

# Federal, State, and Local Preservation Partnerships

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# Chapter Three — Federal, State, and Local Preservation Partnerships

A variety of federal, State and local laws and incentive programs protect thousands of historic properties in the United States. The State of Kansas' laws provide protection of properties listed on the National Register and the State Register. In general, local preservation laws provide the most substantive protection for historic properties.

## **FEDERAL FRAMEWORK**

A large number of federal laws affect historic preservation in various ways:

- by establishing preservation programs for federal, State, and local government agencies;
- by establishing procedures for different kinds of preservation activities; and
- by creating opportunities for preservation of different kinds of resources.

The National Historic Preservation Act of 1966, as amended, is the centerpiece of the national historic preservation program. The Act's primary mandates

- authorize the Department of the Interior, National Park Service to expand and maintain the National Register of Historic Places;
- provide for the establishment of State Historic Preservation Officers to administer federal preservation programs;
- specify how local governments can be certified for participation in federal programs;
- authorize preservation grants-in-aid to states and local governments;
- provide a process for federal agencies to consider and mitigate adverse impacts on historic properties that are within their control; and
- establish a rehabilitation tax credit program for private property owners that is also part of the Internal Revenue Code. The tax codes also allow charitable contributions through façade and scenic easements.

## **STATE FRAMEWORK**

Each state has a State Historic Preservation Officer (SHPO) usually appointed by the Governor to administer federal preservation programs. The Kansas Historic Preservation Office (KHPO) fosters the preservation of the archeological, architectural, and cultural heritage of Kansas. The KHPO serves as the staff for the SHPO and administers the State as well as the federal preservation program within Kansas. Programs of the Kansas SHPO include:

### **Public Education / Outreach**

An extensive public education program provides information to Kansas citizens on general preservation issues. The KHPO publishes a free bimonthly newsletter, *Kansas Preservation*. Staff members participate in workshops, seminars, and conferences as lecturers or advisors; speak to university classes, local historical societies, preservation groups, downtown organizations, local governments, etc.; respond to written and telephone requests for information; distribute technical leaflets and information; and inspect buildings to offer advice on preservation treatments. The program provides special assistance to compatible programs like the Kansas Main Street Program, the Certified Local Government Program, and their participants to insure that they are implemented in a manner conducive to proper preservation practices.

### **National and State Registers**

The National Register of Historic Places and the Register of Historic Kansas Places are the official lists of the cultural resources worthy of preservation in Kansas. The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association. The KHPO administers the nomination procedures for the State and national registers.

### **Grants and Incentives**

#### Heritage Trust Fund (State Grant Program)

The Heritage Trust Fund program, enacted in 1990, awards State grants for the preservation of properties listed in the State Register and/or National Register. All registered properties except for those owned by the State or federal governments are eligible for these annual grants.

### Historic Preservation Fund Grants (Federal Grant Program)

The Historic Preservation Fund provides support for activities that assist in planning for the preservation of historic structures and archeological sites. Eligible activities include:

- surveys of historic and prehistoric sites;
- preparation of nominations to the National Register of Historic Places; and
- preparation of historic preservation plans and educational activities that inform the public about local historic resources and historic preservation issues and techniques.

The National Park Service provides funds to the KHPO to be awarded as sub-grants.

### **Federal and State Preservation Tax Incentives**

Federal and State legislation provides for tax incentives to spur the rehabilitation of historic properties. Preservation tax incentives are available for qualified projects that the National Park Service designates as a certified rehabilitation of a certified historic structure. A certified historic structure is any building that is listed individually in the National Register of Historic Places or located in a National Register historic district and identified as contributing to the district.

The 20 percent federal rehabilitation tax credit applies to owners and some lessees of income-producing National Register properties. The law also permits depreciation of such improvements over 27½ years for a rental residential property and over 31½ years for a nonresidential property. The rehabilitated building must be subject to depreciation. All, of the State's privately owned National Register properties (commercial and residential) are eligible for a 25 percent Kansas rehabilitation tax credit. When used together, the federal and State tax credits can recapture up to 38 percent of eligible rehabilitation costs in tax credits.

In exchange for the tax credits, the rehabilitation work must comply with the Secretary of the Interior's Standards for Rehabilitation. The KHPO functions as the intermediary between the project sponsors and the National Park Service, as well as processing applications for the State Rehabilitation Tax Credit. The KHPO provides applicants with technical information and recommends appropriate preservation treatments and methods.

## **Project Review and Compliance**

The SHPO staff review approximately two thousand projects a year in accordance with the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* for potential effects on the State's historic and cultural resources. This includes all federal or federally funded, licensed, permitted, or approved undertakings that may have an effect on properties listed in or eligible for listing in the National Register of Historic Places or the Register of Historic Kansas Places. Any project undertaken, licensed, or permitted by the State or its political subdivisions (such as a city, County, township, school district, etc.) that will affect a historic property listed in the State or National registers or the environs of a listed historic property must be reviewed in accordance with the State preservation laws. The environs is typically measured by a five hundred foot notification area. The protective measures for historic properties in both State and federal laws apply to all properties regardless of ownership and the review process use the same standards.

## **Certified Local Government Program**

Certified Local Governments (CLGs) are eligible to compete annually for 10 percent of the State's federal historic preservation funds to carry out preservation functions in their communities. Through the CLG process, the local government can assume a leadership role in the preservation of its historic resources, have a formal role in the National Register nomination process, participate in the establishment of State historic preservation objectives, and receive technical and advisory services from the KHPO. Assistance includes development a preservation ordinance and a qualified preservation commission, as well as establishment of a survey and inventory system, which are all prerequisites for participation.

