

Plot longevity and urban land tenure: a Norwegian case study

Geir Atle Ersland

Centre for Medieval Studies, University of Bergen, Villaveien 1a, Pb. 7805,
5020 Bergen, Norway. E-mail: geir.ersland@cms.uib.no

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Abstract. *The longevity of plot boundaries has been observed by many scholars and in different geographical regions. The hypothesis that the persistence of plot boundaries is related to the legal position of the plot holder (or renter) is explored in this paper, focusing on the Norwegian town of Bergen. The concept of 'right to use and possess' found in medieval law is shown to have had a major influence in maintaining existing plot patterns in Bergen over many centuries. The property owner could not change or amalgamate his plots if this conflicted with the interests of the plot holder. Thus the town's plot structure was preserved even after fire.*

Key Words: medieval town, plot persistence, rent, ownership, urban morphology, Bergen, Norway

A key element in M. R. G. Conzen's study of Alnwick was the observation of persistence of plot patterns. Conzen observed that the late-medieval town plan of Alnwick showed little difference from the borough as it was surveyed in the 1770s (Conzen, 1960). The longevity of streets and plots was also described as a marked feature of medieval towns by the German researcher Eric Keyser in his major work *Städtegründungen und Städtebau in Nordwestdeutschland im Mittelalter*, and further elaborated when he discussed the town plan as a historical source. He pointed out that in general the boundaries of plots have not been altered over many centuries (Keyser, 1958, 1963). However, Conzen was the first researcher to recognize the plot as a fundamental element of urban morphology along with streets and buildings (especially their block-plans). J. W. R. Whitehand has stated that after Conzen's study of Alnwick 'plots were to be almost a *sine qua non* of geographical town-plan analysis' (Whitehand, 1981, p. 16).

In the case of Bergen, today Norway's second largest town, the study of local urban land patterns goes back to c. 1900, and in 1952 a doctoral thesis was produced on the subject (Lorentzen, 1952). Attempts to identify plot boundaries have been a concern during archaeological excavations in the town since the 1950s, and such boundaries have been interpreted in a PhD thesis published in 2005 (Hansen, 2005). Analysing urban landownership was also brought to the fore in the first volume of the *History of Bergen* (Helle, 1982). The pioneering work in the field was carried out by the local historian C. Koren Wiberg between c. 1900 and 1920. He put forward the view that the medieval parts of Bergen had preserved a plot and street pattern that still contained information on how the town had developed from the outset (Koren Wiberg, 1908, 1921). His work on Bergen is an early example that fits well the conceptual framework introduced by Conzen. However, large-scale archaeological excavations after 1955 revealed that Koren Wiberg's assumption

about the earliest building pattern in Bergen was flawed. The harbour area had been extensively filled in during the medieval period: a fact of which Koren Wiberg had been unaware (Ersland, 1988). Nevertheless, this did not falsify his hypothesis about the longevity of the building pattern: after the newly filled in areas were built over with tenements, the plots retained their shapes over very long time-spans. This was confirmed by archaeological excavations (Herteig, 1985).

The intriguing question then, is what caused plot boundaries to persist? Why did plot boundaries tend to be retained, and in what circumstances did this not happen? Since the persistence in plot structure has been observed for many towns there has, not surprisingly, been a variety of explanations proposed. An obvious explanation of the longevity that needs to be considered is the urban topographical circumstances. Streets, squares, churchyards, markets, harbour fronts and many more elements make it difficult to change plot boundaries. However, these are elements that set the outer limits to larger blocks rather than explain the persistence of the inner plot structure. The latter could be explained by the fact that neighbouring plots, with their houses, fences and gardens, left no space for change. T. R. Slater has shown that in several English towns there is evidence that plots were divided into smaller plots, but such partitioning still left the original boundaries intact. Neighbouring plots could also be amalgamated into larger entities, but such development tended to be a feature of recent centuries (Conzen, 1981; Slater, 1981, 1985, 1987). This is also in accordance with views put forward by R. Hammel-Kiesow for Lübeck (Hammel, 1986, 1987).

These explanations are related to the physical structure and uses of plots and street blocks. Conzen stressed that the differentiation and corporate nature of medieval society had to be considered when he stated that 'the harmony between the ancient street system and plot pattern and its later traditional building fabric has depended very much on the relative stability of pre-industrial society in its technology, its building methods, and its

economic, social and cultural conventions which, while allowing individual expression, kept individual effort well within the generally accepted form language of its period' (Conzen, 1966, pp. 64-5).

