paulo case under discussion:

> Article 6. The conservation of a monument implies preserving an ambience in its range. While their surroundings survive, it will be preserved, and all new construction, all destruction and all modifications that may alter the relations of volumes and colors are prohibited. (IPHAN, 2004 p.93).

Also, when trying to understand the strategy of urban plans, the disarticulation of ZEPECs to other urban policies with various overlays is perceived: Areas with Urban Intervention (AIUs), Strategic Intervention Projects (PEIUs), Urban Operations Consortium (OUC), Special Zones of Social Interest (ZEIS) and even of ZEPEC ZEPEC-BIR with ZEPEC-APP.

According to the Master Plan, the AIUs are “portions of the territory of special interest to urban development, object-specific urban projects in which intervention instruments, under the Statute of the City, for the purpose of regularization may be applied, program execution and housing projects of social interest, establishment of reserve land, planning and direction of urban expansion, implementation of urban and community facilities, creating public spaces for leisure and green areas, creation of conservation or protection of other areas of environmental interest” (art. 146). The PEIUs have a very similar definition.

Again, it appears that heritage preservation is not part of the purpose of AIUs and PEIUs. Certainly because urban intervention and preservation are still walking in opposite directions. And this can also be confirmed in the contradictions between classification and urban laws. Whereas the first establishes template limits for nearly every central area, the OUC allows the use of C.A. equal to twelve or more maximum.\textsuperscript{31}
Another contradiction is the demarcation of PEIU 01 - Monumenta Luz-PRIH, whose perimeter does not match a ZEPEC, but contains along with a ZEIS 3. Knowing that the Monumenta Program aims to combine conservation with development policy, it can be seen that the absence of integrated project management summarized the results of the Monumenta-Luz in restoration of some buildings and equity.

Although the special zones should establish “own standards for use and occupation,” these were not created, referring sometimes to classification guidelines (when they exist) to establish, now to the very zoning that prohibits uses nR-3 in ZEPECs (art.158, Law 13.885/04), preventing, for example, universities, post offices, hotels, forums, police stations, social and cultural services, leisure and education (above 2500 m²) and venues (with over 500 parking spaces). In addition to creating more bureaucracy in the processing of approval and making the instrument innocuous in its urban setting, the ZEPECs still hinder the use of equity, since there are university projects in classified industrial buildings in Mooca, already approved by the Department of Heritage, prevented to be realized due to these legal disagreements.
As for the other instruments, Article 211 of the Master Plan prohibits onerous grant in ZEPEC, often preventing the restoration and use of the classified building, like the Casa das Rosas in Av. Paulista, reflecting, again, the notion of monument, visibility and surroundings, already mentioned.

The possibility of using other tools, such as exemption from property tax for classified buildings in good condition is enhanced. It establishes penalties for properties in degradation, empty or underused, with the incidence of compulsory and progressive property tax usage, although not regulated. It applies to ZEPECs the benefits granted by the Selective Incentive Program in the central area (Law 13.496/03). It creates an exemption from property tax for individuals or corporations that sponsor works of recovery or restoration of property framed as ZEPEC/BIR (art.121), however, paradoxically, this standard does not apply to Sé and República districts (art.123) that concentrate large number of São Paulo equity in high stage of degradation.

This also applies to “Transfer of Building Potential” to particular buildings located in ZEPEC-BIR. Although planned since 1984 (Law 9.725/84), there were many requests, still unfinished. However, it is worth noting the dubious ambiguity of this instrument in terms of preservation. In São Paulo, the instrument does not bind the resource investment in property, serving only for economic compensation for restricted urban use. And even if it did, this investment would be only for the immediate preservation. In the medium term this source is exhausted, while the buildings continue to need investment, demonstrating the merely pragmatic applicability of the instrument.

These misconceptions and gaps corroborate substantially to the economic burial of the heritage and, consequently, the whole center of the metropolis. It is not, therefore, as seen in ordinary discourse, classification the very villain of economic depreciation. But its management. Essentially, the lack of integrated management that seeks sustainable use, although funding is also an ingredient precipit.