## **Cultural Resource Survey**

The KHPO maintains historic property inventories for identified historic and archeological resources in Kansas. Local organizations, agencies, or individuals are encouraged (often through matching grants) to perform surveys in their own communities or regions. The office performs limited specialized inventories, trains local surveyors, provides guidance to local survey projects, and evaluates the results of survey projects. Survey and inventory activities provide information for register nomination and protection of historic and cultural resources.

## **Preservation Planning**

The KHPO has responsibility for developing and implementing a statewide strategic management plan that addresses key critical issues in preservation. The plan assists in predicting trends affecting and impacting historic and archeological properties and guides resource management decisions and operations for the KHPO and other preservation stakeholders. The KHPO involves many organizations, agencies, and individuals in the statewide preservation planning process. The plan is regularly updated and revised to adequately address the preservation needs of the State.

## **Preservation Programs Administered by other State Agencies**

### Main Street Program

The Kansas Main Street program uses a common-sense approach to tackle the complex issues of revitalizing a community's central business district, capitalizing on the downtown's history and identifying the resources of the community itself. The State program, which started in 1985, provides management training, consultation visits, local program evaluation, design assistance, business enhancement strategies, incentive dollars, and on-going training in the National Main Street Center's four-point approach — organization, promotion, design, and economic restructuring.

### Kansas Neighborhood Revitalization Act

The Kansas Neighborhood Revitalization Act allows the governing body of any municipality or County to pass an ordinance designating an area within that municipality as a "Neighborhood Revitalization Area" if it finds that "the rehabilitation, conservation or redevelopment of the area is necessary to protect the public health, safety or welfare of the residents of the municipality."

Kansas also has constitutional and legislative provisions that allow State and local governments to enact preservation legislation. The State and federal supreme courts have upheld these powers.

## **LOCAL FRAMEWORK**

The City of Lawrence is a Certified Local Government (CLG). As such, its historic preservation program meets federal guidelines. The designation also allows the City to compete for a pool of grant funds available each year to CLGs in the State.

Lawrence's historic preservation programs include the study, identification, protection, restoration, and rehabilitation of buildings, structures, objects, districts, areas, and sites

significant in the history, architecture, archeology, or culture of Lawrence, the State of Kansas, or the nation. The City adopted the “Historic Preservation Ordinance” in order to help protect and restore its historical and architectural assets. The ordinance calls for the establishment of local historic districts and local landmarks, as well as the Lawrence Historic Resources Commission. The principal goals of the ordinance are to encourage the preservation of Lawrence's historic and architectural resources.

The Lawrence/Douglas County Metropolitan Planning Office administers Lawrence’s preservation programs. One of the strongest protections the City’s preservation ordinance offers for historic buildings and archaeological remains is the power to designate and regulate changes to historic properties. In doing so, the City joins more than 8,000 local jurisdictions nationwide that have historic preservation ordinances.

### **Lawrence Historic Resources Commission**

The City established the Lawrence Historic Resources Commission in response to rising public concern for the irreplaceable loss to the community of significant historic structures and sites. The City of Lawrence’s Historic Resources Commission (LHRC) is a seven-member, City-appointed advisory board to the City Commission. Three of the members on the commission are required to come from preservation-related backgrounds (architecture, architectural history, history, landscape architecture, and planning). Four of the members on the commission are required to come from a diversity of professions or be lay persons with demonstrated interest, knowledge, and training in fields closely related to historic preservation (history, architecture, landscape architecture, architectural history, archeology, planning, real estate, law, finance, building trades, urban design, and geography.)

The Lawrence Historic Resources Commission is responsible for:

- identifying distinctive architectural characteristics and historic resources of the City that are representative of the City and that are representative of elements of the City's cultural, social, economic, political, and architectural history;
- fostering civic pride in the past accomplishments of the City;
- conserving and improving the value of property in and around designated historic landmarks and historic districts;
- fostering and encouraging preservation, restoration, and rehabilitation of structures, areas, and neighborhoods; and

- educating the public as to what is historic and how the preservation of these resources can benefit the individual property owners and the community at large.

**Figure 2. Preservation Partners**

<b>PRESERVATION NETWORK</b>	<b>PUBLIC</b>	<b>PRIVATE</b>
<i>FEDERAL / NATIONAL</i>	NATIONAL PARK SERVICE  ADVISORY COUNCIL ON HISTORIC PRESERVATION	NATIONAL TRUST FOR HISTORIC PRESERVATION  PRESERVATION ACTION  NATIONAL ALLIANCE OF STATEWIDE ORGANIZATIONS  AMERICAN ASSOCIATION OF STATE AND LOCAL HISTORY  ASSOCIATION FOR PRESERVATION TECHNOLOGY  SOCIETY FOR AMERICAN ARCHAEOLOGY
<i>STATE</i>	STATE HISTORIC PRESERVATION OFFICES (SHPO)  REGIONAL OFFICES FOR THE NATIONAL PARK SERVICE	KANSAS PRESERVATION ALLIANCE  REGIONAL OFFICES FOR THE NATIONAL TRUST FOR HISTORIC PRESERVATION
<i>LOCAL GOVERNMENT</i>	CERTIFIED LOCAL GOVERNMENT /LAWRENCE'S HISTORIC RESOURCES COMMISSION	LOCAL PRESERVATION AND HISTORY ORGANIZATIONS AND NEIGHBORHOOD ASSOCIATIONS  LAWRENCE PRESERVATION ALLIANCE  DOUGLAS COUNTY HISTORICAL SOCIETY  LAWRENCE ASSOCIATION OF NEIGHBORHOODS (LAN)

## **PRESERVATION ACTIVITY OVERVIEW**

“Living With History,” the title of the 1984 historic preservation plan referred to the fact that residents of Lawrence and visitors acknowledged the town's historic character while enjoying the prosperity of dynamic economic growth at the same time. That earlier theme is more relevant today. In 2002, the historic preservation movement in Lawrence and Douglas County clearly demonstrates the principle that successful communities recognize, protect, and benefit from their history as manifested in historic architectural resources, urban plans, and cultural landscapes.