Plot persistence in early modern Bergen: the Bergis-project

Fire occurred in most medieval and early modern towns from time to time. In Bergen fires were frequent from the twelfth century onwards, more or less at 20 to 30 year intervals even in the eighteenth and nineteenth centuries. In 1702 a fire destroyed 85 per cent of the built-up area and in 1756 nearly 40 per cent. Partial fires occurred in 1774, 1795, 1800, 1830 and 1855. The devastation was particularly severe since wood was almost the sole building material. Such fires effectively reduced most physical hindrances to changes in the plot structure, especially in areas where large numbers of neighbouring plots were in the possession of the same landlord. In theory, therefore, plots could be amalgamated or a new plot structure could be established.

In a recent research project, the Bergis-project (<http://bergis.uib.no>), efforts have been made to analyse large amounts of plot data. A major goal has been to reconstruct a detailed map of Bergen *c.* 1680. There is a written survey of 1686 of every plot in the town which documents a total of 2355 plots (Ersland, 1989, 2005). The 1686 survey is supported by a survey made in 1753, largely reproducing the same text as in 1686, but with additional names for the contemporary plot holders, and details of new plots created at the fringes. The total number of plots in the 1753 survey is 2756.

More than half of the plots in the 1753 survey have an address that gives the exact location of the plot. This address has been added in the 1780s from a unique address system created in the 1770s (Solli, 2006). From the seventeenth century the built part of the town area was divided into 24 sectors called *rode*, and in the 1770s each plot within a *rode* was given a number. The address con-

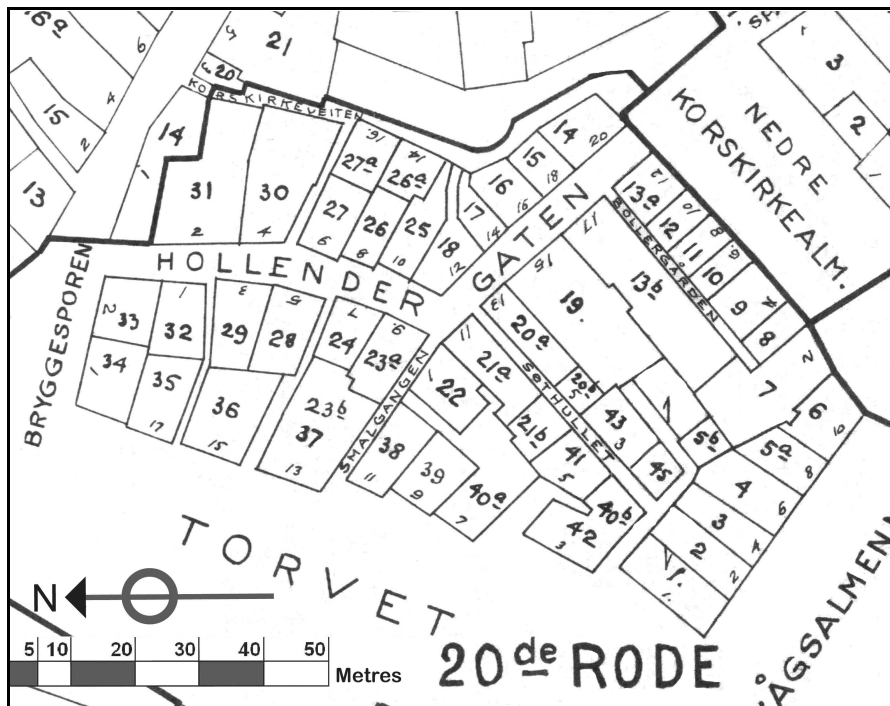


Figure 1. Detail from the *rode* map of Bergen, showing *rode* 20. Each plot contains the *rode* in large print and the street number in small print. Torvet is the market place. Reproduced from *Oppmålingsschefen i Bergen 11-11-1934*.

sisted of the number of the *rode* and the number of the plot: for example, 2-42 would be *rode* 2, plot 42. There were usually about 80-140 plots in a *rode*. In the 1880s, the *rode* numbering was abandoned and a more modern street addressing system was introduced. In 1888 a very detailed survey map with both address systems was drawn so that each plot on the map has a street address and a *rode* numbering address (Figure 1).