The experience of ZEIPP in Santo André

Paranapiacaba, “place where you can see the sea”, preserves a significant technological asset connected to the railroad and testimonies of an architectural and urban model quite advanced for its time. This railroad town was developed from 1860 onwards with the implementation of the first Paulista railway, built by the British company São Paulo Railway. In 1957, the Federal Railway (RFFSA) began managing all Brazilian railroad heritage. From the 80s, the Vila went through an intense period of neglect and physical and social degradation. In 1987 it had its cultural and natural heritage listed by CONDEPHAAT in 2002 by IPHAN (only the Lower Part) and in 2003 by the municipal body. In 2001 the Andreense government created a Subprefecture to administer the Vila and the entire region of springs. In 2002, it bought the Lower Part and a Mata Atlântica reserve of 426 acres that became a Unit of Municipal Conservation. Finally, in 2008, due to conservation and sustainable development policies, it has become the first São Paulo cultural heritage to compose a list indicating the Heritage of Humanity.
The ZEIPP - Special Zone of Interest to the Paranapiacaba Heritage was created by Santo André Master Plan (Law No. 8.696/2004) and regulated by Law 9.018/2007. A priori, it is necessary to emphasize that, although the Master Plan does not institute policies articulated guidelines between preservation and development, it considers the cultural heritage an important element of urban policy when it explicitly establishes it as one of the social functions of property, with the same burden of environmental protection, social housing and economic activities that generate employment and income. (art. 5).

Since the beginning of its development in 2005, some structural problems had to be faced. The biggest one was to develop a bylaw given the prerogatives of the City Statute, the (national, state and local) environmental law, and at the same time, the classifications of the three spheres of government. This complex challenge required the resolution of four major issues: the construction of a new institutional arrangement that articulates the three levels of government with regard to heritage policy; construction of interdisciplinarity, in order to compose a single law that would discipline and integrate preservation policies, urban planning, environment and development; the search for the valuable participation of the community involved; and, finally, the establishment of a new legal framework that would meet all these issues.

So the first step to the beginning of the process was to promote the participation of various actors and institutions: city hall; organs of preservation; municipal councils of urban and environmental policy; universities; associations, and the local community. Due to the importance of this law and the complexity of integrating these actors, the “Com-
committee on ZEIPP”, composed of 34 members, was created, with 50% being representatives of the host community. City Hall had no seat, and only coordinated the process. The law was drafted in eight months, using the method of situational and strategic planning and the process divided into five stages: Listening; Preliminary Elements; Draft Bill; Expanded discussion (in the five councils) and in the Legislature.

The discussion of the law under the three organs of preservation was indeed a complicated issue, because the independent acting and the concurrent powers, due, mainly, for the instrument of classifying, generates many conflicts. Where Paranapiacaba is concerned, conflicts began with the differences of the perimeters of the three listings and the establishment of hierarchies. Moreover, the listings in Brazil do not recurrently establish guidelines for the preservation, restricting itself to only one description and justification of cultural relevance and, at the most, of fixing the levels of classifications and templates for the envelopment areas, as observed in the case of São Paulo. The absence of pre-established and agreed upon guidelines between the organs often lead to distinct, antithetical and even to personalized guidance upon approval of intervention projects, setting up a nonobjective performance, without any criteria and nothing institutionalized.

On the other hand, in the debate with preservation agencies surfaced problems of conceptual order. The complexity, confusion and conflict around the concepts practiced in the area was such that an agreement on an referenced equity letter was needed, obviously, in the recommendations of international and national letters, but considering the specificities related to the preservation of an urban area (with a working village), industrial heritage railway, set in the area of environmental conservation and understood as a cultural landscape.

The concept of cultural landscape used by the World Heritage Committee since 1992, systematized by the Council of Ministers of Europe in 1995 and by the European Commission of the Landscape (2000), was recently adopted by IPHAN through the Bagé Charter (2007) and the Seal of Cultural Landscape (2009). This significantly broadens the concept of equity in that it gathers and articulates concepts and objects from various disciplines, envisioning the integration between the action of man and nature and between the material and immaterial assets (IPHAN, 2004). Therefore proposing new challenges, among them the interdisciplinarity, inter-institutional sharing and participation, making asset management quite complex and requiring revision, adaptation and reformulation of existing conservation policies, their instruments and their joints with territorial planning.