Prosperity has threatened historic buildings, districts, and landscapes. Inappropriate rehabilitation and demolition threaten historic buildings. Economic pressure to intensify land use threatens historic districts. In the unincorporated areas of Douglas County, urban sprawl and a decline in agricultural land use threaten rural historic resources.

### **Preservation Organizations**

Several organizations in Lawrence and rural Douglas County have direct or indirect interests in historic preservation. Established in 1933, the Douglas County Historical Society is the oldest and most broadly representative historical organization in the County. Similar organizations include the Clinton Lake Historical Society, Eudora Historical Society, Lecompton Historical Society, and the Santa Fe Trail Historical Society. These organizations have broad interests in community history, maintain archival and artifact collections, and own historic properties.

Established as part of the City’s Historic Preservation Ordinance, which the Lawrence City Commission unanimously approved on November 15, 1988, the Lawrence Historic Resources Commission is the only entity specifically created and mandated to identify and conserve the distinctive historic and architectural resources of the City. An earlier attempt to write and pass a historic preservation ordinance for Lawrence failed in 1983. A volunteer task force appointed in August 1987 labored through six drafts to produce the ordinance. Many local citizens consider the ordinance to be a direct response to the protest aroused by the dramatic demolition of eight historic houses on June 27, 1987. Those structures were in the 800 block of Kentucky Street on lots acquired by the Douglas County State Bank for a parking lot to support their new bank building.

Even before the demolitions by the Douglas County State Bank, the Lawrence Preservation Alliance, a preservation advocacy group formed in May 1984, to buy a dilapidated house in the Oread neighborhood threatened by demolition. Three months

later, the Alliance sold the house to a new buyer who rehabilitated the building as a personal residence. Beginning in January 1985, the organization announced its goals of establishing a revolving fund to purchase threatened buildings, promoting survey and nomination of significant buildings, sponsoring walking tours, and assisting in finding a new use for the threatened Union Pacific Railroad Depot in North Lawrence.

Historic preservation is also important to neighborhood associations in Lawrence. These associations organized as the Lawrence Association of Neighborhoods (LAN) to assist in the development of new neighborhood associations, encourage cooperation among neighborhoods, and identify more efficient ways to evaluate the effects of City policies, services, and programs on neighborhoods. Generally, LAN has strongly supported historic preservation and the organization is currently revising its policy statement regarding historic preservation.

Contrasting with the success and stability of the Lawrence Preservation Alliance, the Douglas County Preservation Alliance, founded in April 1991 to undertake preservation activities in rural areas of the County, disbanded in 2001. Two other organizations have objectives related to historic preservation, but extend their programs beyond Douglas County.

Established in 1989, the Kansas Land Trust is a non-profit organization that protects and preserves lands of ecological, historical, scenic, agricultural, and recreational significance. The Trust works with landowners, other organizations, and individuals to preserve natural features in Kansas. Although many of the founding members lived in or near Douglas County, the organization's mission extends throughout Kansas. As a land trust, the organization uses a variety of conservation techniques but primarily accepts conservation easements from willing landowners.

The Kaw Valley Heritage Alliance is a public-private coalition founded in 1995 by the Kansas Rural Center, Kansas Land Trust, and the National Park Service. The organization promotes greater awareness, appreciation, and stewardship of the cultural and natural resources of the Kansas River (Kaw) Valley. A primary goal is to maintain a strong sense of place and community in the valley. Since 1995, the coalition grew to include more than 40 nonprofit organizations, businesses, and local, State, and federal agencies. One of the Alliance's five working committees is the Culture and History subcommittee.

## **Preservation Activities**

Recent historic preservation activities in Lawrence and Douglas County can be summarized in terms of education and promotion, survey and nomination, planning and zoning, and economic development. However, as preservation activity became more diverse and extended into new areas, issues and conflicts have also developed.

### **Education**

The 2001 Kansas Preservation Plan insisted that, ". . . enhanced public knowledge of practices and techniques. . ." is the key to successful historic and cultural preservation efforts. Making information accessible to the general public through workshops and publications encourages public involvement in historic preservation.

<sup>1</sup> The School of Architecture and Urban Planning, University of Kansas offers formal education in historic preservation. Classes for graduate students in architecture and planning include "Preservation Planning and Preservation Economics," as well as classes in "American Architectural History" and "American Vernacular Architecture."

Since the mid-1980s, the Lawrence Preservation Alliance provides an impressive program of walking tours and educational lectures for the general public. In the summer of 2001, the Alliance scheduled a tour of the 1300 block of Ohio Street to view the houses purchased by the Kansas University Endowment Association that presented a preservation concern in the Oread neighborhood.

Recent tours include the Oread Homes Tour in December 2000, which the Lawrence Preservation Alliance and Oread Neighborhood Association co-sponsored. This tour included the downtown Plymouth Congregational Church. A summer 2000 walking tour featured the downtown 1876 E. E. Campbell house that LPA members Don and Sherrill Bushell restored. In 1999, summer walking tours included the Kansas Seed House rehabilitation, an East Lawrence tour, and a Baker Wetlands tour. In 1998, the tours focused on the historical significance of the Kansas River, the architecture of William Griffith in the Oread neighborhood, and Lawrence alleys. The 1997 summer walking tours featured Pioneer Cemetery, South Park, and Oak Hill Cemetery. In 1996, the tours covered East Lawrence, West Hills, and the aftermath of Quantrill's 1863 raid on Lawrence. Summer walking tours in 1995 included the buildings of Jayhawk Boulevard, University of Kansas; the buildings and campus of Haskell Indian Nations University; and South Lawrence residences near 23rd Street. Tours in 1994 viewed downtown buildings in the 700 block of Massachusetts, the Pinckney

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<sup>1</sup> *The Kansas Preservation Plan. Planning for the Future: Historic Preservation Policy* (Topeka: Kansas State Historical Society, 2001), 4.

neighborhood, and East Lawrence. In March 1992, LPA sponsored a tour of houses in the University Place neighborhood located south of the University of Kansas.