Arne Solli has created a GIS of the 1888 map, based on a reconstructed *rode* map made by the former Chief Surveyor of Bergen in 1934. He has used the 1888 map and one from 1879/80. On the GIS map are located all the plots in the 1753 survey with a *rode* numbering address. This also gives the locations of more than half of the plots in the 1686 survey. This is possible because the *rode* address system created in the 1770s was done by surveying every plot in town and each plot was referenced to the page where it could be found in the 1686 and 1753 surveys. This

makes it possible to assign an address to most of the plots that do not have a *rode* number in the 1753 survey, and then relate these plots to the 1686 survey (Solli, 2006). In this way late-seventeenth-century plots are located on the 1888 GIS map. So far 1780 of the 2355 plots in the 1686 survey have an address according to the *rode* number system. Since there are measurements mentioned for many plots in the 1686 survey, these can be compared with the 1888 GIS map. This reveals the persistence of plot boundaries in Bergen from the seventeenth century to the middle of the nineteenth century. New plots established on the outskirts of the town are also shown.

Land tenure

Among historians the legal aspect of urban land has been given more weight than its physical aspect in explaining the persistence of plot structure. Burgages are thought to

represent important legal rights, assuring the holder the status of a burgess (Slater 1981, 1987). In the words of M. M. Postan (1972, p. 213), householders ‘in medieval towns, or burgesses as they came to be known, were deemed to be personally free and held their land by *burgage tenure*, a fully free title which approached very closely to the concept of full untrammelled ownership represented by the Roman *proprietas*’. According to Postan, townspeople, like everybody else in medieval society, held their rights by their relationship to land. However, H. van Werveke points out that burgage tenure has been interpreted as being more in accordance with Roman than Germanic law because the focus was on the right to hold or use the object and not the personal bond between a territorial lord and his subject (Werveke, 1963, p. 19). This form of tenure has also been called *free tenure*, or in German *Erbleihe* (Strahm, 1945, pp. 23-5). Through free tenure, the territorial lord held the right to receive a yearly rent and benefit from other obligations of the holder of a burgage (*Obereigentum*). The holder had the right to use the land (*Untereigentum* or *Nutzungsrecht*). Amongst German urban historians, this form of tenure is also called *Gründerleihe* because it is identified as a tenure given by the territorial lord to the townspeople when a town was founded (Hammel, 1986, p. 179; Strahm, 1945, pp. 38-9). An alternative view is that labour and other services due to the territorial lord had been commuted to an annual fixed money rent – the borough render, or *firma burgi*. This was levied upon those who held a plot of land – a burgage (Slater, 1981, p. 211).

During the Danish archaeological project *Project Middelalderbyen* (the medieval town project), special attention was given to the problem of the modern concept of ownership compared to the medieval concept. The medieval concept of ownership did not contain the idea of private ownership as the full right to control property but rested on the notion of ownership as a series of rights. A main distinction can be drawn between the *dominium utile* (the right to use) and *dominium directum* (the right to absolute ownership

which gave the proprietor the right to let the object to a second party for a regular rent which implies that what was rented was the *dominium utile*). The two forms in this way correspond to the German terminology *Über- und Untereigentum*. To collect a rent was one right, and to use the rented object was another. The right to use, often termed ‘to hold, have or possess’, tended to be perpetuated as long as the annual rent was paid (Fenger *et. al.*, 1982, pp. 121-2). A similar distinction is presented for Lübeck by Hammel-Kiesow (Hammel, 1987, pp. 119, 121, 266).

The importance of plot rent

In the case of Bergen the longevity of plot boundaries accords well with observation. In documentary records, the importance of plot rent is striking and underlined by the fact that rent is the focal point of nearly every kind of source concerned with plots in Bergen. In the survey of 1686, plot rent and who has got the right to collect it is the main concern (Erslund, 1989, p. 35). And when the new address system was constructed in the 1770s, the main reason was to collect plot rents more efficiently and to know who held the plots (Solli, 2006). Earlier studies of the origins of the urban plot tenure system in Bergen have underlined that it developed in an atmosphere of late-medieval trade expansion and a milieu of economically weakened rural landowners in the late-medieval period, after *c.* 1350. A study of the ownership structure of urban land in Bergen in the late-medieval period has demonstrated that by the fifteenth century ownership was in the hands of both secular and ecclesiastical landowners. Their land was split into plots and let to townspeople. By *c.* 1500 all plots were rented from lay and ecclesiastical proprietors. These kinds of rents have therefore a late-medieval origin and it is believed that urban landowners started to let plots after the recession caused by the Black Death, since they were no longer economically able to maintain their town houses (Erslund, 1989). Prior to this, no sources refute the hypothesis that landowners themselves used

their urban land and collected revenues from letting rooms or whole houses (Ersland, 1994). There is no evidence of any plot rents prior to 1400, and there is no indication that there existed any such rent in Bergen's Town Law of 1276 (Ersland, 1996).

