

# BENDING

# THE FUTURE

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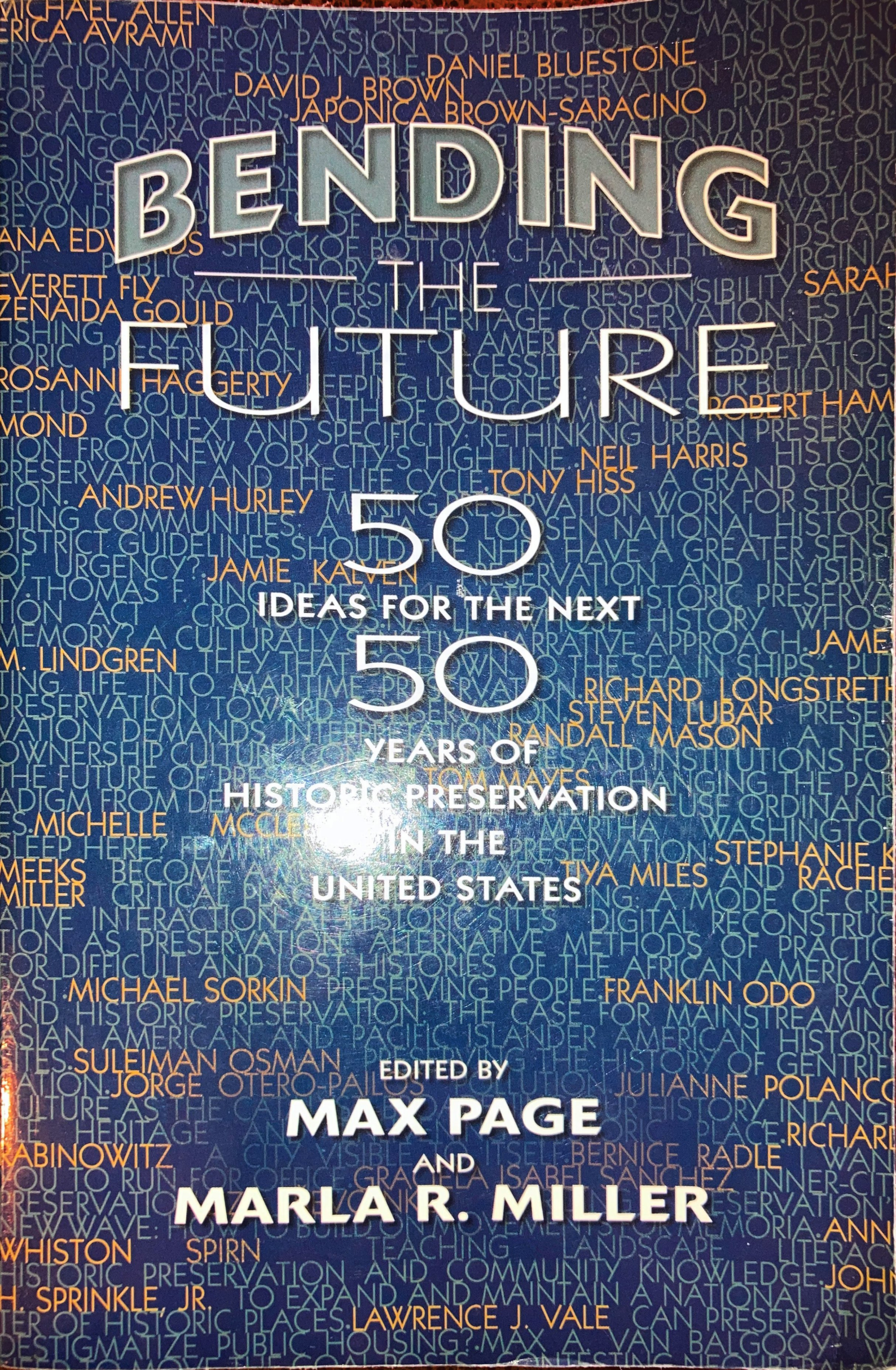
IDEAS FOR THE NEXT

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YEARS OF  
HISTORIC PRESERVATION  
IN THE  
UNITED STATES

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# Changing the Paradigm from Demolition to Reuse—Building Reuse Ordinances

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TOM MAYES

Many cities and communities compete to be green, encouraging LEED-certified buildings, bike-friendly transportation policies, walkable streets, and energy-efficient public and private buildings. Yet few cities actively promote the reuse of existing buildings as a green strategy. The result is that many older buildings are discarded, with the materials ending up in landfills and the new buildings constructed from materials that have been obtained through the environmentally damaging extraction and transportation of new materials.<sup>1</sup> It's a double whammy—throwing materials away and destroying the earth to extract more. The result is a wasteful and unsustainable cycle of construction, demolition, and reconstruction.

At the same time, people crave continuity as their communities change, and they lament the loss of the stories, memories, and identities embodied in the existing buildings. These stories, memories, and identities surface even in places that are only a generation old, such as the 1970s Eastland Mall (Charlotte, North Carolina) of my childhood.