Other promotional activities included the LPA annual meeting in 1998, held at the St. Luke African Methodist Episcopal Church in East Lawrence. That meeting featured a program on the church's history and its proposed National Register nomination. The Alliance assisted with the Vernacular Architecture Forum's May 1996 annual meeting held in Lawrence and the Kansas State Historic Preservation Conference held in Lawrence in August 1996. The Alliance also sponsored a public program September 25, 1993 entitled, "Preservationists Look at Lawrence's Future." This presented information from the report of the Horizon 2020 (comprehensive plan) task force on Historic Resources/Preservation. Even before this extensive program development, the Lawrence Preservation Alliance received one of the first four Governor's Awards for Historic Preservation from Governor Joan Finney on May 11, 1992.

The Lawrence Convention and Visitors Bureau promotes heritage tourism and historic preservation through various driving and walking tour brochures. The Bureau provides an "Official Downtown Lawrence Guide" that features nine landmark buildings in the downtown commercial district. Other brochures directing visitors to historic sites in Lawrence include a "Driving Tour of Lawrence, Kansas;" "Quantrill's Raid: The Lawrence Massacre;" "House Styles of Old West Lawrence;" "Historic Cemeteries Tour of Lawrence;" "History of the Union Pacific Depot;" and a "Walking Tour of Haskell."

In December 2001, the Douglas County and Lawrence City Commissions jointly appointed the Lawrence/Douglas County Heritage Area Commission to study the possibility of seeking National Heritage Area designation. The designation could increase tourism and visitation to historical properties and sites in Lawrence and Douglas County.

A National Heritage Area is a defined cultural landscape designated by Congress where natural, cultural, historic, and scenic resources combine to form a nationally distinctive landscape arising from patterns of human activity shaped by geography. These patterns make Heritage Areas representative of the national experience. The National Park Service supports National Heritage Areas with funding, training, technical assistance, and recognition for community efforts.<sup>2</sup> The Lawrence/Douglas County Heritage Area Commission will recommend whether to proceed with a feasibility study for a proposed heritage area in 2002.

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<sup>2</sup> Judy Hart, "Planning for and Preserving Cultural Resources through National Heritage Areas," *Cultural Resource Management* 7 (2000), 29-32.

### **Archaeological Investigations**

Archaeological investigations provide practically the only data about the pre-history of humans in the area of Lawrence and Douglas County. The County's two major drainage systems, the Kansas and Wakarusa rivers, created a topography that was well suited for human habitation. There is considerable evidence of past human use of many of the stream valleys of Douglas County. As archaeologists Lauren Ritterbush and India Hesse pointed out in their 1996 study, "The high archaeological potential of Douglas County is exciting, yet with it comes the need to actively evaluate and manage the finite and fragile resources that provide us with one of the very few sets of data about our human past."<sup>3</sup>

Formal reports of archaeological sites in the County began in 1965. This work related to planning for construction of Clinton Reservoir by the U.S. Army Corps of Engineers. Additional investigations occurred in the project area between 1966 and 1987. Some of the most notable recent investigations resulted from planning and construction relating to the South Lawrence Parkway on the west and south sides of Lawrence.<sup>4</sup>

For preservation planning purposes, the most instructive recent archaeology project was the 1996 survey completed by Ritterbush and Hesse. The archaeologists recommended the continuation of efforts to identify archaeological remains in Douglas County. They conducted intensive archaeological survey of selected parcels of land in Douglas County to identify and record archaeological sites. The goal of the project was to inventory cultural resources on a ". . . sample of lands having high potential for development." Investigators emphasized prehistoric (rather than historic) archaeological resources because ". . . in most cases prehistoric archaeological sites offer our only source of information about more than ten thousand years of human occupation of North America." The work completed represented a relatively small sample of potentially significant resources. Landowner concerns limited access to some properties. The archaeologists gave preference to survey tracts with good ground visibility and high potential for archaeological sites — stream terraces and areas reported by landowners, farmers, or collectors to be associated with artifacts. As the investigators reported, they inspected ". . . approximately 1,056 acres of land within thirty-five survey tracts. The effort recorded fifteen new sites and revisited seventeen previously recorded sites. Twenty-four of these sites contain one or more prehistoric components. Nine contain historic components." Development projects destroyed four previously recorded prehistoric sites; destruction of one site occurred during the survey.<sup>5</sup>

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<sup>3</sup> Lauren Ritterbush and India Hesse, "Douglas County (Kansas) Archaeological Survey" (Lawrence; Museum of Anthropology, University of Kansas, May 1996), 6.

<sup>4</sup> Ibid., 1-5.

<sup>5</sup> Ibid., 1-6.

The archaeologists recommended testing through excavation of twelve prehistoric sites. At least five of these had high potential for listing in the National Register of Historic Places. In addition, the archaeologists recommended continued survey of priority areas, evaluation of potentially significant sites, and designation of significant sites in the National Register of Historic Places. The survey project included a public education component — a presentation describing archaeology in Douglas County prehistoric cultures in Kansas entitled "Archaeology in Our Own Backyard."