The townspeople held the initiative when tenures were established. It was not possible to change the annual rent and a holder of a rent tenure could transfer it to a new holder without having to consult the owner of the plot as long as the new holder agreed to accept the old terms. This underlines the fact that the tenant (or plot holder) had a strong position. Deeds from the sixteenth century reveal that a tenant could actually sell his tenure, and probably make a profit from it. The buyer would then own an established tenure with a stable annual rent to be paid to the landowner. Even when new deeds were written the evidence suggests that these only repeated an earlier agreement (Ersland, 1994, pp. 163-4). This reflects the lack of initiative that the landowner had. One exception was that if the plot holder forgot to pay his rent the right of the plot and ownership of the houses reverted to the owner (Ersland, 1994, p.150). In general the strong position of the tenant fits well the concept of 'to hold and possess' plots according to the terms *dominium utile* and *dominium directum*, and helps to explain why the right to rent a plot even survived fires. After a fire, the holders of plots could still claim their rights, and rebuild their houses, and by doing so the town plan was to a large extent reconstructed.

However, a high degree of persistence does not mean that morphological changes could not take place. In the sixteenth century, the town government in Bergen began to establish broad open spaces called *allmenning* (commons) so that the densely built-up part of the town could be divided into sectors and fires more readily confined to the areas in which they started. The concept of *allmenning* is also known in medieval times. The Town Law of 1276 distinguishes between *allmenning*, streets and alleys. The medieval *allmenning* was, in keeping with its name, a broad passage open to the use of everyone, and especially used by those who did not hold

plots with direct access to the harbour. It did not have the width of the early modern *allmenning* which was laid out with the purpose of hindering the spread of fire. Such measures were implemented before the rebuilding of houses had started. This was not straightforward because plots had to be acquired and this was resisted by the tenants. It was facilitated after the Reformation when much urban land was confiscated from the Church by the king. The king, or for all practical purposes the king's representative and captain at the local castle, became the largest urban landowner, and in addition he controlled large areas formerly not built upon. This gave the opportunity to reallocate holders of plots on the king's land, and shows quite convincingly that the individual right to hold a plot for a yearly rent gave the holder a strong position relative to the landlord. Tenants could only be persuaded to relinquish their plots when compensated by at least an equally favourable location elsewhere.

In a report following Bergen's largest fire, in 1702, a story is told about a young merchant who was out of town at the time of the fire. His house and all his belongings went up in flames and his wife and children had nearly been victims of the flames, having had to run naked through the streets. But the worst thing, according to the report, was that the young merchant's plot was, in his absence, confiscated so that now he was a poor man (Rapport fra sognepresten i Korskirken, 1702). The report fully demonstrates the importance of compensation if the town government seized a plot, and the story gives important insights into the situation after fire had ravaged the town. The most important asset, and probably the only asset in many cases when houses and belongings were destroyed, was the right to use the plot. And this right had to be protected if one were to have any hope of recreating one's position in the town community. In the extreme situation after a major town fire, the mechanisms that preserved the morphological structure of the town become clearer because in such cases every plot holder would protect his right to rebuild his former piece of the town's fabric. As for the rebuilding after the

fire in Bergen in 1702, which destroyed 85 per cent of the urban fabric, the official plan for a new and more fire proof town was laid out on a grand scale. The work was led by the king's commissioner, but eventually came to little more than the broadening of a few streets. One obvious reason given by the commissioner in his report was that townsmen had new houses prefabricated on the islands outside the town and then took them into town during the night and put them up on their plots (Fossen, 1979, p. 487). So even after a disaster such as that of 1702, Bergen was rebuilt according to its old plot pattern.

The Bergis-project has documented that plot persistence is the rule in Bergen from the seventeenth century to the late-nineteenth century, and that plots were held by yearly rent. It is the strong legal position of the holder of *dominium utile* that underpins longevity, not the rent which in itself is just a token or symbol for the possessor of the *dominium utile*. In monetary value the rents were low and did not change. The right to *dominium utile* was placed in the hands of individuals and separated from *dominium directum*. Changes to the system occurred when the position of *dominium utile* was weakened, or the distinction between *dominium utile* and *dominium directum* was fading.