In order to promote greener and more sustainable communities, and to give people a greater capacity to ensure continuity and to manage change, I envision communities implementing a new tool tentatively titled a “building reuse ordinance.” As I conceive it, a building reuse ordinance would establish a community policy that promotes the reuse of existing buildings. Demolition would be prohibited unless the community determined that the existing building and the proposed new building met specified requirements. The requirements would be assessed through a review process that determined

whether the demolition was beneficial for the community. If the building did not meet the test for demolition, the community would have the authority to prohibit demolition and require reuse.

The factors considered in the review process would vary from community to community, but could include: (1) the environmental impacts of demolition and new construction; (2) the potential energy efficiency of the existing building compared to the new building, including the number of years that it would take to recoup the environmental cost of the demolition and new construction; (3) the historic significance of the building; (4) the architectural significance of the building; (5) the cultural significance of the building to the community, including the collective memory and community identities associated with the building; (6) consistency of the old and the proposed new building with the zoning ordinance and comprehensive plan of the community; and (7) the character and quality of the proposed replacement building.

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*Building reuse ordinances would represent a fundamental paradigm shift.*  
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2 diff things

From a preservation perspective, the implementation of a building reuse ordinance would fundamentally change the default in most communities from a presumption that demolition is acceptable to a presumption of reuse. If implemented, building reuse ordinances would represent a fundamental paradigm shift in preservation practice, and this paradigm shift would pose both opportunities and challenges.

First, the opportunities. Currently, even though preservation is widely accepted as a value in the United States,<sup>2</sup> protection is the exception rather than the norm. Historic landmarks and historic districts must be specifically designated, often an expensive, cumbersome, and controversial process. In many communities that have put historic preservation ordinances in place, few districts or buildings are designated. In addition, in many states, the enabling laws do not permit the community to prohibit demolition, but only delay demolition by a year or two. The result is that we have historic preservation commissions reviewing specific changes to a building, such as window replacement, when they cannot ultimately protect the building from

being demolished. Property owners can simply wait the commission out and then demolish. Implementing a building reuse ordinance that is enacted on the basis of environmental sustainability may encourage the survival of many more buildings than could be currently protected with existing historic preservation ordinances.

The challenge. As proposed, the building reuse ordinance would not impose any review of changes to the building other than those required by the building code or other ordinances. There would be no historic area work permit, no certificate of appropriateness, no approval from the architectural review board or historic preservation commission.<sup>3</sup> People could change the siding, change the windows, construct additions, or make other alterations so long as they were consistent with the community's other ordinances. Yet the building would itself likely survive.

A building reuse ordinance also would not distinguish between "contributing" and "noncontributing" buildings, and there would be no need for a "period of significance." All buildings of all eras would be covered by the ordinance. From a community continuity point of view, the ordinance would therefore "protect" buildings that the community may have become attached to that are not yet officially "old," such as, for example, New York City's American Folk Art Museum building, which was only twelve years old when it was demolished, or Eastland Mall or other buildings of the recent past that may be significant for their architecture or their cultural meaning.

Many may find the idea of not regulating changes to buildings to be troubling if the buildings are historically or architecturally significant (although I want to be clear that I view a building reuse ordinance as an additional tool that could be used in conjunction with existing preservation ordinances, and not only as a substitute). Certainly owners could make what trained preservation professionals would consider to be inappropriate changes to buildings—changes that are not consistent with "The Secretary of the Interior's Standards for the Treatment of Historic Properties" or other comparable standards. But the trade-off is that more buildings would likely survive, even if they survived in a greatly altered state. And there would be no regulation of small changes to older buildings (window replacements, siding changes, roof material changes, solar panels) that many

people in the public find difficult to understand. Buildings would not be "frozen in time" (not that they ever were under existing preservation ordinances and "The Secretary of the Interior's Standards for Rehabilitation").

Currently, there are some similar ordinances to look to as partial models, such as teardown or mansionization ordinances, conservation district ordinances, and ordinances that require a surcharge for construction or demolition landfill material.

Is this preservation? It keeps existing buildings and encourages their sustainable reuse, which retains a broader range of community values, right up to the present day. Seems like preservation to me.

**THOMPSON (TOM) MAYES** is deputy general counsel at the National Trust for Historic Preservation. A recipient of the National Endowment for the Arts Rome Prize in Historic Preservation from the American Academy in Rome, Tom recently published a series of essays about why old places matter to people. He has written and spoken widely about historic house museums, preservation, and preservation law.

## NOTES

1. "The Greenest Building: Quantifying the Environmental Value of Building Reuse," National Trust for Historic Preservation, [www.preservationnation.org](http://www.preservationnation.org).
2. Sandra Shannon, "Why Old Places Matter: A Survey of the Public," Preservation Leadership Forum Blog, May 7, 2015, [blog.preservationleadershipforum.org](http://blog.preservationleadershipforum.org).
3. The building reuse ordinance would not replace a historic preservation ordinance. Communities could have a building reuse ordinance as well as a historic preservation ordinance, so that specific historic districts and historic landmarks could still be designated and subject to review where appropriate.