Presently, there are 199 archaeological sites in Douglas County formally recorded with the Kansas State Historical Society and the Museum of Anthropology at the University of Kansas. Currently, the identification of archaeological sites continues to be conducted on a project-by-project basis. Information from past surveys and any subsequent surveys must be considered in the comprehensive planning and development process. When warranted, the survey information should be evaluated through further investigation involving excavation of selected sites that are most likely to yield significant information.

### **Survey and Nomination**

The 1984 historic preservation plan recommended systematic survey of Lawrence's historic neighborhoods. Collecting and evaluating information through the survey is the fundamental step in historic preservation planning. Typically, grants to the City from the federal government fund surveys and nominations. Lawrence received Historic Preservation Fund grants administered by the Kansas Historic Preservation Office for the National Park Service in 1990, 1991, 1993, 1994, 1995, 1996, 1998, 1999, and 2000. These grants funded the resurvey of Old West Lawrence, development of the significance statement for the OWL Historic District, the Downtown Lawrence Survey, the East Lawrence Survey, development of Environs Review Guidelines, the North Lawrence Survey, the South Lawrence Survey, hosting the Kansas State Historic Preservation Conference, development of design guidelines for the Old West Lawrence Historic District, and an archaeological survey of Blanton's Crossing. In 2002, the City received a grant to write National Register nominations for historic districts. Survey identified Westwood, Breezedale, University Place, and areas in Oread, and East and North Lawrence as potential historic district nominations.

Other important steps toward nomination to the National Register include the announcement, on July 13, 2001, that the University of Kansas would consider historic district designation for parts of the main university campus. Early in 2002, the Downtown Lawrence Association endorsed the effort to designate part of the downtown

commercial district as a historic district in order to qualify for the federal and State rehabilitation tax credits.

Throughout its years of activity, the Lawrence Preservation Alliance promoted and supported survey and nomination. Survey activity began when the Alliance received an HPF grant in 1987 to survey part of the Oread neighborhood. In September 2000, the Alliance funded the preparation of a nomination for the Hanna building, a downtown Lawrence commercial building, to the Lawrence Register of Historic Places. The Alliance supported the nomination to the Lawrence Register of South Park in 1995 and the Social Service League building in 1994. Earlier in 1990, the alliance submitted a Kansas Register of Historic Places nomination for the old Consolidated Barb Wire Company building in downtown Lawrence.

### **Planning and Zoning**

Two recent examples of the importance of planning and zoning to historic preservation efforts in Lawrence include a rezoning in Old West Lawrence and the preparation of the "East Lawrence Neighborhood Revitalization Plan." Early in 2002, the Lawrence-Douglas County Planning Commission and City Commission approved a change in the western part of the neighborhood near the National Register historic district. In the area bounded by Alabama to Arkansas streets and 6th to 9th streets, zoning changed from RMD (duplex) to RS2 (single-family) in an effort to prevent demolition of existing buildings and replacement by modern structures.

In November 2000, the East Lawrence neighborhood plan received unanimous approval by the City. This neighborhood revitalization plan supported effective code enforcement and maintained appropriate land use and zoning. Other goals included preservation of existing neighborhood landmarks; protection of green space, streetscapes, and other physical assets; support of neighborhood institutions and activity centers; enhancement of pedestrian and automobile safety; and finally, protection and re-investment in the viability of neighborhood businesses.

Historic preservation was an element in the "Horizon 2020" comprehensive plan approved in 1997. Of the twelve key goals in the plan, two are most relevant for historic preservation. The plan ". . . encourages the identification, protection, and adaptive reuse of the wide diversity of historic buildings, structures, sites, and archaeological sites that can be found in Lawrence and Douglas County. Considering historic preservation issues in combination with other land use decisions assures the preservation of historic resources but also fosters the image, identity, and economic development goals in the Comprehensive Plan." Secondly, the Horizon 2020 comprehensive plan promotes the maintenance of a strong and clear distinction between the urban and rural character of Lawrence-Douglas County. To further this goal, the

plan also defined areas anticipated to receive new urban growth near existing urban areas and established parameters for non-agricultural development in Douglas County.<sup>6</sup>

### **Economic Activity**

One of the more timely steps in linking economic activity with historic preservation is the renewed interest in designating a number of historic downtown commercial buildings as a National Register district. The attractive federal and State tax credits for certified rehabilitations stimulated this interest.

Previously, in 1985, the Downtown Lawrence Association sponsored the Lawrence application to participate in the National Trust for Historic Preservation Main Street program. This program integrated business associations, coordinated marketing and historic preservation to stimulate economic development. Main Street cities make a commitment to hire a full-time downtown coordinator of these activities for one to three years. Lawrence participated in the Main Street program for several years.

For residential property owners in older neighborhoods, the Neighborhood Revitalization Act offers the opportunity for owners to receive a refund of the amount of increased property tax on property that had been improved.

As part of the Lawrence Preservation Alliance's commitment to building rehabilitation, the organization offers short-term loans (two years or less) for the purpose of preserving older properties in Lawrence and the unincorporated areas of Douglas County. Past examples of such LPA activities include a loan in September 2000 to move a threatened house at 2201 Louisiana into the country. In May 1997, the LPA purchased the property at 1113 Pennsylvania and sold it three years later. In May 1987, the LPA bought the threatened Benedict house at 923 Tennessee, nominated the property to the National Register, and rehabilitated the building. In December 1986, the LPA bought the Priestly house at 1505 Kentucky to save it from demolition and nominated the property to the National Register. The LPA began its preservation activity in 1984 with the purchase and resale of a threatened house at 947 Louisiana. The purchase of the Wiggins house at 840 West 21st in 1985 and its sale quickly followed. This property is listed in the Kansas Register.