From these prerogatives, the law was organized into seven titles, starting with defining the principles, objectives and concepts. It establishes and differentiates the types of intervention, namely, conservation, restoration, repair, maintenance, adaptation and technological upgrading, aimed at cutting red tape in the approval process.

Then, guidelines for sustainable local development targeting mainly the promotion and regulation of tourist activity are established. The main guidelines are: promoting economic development compatible with the environment and with the support of urban infrastructure; ensure the ordering and control of land use to avoid proximity to incompatible uses or inconvenience; enhance and qualify the use of hospitality; ensure the residential use; promote continuous education of the local community; seek alterna-
tive housing and compatible uses for public buildings; improve the accessibility and urban mobility; foster social inclusion and generation of employment and income; conduct cultural events consistent with the preservation and securing property through preventative measures to combat fire and property security (SANTO ANDRÉ, 2007).

Based on the objectives and guidelines set out, the municipal government developed the Plan for Sustainable Tourism Development; the Plan for the Improvement of Environmental Sanitation; the Programme for Fire Prevention and Combat, and the Redevelopment of Electric Energy and Public Illumination Systems Project. The third and fourth titles deal with the conservation of the cultural landscape and urban parameters for territorial ordering. Thus, the ZEIPP proposes to split the village into four sectors of urban planning (Upper Part, Lower Part, Railway and Rabique), recognizing the unique characteristics of land tenure and type of use, occupation and urban dynamics of each area. Within a more traditional view of equity, the area to be considered “special area” would just be the town planned by the British (homogeneous), an example of the very listing by IPHAN. Not the urban area as a whole, more heterogeneous, with typical colonial occupation (Upper Part) and invasion in the area of environmental risk (Rabique).

Zoning based on the already established urban dynamics is created and considering compatible uses with the architectural typologies of each area, articulating the goals of preserving the urban development uses. Prioritizes and defines residential areas for the development of commercial and tourist activities, thereby minimizing neighborhood conflicts. The proposed zoning works with predominance of uses, controlling and stimulating...
this dominance by regulating inventory of buildings available in each area. While in the Predominantly Residential Area, categories of non-residential and mixed use are permitted up to 20% of the lots, in the Predominantly Commercial Area non-residential use is permitted for up to 60% of the stock. Thus, legal discipline ensures a mixture of use in the areas while avoiding the existence of zones of exclusive use and the inconvenience of the proximity of incompatible uses.

Moreover, a fixed stock for residential use corresponding to 50% of public properties in the Lower Part (170 units), i.e. guarantees by law the continuation of the residential use, so vital to the dynamics of community tourism and urban daily life. Depending on the state of disrepair found, the village had many villas in a corking situation, without sanitation and 61% of people unemployed. These problems were solved gradually, under the Local Development Programme, with inclusion of the community in tourism. Encouraged to open businesses in their homes (Bed & Breakfast, Open Doors, Workshop-residence, etc.), unemployment dropped to 16% in 2008. Families were drawn from the tenements and received a single residence according to their size.

Parameters of occupancy of lots and their limits were redefined, along with the patency rates, levels of discomfort by noise emission and guidelines for the preservation of buildings and road system, with the objective of safeguarding the built set and urban relationships that characterize the landscape of the village. In the Upper Part, typical of Portuguese colonial occupation, the occupation without front and side recessions and mixed use of the lot was allowed while maintaining the standard of its historical setting. It seems obvious, but the Watershed Protection Act (Law 1172/76) prevented the preservation of this type of occupation, establishing direct conflict with the goals of preservation of the built heritage.

Figure 10. ZEIPP: zoning. Map: Vanessa Figueiredo. Source: Law 9.018/07.
The Lower Part includes a set of 340 public buildings of various types. Aiming to highlight the documentary and cognitive value of the original construction, representative properties were selected in law, designated as Exemplary Residential Typologies, thus allowing the in the others, functional interventions were made. It is worth clarifying that the original design of the houses have outside toilets. During the administration phase of RFFSA, there was an adaptation of toilets within the buildings of wood which are currently used by residents. This solution was maintained, with constructive suggestions for improvements, established in the manual of architectonic intervention. Thus, it overcame the adoption of the traditional classification levels, understood as a hierarchical gradation incoherent with the conception of cultural landscape.