The end of plot persistence

Koren Wiberg's studies of Bergen were stimulated by the threat to the old core of Bergen by modern redevelopment. Conzen observed in his Alnwick study that the introduction of modern communication and industry transformed and threatened the old pattern. He further stated that

in Britain as a whole the urban scene has been powerfully affected by the main phase of the industrial revolution in the nineteenth century and further urban growth in the twentieth. Yet in the majority of cases the kernels of our towns show in fact a historical townscape in the sense that existing town plan and building fabric are dominated more or less by traditional forms ranging from the medieval or

even Roman era to the late-Georgian or Regency period (Conzen, 1966, pp. 56-7).

So why is it that the core of Bergen today is a mixture of the old plot pattern and larger areas totally redeveloped during the last 160 years? If the hypothesis of the strong position of *dominium utile* is to be valid, a change in the concept of ownership to the disadvantage of the plot holder would seem to be a precondition for the breakup of the old plot pattern. The fundamental requirement for this development is for law makers and government to be strong enough to overrule the interests of plot holders. This could be the result of a coalition between government and those in possession of *dominium directum*, and under the new perception of law influenced by the Roman concept of *proprietas*, which placed the position of the plot holder as a diminutive right. In the case of Bergen this is demonstrated for the first time after a fire in 1855. This affected only a few blocks, but had longer-lasting consequences than any previous fire. After this fire the old plot structure was abandoned and a new structure with new streets was laid out (Figure 2).

The new street system and plot pattern totally ignored those previously existing, and introduced a principle of large-scale town planning to be followed in later remodelling of large areas in the core of the town. The rebuilding was the direct result of a growing concern for a more regulated town plan (Ertresvåg, 1982, pp. 167-9). New laws had been passed to enhance the local government's authority in 1830 and 1848. A post of town planner was instituted and production of a detailed survey map was one of the new appointee's main assignments (Harris, 1991, pp. 53, 142). On a wider canvas, the age of industrialism had its beginning in Bergen in the 1840s with a marked need for expansion of capital investment. The National Bank of Norway was established with a branch office in Bergen in 1845, and private banks and insurance companies were founded in the 1850s and 1860s. These events mark a clear shift in economic growth and the transformation of commercial life. In the 1840s there

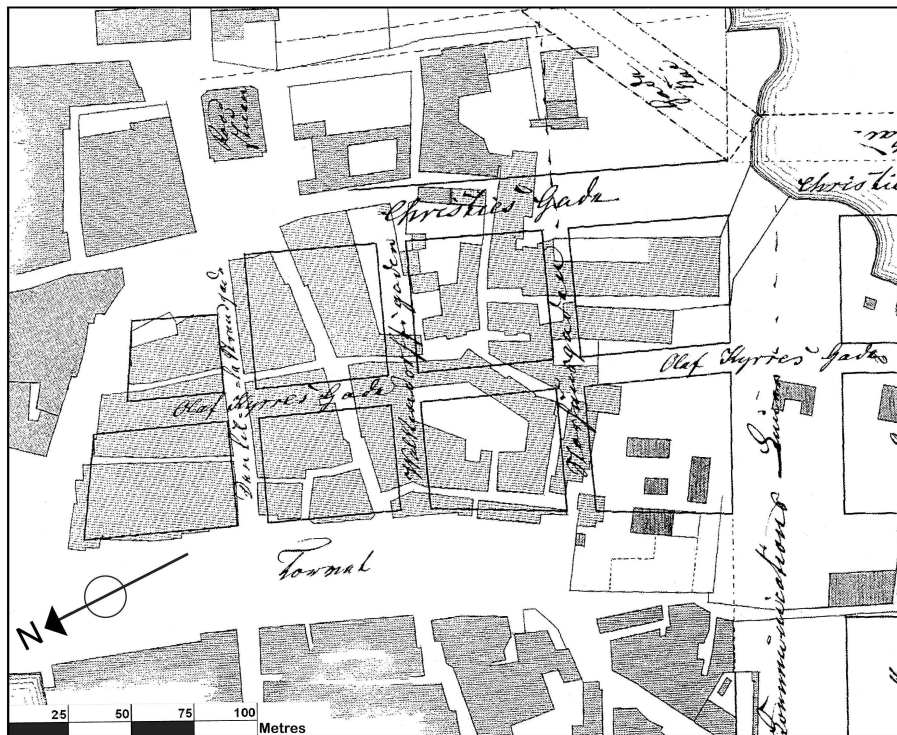


Figure 2. The new pattern of street blocks in central Bergen (shown as rectangles superimposed on the medieval and early modern pattern) following the fire of 1855. Reproduced from Harris (1991).