Another kind of rehabilitation precedent occurred in May 1997. The owners of the Ludington-Thacher house, a National Register property and one of the landmark residences in Lawrence, received a \$60,000 grant from the Kansas Heritage Trust Fund for brick restoration. This was the first grant in Lawrence to a private property owner.

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<sup>6</sup> "Horizon 2020," 26-27.

Two other important precedents for historic preservation in Lawrence were set in the preservation of the English Lutheran Church building in downtown Lawrence and the Union Pacific Railroad Depot building in North Lawrence. In 1991, attorneys for the Kansas State Historical Society and the LPA presented arguments to the State Court of Appeals on behalf of preservation of the church building. They argued that the property owner, Allen Press, had not considered reasonable and prudent alternatives to the planned demolition. Eventually, Allen Press sold the building and the new owner rehabilitated it as an office building. Litigation over the church established important precedents for due process in considering demolition and the community interest in significant historic buildings.

A prominent preservation success occurred in February 1990 when the Union Pacific Railroad presented the key to the historic depot to the Mayor of Lawrence. This symbolized the donation of the building to the City so that fundraising for renovation could begin. The issue of community interest in the depot versus railroad policy arose when the Union Pacific announced plans in 1984 to demolish the depot within sixty days. In response, a "Save the Depot Task Force" organized. After years of negotiations and planning (including the possibility of moving the masonry building), the task force convinced the community and the railroad company to preserve, rehabilitate, and re-use this landmark building.

### **Current Historic Preservation Issues**

At the present time, a major historic preservation issue in Lawrence centers on the contentious relationship between the University of Kansas and the Oread neighborhood. Despite an adverse ruling from the State Historic Preservation Officer in 2002, the University announced that it would pursue plans for the construction of additional scholarship halls on Ohio Street. On September 3, 2002, the Governor of the State of Kansas pursuant to KSA 75-2724 made a determination that the proposed demolition would move forward. The Kansas University Endowment Association purchased the properties in early 2001. The University's plans for expansion again raise the issue of defining the appropriate relationship between the City's most important institution and adjacent historic residential neighborhoods.

For the unincorporated areas of Douglas County, historic preservation emerged as a significant element in the controversy over the planned construction of a link in the County's transportation network — the South Lawrence Trafficway and its impact on the historic Haskell Institute property. On February 27, 2002, the Lawrence City Commissioners supported the evaluation of the Haskell Institute-Baker wetlands for nomination to the National Register of Historic Places. This designation presented an obstacle to the construction by requiring review of the impact of construction on a significant resource. The controversy is an example of the impact of new transportation

routes on development. Since the construction of highways and major traffic arteries attracts development, the choices of transportation routes continue to be one of the more difficult preservation and development issues in Douglas County.

### **Figure 3. Chronology of Historic Preservation Activities**

- 1984            Lawrence Preservation Alliance incorporated.
- 1984            "Living With History," Lawrence Historic Preservation Plan recommends survey plan, nominations to the State and National registers, and historic preservation ordinance.  
  
                  Union Pacific Depot threatened with demolition.
- 1987            Houses demolished in 800 block Kentucky Street.
- 1987            "Heart of Oread Survey" completed.
- 1988            Lawrence Historic Preservation Ordinance approved.
- 1989            Kansas Land Trust organized.
- 1990            City of Lawrence accepts Union Pacific Depot property.  
  
                  City of Lawrence initiates Old West Lawrence re-survey, survey program.
- 1991            Lawsuit leads to sale and rehabilitation of old English Lutheran Church.
- 1995            Kaw Valley Heritage Association organized.
- 1996            Kansas Historic Preservation Conference, Lawrence.
- 1997            Horizon 2020 Comprehensive Plan recommends historic preservation plan.
- 2001            Douglas County Preservation Alliance disbanded.  
  
                  National Heritage Area Commission appointed.

## **THE IMPORTANCE OF LOCAL PROGRAMS FOR PRESERVATION AND PLANNING**

The development of economic incentives and strategies – making money through historic preservation – is the most important new direction in the evolution of historic preservation programs. In the past decade, the use of historic preservation as an economic development strategy had a dramatic impact on the economies of America's cities and towns. As the leading expert in this field, Donovan Rypkema, notes, ". . . the commitment to downtown revitalization and reuse of downtown's historic buildings may be the most effective single act of fiscal responsibility a local government can take."<sup>7</sup>

Consider these facts. Many more historic buildings merit being saved than can possibly be museums. There are not nearly enough tax dollars to save all the buildings that ought to be preserved. Finally, most historic buildings are not owned by historic preservationists.<sup>8</sup> Consequently, the future of historic resources requires an economic justification. For most historic buildings, preservation has to pay for itself and it can.

If we want to attract capital and investment in our community, we must differentiate it from anywhere else. As Rypkema notes, ". . . it is our built environment that expresses, perhaps better than anything else, our diversity, our identity, our individuality, our differentiation."<sup>9</sup> In the twenty-first century, historic preservation is a valuable economic development strategy for successful communities.

### **City of Lawrence Programs**

While State and federal programs provide targeted assistance, historic preservation is basically a local activity. In Lawrence, the most immediate opportunity to use economic incentives is provided by Article 10 of the Historic Preservation Ordinance. To make the preservation of historically significant structures more economically feasible, the ordinance provides for special use permits, preservation easements, exceptions to the City building code, a preservation fund, and the Historic Conservation Award program.