These specimens were restored and intended for public visitation housing the exhibition spaces of the Museum Circuit. Based on the concept of an “Open Air Museum” or “Eco-museum”, thematic exhibitions articulate their own experiences of the cultural landscape. In the house of the chief engineer, the “Little Castle” tells the history of the Village. The natural heritage is exposed in a copy of Engineer House. The architectonic-urbanistic heritage is a set of four Type E houses for less senior workers. The tourist, besides knowing the diversified equity of Paranapiacaba, also comprises typologies and their relation to the social hierarchy established by the São Paulo Railway, revealing part of the working memory, so overlooked by heritage policies, to the visitation circuit.

For other properties the functional extensions are permitted, such as indoor laundry, for example. However, the relationship between built areas and open spaces should be respected. That is, for properties who have outhouses the expansion is allowed, provided it does not join the main body of the property attached to the bottom of the toilet and does not occupy the front and side recesses (Art. 26), respecting the standard established by sanitary urbanism, emerging at the time.

The law also regulates the outdoor visual communication and determines that the permanent ads should be positioned in front of the property and have a maximum of 0.5 m², using models standardized by the city and preservation agencies. Also allows the placement of fencing in lots; satellite dishes only in the recesses and background vegetation that allows the visualization of the building and is not detrimental to its structural stability. Although they seem like simple questions, there was much debate among licensing bodies and the opportunity of this law enabled joint agreements to the establishment of urban and preservation regulations.

One of the most controversial issues in the community was the prohibition of coverage for cars, although less than 30% of the properties possessed them. In this case, the ban reflected the prevalence of the right diffused to the majority to the fruition of landscape to individual right. Another issue discussed was the very definition of colors for buildings. The law requires that homes be kept painted to maintain protection against the weather and the action of microorganisms. The buildings made of wood must be painted brown used since the management of R.F.F.S.A. Any amendment must be adopted by prospecting and project justification. The houses in masonry shall keep light colors in three options: white, cream or yellow. The internal interventions should be guided by the
spatial distribution and existing circulation, assuming the compatible use of the building already defined by zoning.

Also created was the “Manual of Policies and Procedures for Intervention in the Built Set of Paranapiacaba” and the “Handbook of Green Areas and Landscaping” which, because of its detailed nature, were later regulated. The first took place during four years of research funded by FAPESP/Foundation Santo André (LIMA, 2008). Articulating the needs of municipal policies, research yielded various fruits, highlighting the fundamental symbiosis between research, extension and management. It created its own methodology for the inventory of heritage in wood, the Materials Bank and Cooperative Joinery, whose objective was to provide a centralized inventory of replacement materials. Based on the manual, the specific designs of doors (without stops), windows, French hands, fencing and guardrails are manufactured by trained locals who make up the cooperative.

Moreover, instruments to encourage conservation were created and consolidated, adapting them to the scale and specifics of Paranapiacaba. Among these instruments provided for in the City Statute, the Civil Code (Law 10.406/02) and the Public Procurement Law (Law 8.666/93), such as: Neighborhood Impact Study - EIV; Granting of Rights to the Right to Build (for the Railway sector only, limited to 10 meters high); the free technical assistance for preservation purposes; Incentives and benefits; Incentives for improvements in real estate; the Assignment of public property (for 20 years for commercial purposes); the payment in kind of real estate in payment of debts. To encourage the conservation of the property and have control over the actions of users, discounts were granted in consideration to licensees who invested in the maintenance of buildings, provided they were conducted with the permission and supervision of city hall, together with preservation agencies. This procedure, already in practice was institutionalized by ZEIPP. For residents of the Upper Part, where the properties are private, there is the possibility of discounts on taxes.

Additionally, a new and more rigorous system of monitoring and penalties and a new tool for accompaniment and management democratization was established: the Paranapiacaba Forum (regulated in 2008), gathering city hall, preservation agencies, boards and the community, in continuous debate of the issues relating to sustainable development and the preservation of the Village.