had been demands for improved conditions both for the individual citizen and trade and commerce. It was a time when the old *laissez-faire* doctrine was abandoned and the town government took on the task to improve conditions and pave the way for progress. The traditional scepticism was abandoned in favour of an active public sector striving to improve the townscape for the common good and greater prosperity (Ertresvåg, 1982, pp. 212-13). These new initiatives were first applied to areas not previously built upon to ensure that the old forms of irregular plot-by-plot patchwork development were not repeated. Thus the earlier plot structure came under threat when a new concept of ownership arose, and the state was in a stronger legal position to acquire private property compulsorily. From the 1850s onward the form of the medieval and early modern town came under pressure for major change.

The changes in Bergen are to a large degree comparable in form and time to what Conzen

found in central Newcastle. He noted that there 'the burgage pattern has been transformed in two ways: by building repletion and a metamorphosis of the actual plot pattern. In the old kernel of present day cities building repletion is functionally varied according to the economic and social impulses of different periods' (Conzen, 1962, p. 400). After 1855 Bergen's townscape took on a new form in accordance with what Conzen termed the move from adaptive to augmentative redevelopment, in which the old plot pattern was ignored, or new streets were laid out leaving parts of the plot pattern intact within the street blocks (Conzen, 1962, p. 404).

Bergen shows little evidence of what Conzen saw as an only slight transformation of traditional urban cores during the industrialization era (Conzen, 1981, p. 95). On the contrary, after the fire in 1855 the medieval and early modern parts of the town were transformed by large-scale redevelopment projects in which whole blocks and old streets

were totally obliterated. Such redevelopment followed catastrophes. One form of catastrophe was large-scale fires, such as that of 1855. In 1916 a fire destroyed more than 380 buildings including the area redeveloped after the 1855 fire. The other form of catastrophe that gave the opportunity for large-scale redevelopment was the Second World War which caused severe damage in Bergen. The rebuilding in the 1950s and 1960s was carried out with no consideration for the historical townscape, and plot holders had little option than to comply with a monetary compensation.

Conclusion

The plot rent system is just a variant of the medieval juridical principle of *dominium directum* and *dominium utile*, and persistence of plot structure should be seen as indicative of *dominium utile* being the stronger of the two. As a consequence the persistence of the plot pattern is broken as soon as this medieval principle of right is broken. Thereafter large-scale redevelopment can be carried through in old city centres. In Bergen the right to hold a plot was expressed by a yearly rent. However, this is only one form of *dominium utile*; in other towns it might be expressed differently. The point is that profound changes to old morphological patterns were made possible when private holders could no longer resist government and corporate interests.

Nonetheless, large parts of many towns have preserved their earlier plot pattern and other aspects of their physical form. However, such areas will probably succumb to redevelopment in due course. Apart from a few churches, the king's castle and a few stone built houses, there are no medieval buildings left in Bergen. Despite this, large areas of the town are considered to have a medieval structure owing to the fact that much of their traditional plot pattern still survives. However, it is not protected by any cultural monument legislation in the same way that houses are. The plot pattern in any area not redeveloped after the mid-nineteenth century bears witness to the town's early development. Plot patterns

should therefore be protected as cultural heritage. This was also contended by Conzen, and might serve as the theoretical basis for townscape conservation he was searching for (Whitehand, 1981, p. 12). The method used in the Bergis-project makes it possible to register individual plot histories in an easily accessible way. It can provide a tool for management of the historical town in which the main focus is on the overall picture, the morphological history of the townscape.

Plot rents are regularly found in medieval and early-modern towns, but so far no study has been undertaken to compare them. Different legal traditions and linguistic terms create major challenges to the success of such an undertaking. Since the standpoint adopted in this paper derives especially from Conzen's study of Alnwick, it is worth noting that plot rent was a dominant form in the central part of sixteenth-century Alnwick. However, Conzen does not discuss whether these rents have any significance for the persistence of the plot structure. The most important factor in the case of Bergen is that the conditions of plot holding gave major protection to the interests of the plot holder. When these interests were challenged the physical forms to which the plot patterns provided a framework were susceptible to change. As a consequence the physical evidence of the stages in the development of the town's built environment will in time be lost.

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