For example, to encourage adaptive re-use of historic buildings, the Historic Resources Commission may recommend to the Lawrence-Douglas County Planning Commission that a special use permit be granted to the landmark property or listed property to allow other uses which are not allowed in the existing zoning category. This allows for appropriate functions such as bed and breakfast accommodations, house museums, art galleries, and other special uses. Preservation façade easements on buildings

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<sup>7</sup> Rypkema, "Economics and Historic Preservation," 41.

<sup>8</sup> Rypkema, *The Economics of Historic Preservation*, 1.

<sup>9</sup> *Ibid.*, 44.

designated as landmarks may be acquired by the City or other groups through purchase, donation, or condemnation. A preservation easement would include any easement, covenant, or condition running with the land designed to preserve or maintain the significant features of such landmarks. An easement gives a partial interest in the historic property to the City or a qualifying organization. The owner retains use of the entire property but agrees to give up part of the rights inherent in property ownership (the right to change the façade, for example) in return for favorable tax treatment. An additional incentive to encourage the rehabilitation of historic buildings – exceptions to the building code – may be available to owners of landmarks and buildings within historic districts.

One of the most important incentives mentioned in the ordinance, which has not been utilized, is the establishment of a Preservation Fund. The City Commission determines how the fund is administered. The City may apply for, receive, and place in the fund any federal, State, local, or private gifts, grants, fees, or bequests. Also, the City Commission may budget and incorporate City revenues into the fund. The Preservation Fund could be used to purchase landmarks or properties located in a historic district. It could be used to accept preservation easements, to make grants or loans for preservation and rehabilitation of landmarks or properties in a historic district, as well as to make grants or loans to organizations to achieve one or more of the purposes of the Historic Preservation Ordinance. The fund could be used for the maintenance of landmarks or properties in a historic district. Finally, the preservation fund could be used for reasonable costs associated with the purchase of property, the purchase and enforcement of easements, and the sale of property.

The City Code authorizes the Historic Resources Commission to recognize outstanding projects and individual contributions to historic preservation in Lawrence through the annual Paul Wilson Awards program. While the awards program does not provide direct financial assistance, it does honor projects that are valuable to the community and that publicity may attract additional investment in historic preservation.

### **Neighborhood Planning and Community Development**

In Lawrence, the Community Development Division administers several programs that can assist in the rehabilitation of historic properties. These are intended to benefit low-to-moderate-income homeowners. The Comprehensive Rehabilitation Program provides loans up to \$25,000 to bring the property up to rehabilitation standards. A maximum of 50 percent of the loan may be forgiven over a seven-year period if the owner continues to occupy the home. Emergency loans, furnace loans, and weatherization programs are also available. The Home Owners Out of Tenants (HOOT) program provides an opportunity for low- and moderate-income, first-time homeowner families to purchase a home.

The Kansas Neighborhood Revitalization Act is an additional tool available to the City for the promotion of neighborhood revitalization. The act is specifically aimed at the preservation of historic or architecturally significant areas, the elimination of abandoned houses and properties through rehabilitation, and/or the construction of new improvements. It provides a tax rebate incentive program based on the increased valuation of improvements.

This act requires participation by other taxing jurisdictions. In Lawrence, the City would receive 24 percent of the total levy; Unified School District 495, 52 percent; and Douglas County, 24 percent. The City Commission must approve and implement a plan for any neighborhood revitalization area by designating areas, adopting a plan for each area, and determining the criteria, standards, and eligibilities for rebate of the tax increments. The goal is the rehabilitation, conservation, or redevelopment of an area as necessary to protect the public health, safety, or welfare of the residents of the City. Revitalization plans and the rebates can apply to commercial or residential property. Douglas County would serve as administrator of the Neighborhood Revitalization Trust Fund, which would hold increased revenues for the rebates. While the Revitalization Act is useful, implementation would require negotiation and agreement about the program among the City Commission, County Commission, and School Board.

The recent "East Lawrence Neighborhood Revitalization Plan" outlined other economic incentives for neighborhood conservation. Important goals in the plan that could apply to almost any older neighborhood or district were to preserve existing physical landmarks, support neighborhood institutions and activity centers, and protect and strengthen neighborhood businesses. Incentives related to residential property rehabilitation included property tax abatement, revolving loan funds for housing code improvement, rehabilitation, and emergency stabilization, as well as design assistance. For commercial properties, enterprise zones, issuance of revenue bonds, tax increment financing, rehabilitation loans, parking benefit districts, and façade improvement programs could help strengthen neighborhood businesses.<sup>10</sup>

One of the supporting components of the East Lawrence Plan is a design guidelines study. Design guidelines are a technique to protect the character defining qualities of a given area. The guidelines are a set of uniform criteria used to evaluate the appropriateness of proposed changes to existing buildings and new construction in a defined area or "district." Guidelines do not prevent property owners from making

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<sup>10</sup> Sabatini and Associates Architects, Patti Banks and Associates, Historic Preservation Services LLC, "East Lawrence Neighborhood Revitalization Plan," (Lawrence: Lawrence-Douglas County Planning Department, 2002), 1, 18-19.

changes, but they ensure that those changes maintain the unique architectural qualities of a neighborhood.<sup>11</sup> Design guidelines for the Old West Lawrence National Register district are now being used to protect that notable neighborhood.