The law is, for the most part, self-administered. Only a few articles and instruments required for regulatory enforcement procedures or technical information to detail, as was the case of the Forum, manuals and plans. Thus, ZEIPP can be considered the “strategic plan” of Paranapiacaba, i.e. it is the main tool for guiding policy and land management, combining the development of tourism with conservation and sustainability of the built heritage, natural and intangible heritage, also ensuring the permanence and quality of life of residents.

Final Considerations

Under the foregoing, it appears that the ZEPECs, still based around a concept of monument, in the western notion of landscape, in the fragmented vision of urban heritage and the city, reveal contradictions and gaps between policies of preservation and development, playing classical dichotomies between natural and cultural, tangible and intangible heritage, and even between architecture and urban. The urban nature of the instrument is not exploited, i.e. they do not apply to the territory recognizing and disciplining their specificities rendering them harmless. Moreover, they do not articulate the overall spatial structure of the city and other sectoral policies, confirming the absence of a policy set.

Despite the undisputed relevance of classification with bearing on the granting of the restriction and value of the property in the public interest, build a conservation policy grounded only on one instrument, even with the special areas reduced to reproduce it, creating more overlap and bureaucracy is an unsustainable path to tread the management of cultural heritage, and hence, for urban management.
If these gaps are, on the one hand, barriers that resulted in the failure to use a large part of the building, both economically and for social equity policies, since there is no connection with the housing policy, on the other, certainly, are basic to the failure of Operation Urban Center. In fact, any proposal seeking the rehabilitation of the central area of São Paulo may dispose of coping with the rehabilitation of cultural heritage, ranging beyond the normative and recovery of the built hull, but in its deepest sense, articulating its immaterial significance, its recovery, and its urban, economic, environmental and social reinsertion to the city and citizenship project that is intended. Imperatively connected to an integrated and sustainable design for territorial planning, as advocated the concept of cultural landscape, where the preservation and development should establish partnership, not competition.

On the other hand, ZEIPP raises other possibilities for the use of urban instruments, strengthening the development/preservation relation and articulating parameters for spatial planning to sectoral policies in an innovative way, working from the perspective of integrated and participatory planning and management. It aligns to a more current and comprehensive conception of equity, considering the landscape culturally qualified as a good to be preserved and managed. This not only as a witness to be safeguarded for future generations, but also as a resource for sustainable development of the communities inhabiting it, survive from it and from this ongoing interaction creates strong ties of identity, memory and use, fundamental to the preservation policy.

With specific regard to the integration of public policies, Andreense experience presents advances in both the conceptual as well as the operating field. The Village received, through a single law, a set of guidelines, tools and urban, environmental and cultural parameters specific to their reality, articulated and mostly self-administered, contributing to the institutionalization of a policy, already partly on course. Although a specific experience, this case reveals how the legal instruments that can guide the development more sustainably, building the legitimacy necessary to affect integrated, inter-institutional and participatory policies. Therefore, although it is not a «model» to be replicated, it has been considered a paradigmatic experience by national bodies such as the Ministry of Cities and Iphan, and international bodies, such as the World Heritage Studies Programme of the Brandenburg University of Technology and the International Laboratory of Cultural Landscapes of the Polytechnic University of Catalonia. An experience that sought new paths in building sustainable policies.

Notes


ii In the 1970s, the COGEP, which is responsible for the urban planning of São Paulo, carried out an extensive inventory of architecture in the center, resulting in the creation of areas of special use for the protection of urban property of historical or environmental interest, called Z8-200 (Law 8,328/75), the majority of which are isolated buildings.

iii There are about 20 registered districts listed by CONPRESP:City Lapa, Pacaembu, Perdizes, Sumaré; Bela Vista; Pinheiros; Interlagos; Jardins América, Europa, Paulista e Paulistano, entre outros.
Without entering into the discussion of ownership and daily fundamentals, as put by Jane Jacobs and Ulipano Meneses, which would not be fit to develop in the short space of this article.

v Accidents are the differences of templates from buildings in a street (CULLEN, 1986).

vi C.A. is the relationship between the constructed area and the plot area. Law 12.349/97 – OUC establishes C.A. twelve for hotels and superior for classified goods. Sets rules of proportion to transfer application potential: C.A. between 12 and 15, permits a transfer of 40%, and above 15, a transfer of 20%.

vii At the time, Beto Carrero contested the purchase of the Vila to deploy one of his theme parks.

viii There were still other channels of participation such as the Participatory Budget, the Council of Residents, Entrepreneurs Forum, the Forum of Environmental and Cultural Monitors and the Committee of Festivities.

ix Paranapiacaba has a power and lighting system implemented by SPR with lampposts on metal rails that run even today. It took three years for approval of the project that met the preservation agencies, environmental licensing and safety standards of the power company.

x Project awarded by IPHAN in 2007.

xi Most Brazilian preservation organs have no regulations for enforcement. IPHAN, only regulated their fines in 2010 (Ordinance 187).

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CULTURAL HERITAGE, CITY, SUSTAINABILITY:
WHAT IS THE ROLE OF URBAN LEGISLATION IN
PRESERVATION AND DEVELOPMENT?

VANESSA GAYEGO BELLO FIGUEIREDO

**Abstract:** A harmonic relationship between cultural heritage preservation and socio-economic development is a present challenge in the management of historic sites. The article discusses the relationship between classification and urbanistic instruments, such as the master plan and the special zones. The analysis focuses on two recent initiatives: the Cultural Preservation Special Zone (ZEPEC) of São Paulo (2004) and the Special Zone of Interest to the Paranapiacaba Heritage (ZEIPP) of Santo André (2007). While the ZEPECs, which are based on a monument conception and a fragmented vision of urban heritage, reveal contradictions between preservation and development policies; the ZEIPP articulates territorial planning with sectoral policies of preservation, environmental conservation and socioeconomic and urban development within a perspective of integrated and participatory management. The cultural landscape is considered not only an asset to be preserved for upcoming generations, but also a resource for the sustainable development of their communities.

**Keywords:** Cultural heritage preservation; Sustainable development; Cultural landscape; Master plan; Special zones.

**Resumo:** Uma relação harmônica entre preservação do patrimônio cultural e desenvolvimento socioeconômico é um desafio há muito presente na gestão de sítios históricos. Este artigo discute a articulação entre tombamento e instrumentos urbanísticos, como o plano diretor e as zonas especiais. Serão analisadas duas experiências recentes: a ZEPEC – Zona Especial de Preservação Cultural, de São Paulo (2004) e a ZEIPP – Zona Especial de Interesse do Patrimônio de Paranapiacaba, de Santo André (2007). Enquanto as ZEPECs, embasadas numa concepção de monumento e na visão fragmentada do patrimônio urbano, revelam contradições entre as políticas de preservação e desenvolvimento; a ZEIPP articula o ordenamento territorial às políticas setoriais de preservação, conservação ambiental e desenvolvimento urbano e socioeconômico, trabalhando na perspectiva do planejamento e gestão integrados e participativos. Considera ainda a paisagem cultural como bem a ser
preservado, não apenas como testemunho às futuras gerações, mas como recurso ao desenvolvimento sustentável de suas comunidades.

**Palavras-chave:** Preservação do patrimônio cultural; Desenvolvimento sustentável; Paisagem cultural; Plano diretor; Zonas especiais.

**Resumen:** La armonía entre la preservación del patrimonio cultural y el desarrollo socioeconómico es un desafío de largo recorrido en la gestión de sitios históricos. Este artículo aborda la relación entre la clasificación y los instrumentos urbanísticos, como el plan maestro y las zonas especiales. Serán revisadas dos experiencias recientes de zonas especiales de preservación cultural: la ZEPEC de São Paulo (2004) y la ZEIPP de Santo André (2007). Mientras las ZEPECs, basadas en una concepción del monumento y en una visión fragmentada del patrimonio urbano, revelan las contradicciones entre las políticas de desarrollo y conservación; la ZEIPP articula la planificación territorial con políticas sectoriales de preservación, conservación ambiental y desarrollo socioeconómico y urbano, trabajando en la perspectiva de la gestión integrada y participativa. Considera el paisaje cultural como bien a conservar, no sólo como ejemplar para las generaciones futuras sino también como recurso para el desarrollo sostenible de sus comunidades.

**Palabras clave:** Preservación del patrimonio cultural; Desarrollo sostenible; Paisaje cultural; Plan maestro; Zonas especiales.