One of the most important design guidelines in current use is the "Downtown Lawrence Design Guidelines." Downtown Lawrence has distinct physical attributes that contribute to its overall character. One of these attributes is ". . . the diversity of structures that have been constructed over an extended period of time." Many of these structures stand as historical reminders of the development patterns of Lawrence. Therefore, the focus of the downtown design guidelines is on new construction that compliments the established character of downtown Lawrence. More than half of the goals of the Downtown Design Guidelines incorporate historic preservation methodology. These include regulation of the exterior scale, massing, design, arrangement, and materials to promote compatibility with the existing character of downtown Lawrence; development of an aesthetic appearance which complements the existing character; and the protection of the historic and architectural value of buildings or structures listed in the National, Kansas, or Lawrence registers. Finally, a central goal of the guidelines is to build upon historical character and foster diversity while meeting the goals of Horizon 2020 to increase the density of the downtown area.<sup>12</sup>

Downtown design guidelines, like all design guidelines, are important because they inform property owners and developers about the community expectations for new construction and renovations of existing buildings. They provide detailed information and direction to property owners, developers, and interested citizens. This direction safeguards the considerable investment represented in existing buildings and new investment in a highly competitive business and/or development environment. The guidelines not only help owners and developers make decisions, but City staff use the guidelines to review proposed projects in a consistent, fair, and equitable manner.<sup>13</sup>

The success of the downtown design guidelines can be measured by the growing interest in designating a major portion of downtown Lawrence as a National Register historic district. Such a designation would qualify contributing properties to receive both the federal and State tax credits to offset of the cost of rehabilitation of historic buildings. Presently, the members of Downtown Lawrence, Inc. are considering these incentives as an important vehicle to assist property owners in maintaining or restoring their historic buildings.<sup>14</sup>

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<sup>11</sup> Ibid., Appendix D, 1.

<sup>12</sup> "Proposed Downtown Design Guidelines," (Lawrence: Downtown Design Guidelines Task Force, 2000), 2.

<sup>13</sup> Ibid. 7-8.

<sup>14</sup> Chad Lawhorn, "Leaders Seek Historic District," *Lawrence (KS) Journal-World*. 24 April 2002.

## Other Economic Incentive Programs

As noted previously, the Kansas Historic Preservation Office, Kansas State Historical Society, provides the most direct economic assistance. Economic programs of the office include the implementation of a statewide tax incentive program, as well as more use of the federal investment tax credit program and the Neighborhood Revitalization Act.<sup>15</sup>

In the United States, the foundation of economic incentives for historic preservation has been the federal rehabilitation tax credit implemented in 1977. During the past decade, property owners have spent more than \$30 million on rehabilitation of historic Kansas buildings through the federal tax credit program. This provides a credit equal to 20 percent of qualifying rehabilitation expenses on income-producing properties that are listed in or eligible for listing in the National Register of Historic Places. Project work must conform to the *Secretary of the Interior's Standards for Rehabilitation*. Conforming to the standards contributes to the long-term preservation of a property's significance through the preservation of historic materials and features.

In Kansas, the newest economic incentive and one of the most important for its potential is the State credit for rehabilitation of historic buildings. This program complements the federal tax credit and is modeled after programs in surrounding states such as Missouri and Colorado. It provides for a State income tax credit equal to 25 percent of qualifying rehabilitation expenses on certified historic structures. Project work must exceed \$5,000. Unlike the federal tax credit program – for which only income-producing properties qualify – rehabilitations of non-income-producing properties (such as personal residences) will qualify for the State tax credit.

One of the most successful programs administered by the Historic Preservation Office is the Kansas Heritage Trust Fund. This fund provides grants up to \$90,000 and technical assistance for rehabilitation of properties listed in the National or Kansas registers. Individual grant awards must be matched by the recipient. A 50/50 match is required in for-profit organizations, but not-for-profit organizations or government entities must only provide a 20/80 match. Properties owned by the State and federal governments are not eligible. Since 1990, the Heritage Trust Fund provided more than \$4 million to support the preservation of a variety of historic properties located in communities across the State.

Although many factors, including strong community interest and the City's commitment to infrastructure development and planning, participation in the Main Street program in the late 1980s affected the economic success and activity in downtown Lawrence.

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<sup>15</sup> *The Kansas Preservation Plan*, 5.

Established in Kansas in 1985, the Community Development Division of the Kansas Department of Commerce and Housing administers the Main Street program. It provides technical assistance – not direct funding – to Main Street cities and focuses on cities with a population under fifty thousand. An interested city must apply for designation, hire a manager, establish an advisory board, and develop a comprehensive program to bring about revitalization of the commercial core area.

The Main Street program encourages the integration of sound economic development and historic preservation principles. Successful programs coordinate improvements to create a positive, distinctive image for downtown. The four-point Main Street program consists of the organization of public-private partnerships to create a revitalization program; the promotion of downtown as an attractive place for business, investors, and visitors; appropriate design of the physical environment; and economic restructuring that strengthens existing businesses while diversifying the town's economic base of businesses. For example, the "Downtown Lawrence Guidelines" specify appropriate design guidelines to create a distinctive physical environment for downtown Lawrence.

A related program administered by the Department of Commerce and Housing that might provide funding for downtown improvement is the Downtown Revitalization Grant. This is a competitive federal grant program and proposals must meet low-to-moderate-income benefit requirements. In addition, to encourage housing development that may use existing historic buildings, the Department of Commerce and Housing administers the Low Income/Senior Housing Tax Credits program. This offers a credit to investors for ten years for up to 9 percent of their cost of constructing or rehabilitating apartments dedicated to low-income tenants at restricted rents. In Kansas, the housing tax credit has been responsible for the development of nearly twenty thousand units of affordable housing.

At least three programs offered by the National Trust for Historic Preservation might be useful for preservation projects in Lawrence and rural Douglas County. The Trust provides a Preservation Services Fund that makes grants of \$500 to \$5,000 to non-profit organizations to initiate preservation projects. Secondly, the Barn Again program recognizes and promotes successful examples to encourage the adaptive re-use of historic barns for contemporary purposes. Finally, the Trust's Heritage Tourism program provides a multi-disciplinary approach to attracting visitors. For Kansas, these programs are administered by the NTHP Mountain/Plains regional office in Denver, Colorado.