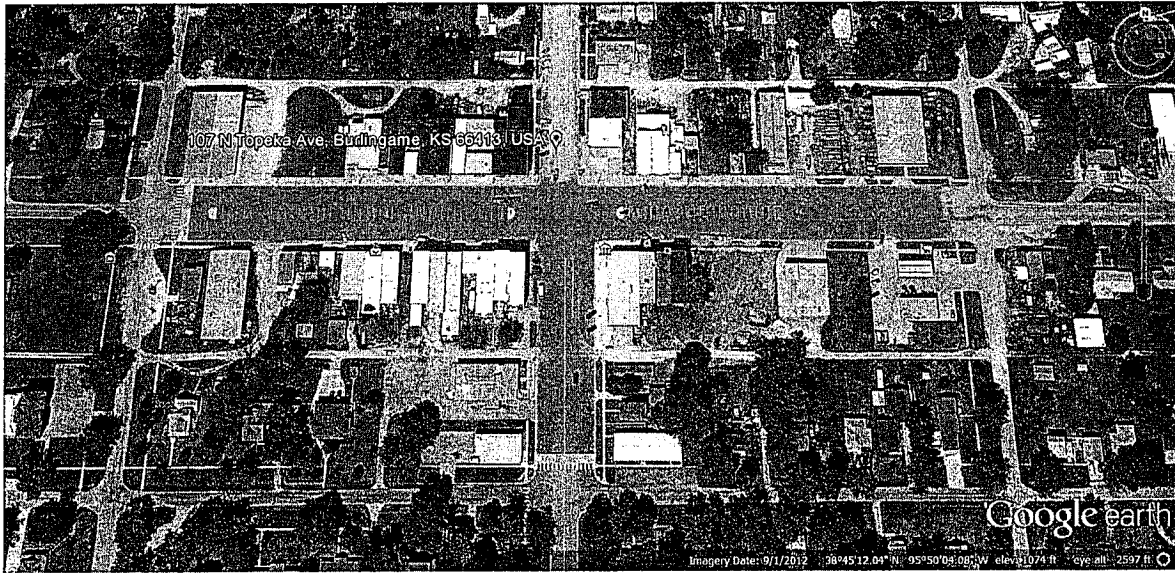


EXPERT WITNESS



HISTORIC DISTRICT BURLINGAME KANSAS Where the Santa Fe Trail Meets the Santa Fe Rail

DAR Historic Marker Acknowledges Significant Contribution 1822 to 1872

Historic Preservation and Development Decisions House Committee on Local Government Hearing Feb. 5, 2013

Kansas House Bill 2118

Would Eliminate Environs Review
Historic Significance Exists Within Community

Kansas House Bill 2089

Would Allow Local Governments to *Opt Out* of 106 Review
Historic Significance Is Venerable and Important

Eileen M. Smith, M.Arch.
Kansas Solar Electric Co~operatives, Inc.
P.O. Box 2 ~ Lawrence, Kansas 66044

EileenMSmithMArch@yahoo.com
(877) 348-2197
(785) 654-3169

Kansas House Bill 2118 ~ VOTE NO ~ Environs Are Important

Environs" means the historic property's associated surroundings and the elements or conditions which serve to characterize a specific place, neighborhood, district, or area. Generally, the boundary of "notice" will be recognized as the environs of a listed property or district. In some cases during identification of character-defining features the environs may be determined to extend beyond the boundary of notice as set forth in K.S.A. 75-2715 - 2725.

1. Character of historic property's environs should be retained and preserved.
2. The environs should be used as it has been historically or new uses easily infused.
3. Environs of each property is recognized as a physical record of its time, place and use.
4. Avoid demolition of character-defining buildings, landscape features in environs.
5. Archeological resources will be protected and preserved in place.
6. New additions, exterior alterations, infill or compatible new construction to should not destroy character- defining features, size, scale and proportions.
7. Moved historic properties with no historic significance in new environ is an artifact.

www.kshs.org/p/standards-for-evaluating-the-effects-of-projects-on-environs/15584 2/3/2013

Kansas House Bill 2089 ~ VOTE NO ~ 106 Review Is Vital

106 Review is generally not initiated unless listed property is less than 500 feet from proposed building project located within incorporated area or 1,000 feet within unincorporated area. SHPO can extend review if deemed necessary to protect historic properties, however it is rarely done unless within distance.

Vote NO on 2089 and write alternative House Bill to extend distance from 500 feet to 1,000 feet in an incorporated area and 5,000 feet within an unincorporated area. See Historic District in Burlingame for example where many historic buildings have no protection. In fact, listed buildings only stimulate 106 review until or unless the historic property owner or community is awarded financial assistance to care for the structure or district. Built heritage is important infrastructure. We need more incentives to restore. Numerous programs provide tax breaks to build new - we must expand on the financial incentives for historic preservation. Preservation of buildings and environs provides many benefits like recycling.

**RESPONSE TO COMMENTS ISSUED BEFORE THE KANSAS HOUSE COMMITTEE
ON LOCAL GOVERNMENTS FEB. 5, 2013 Senate Ethics Committee March 12, 2013**

**Kansas Cooperative Council and list of Chanute, Kansas property owners:
Testimony is in opposition to HB 2118 blocking Review of Historic Environs**

The cooperative organizations of the State of Kansas should be the first to understand the need to have review of the environs associated with an historic listed structure and/or district for historic preservation efforts. Historic Preservation and preserving our history is a cooperative endeavor.

If farmers did not cooperate in seed programs protecting our crops and other cooperative endeavors our agricultural industry could not efficiently solve problems and provide affordable quality crops. Where is the balance they insist will occur with demolition of the laws protecting review of the environs of an historic structure? Property rights are impacted by numerous considerations from waste management to building codes. Regulations are written to allow the cooperative community to enjoy a much higher quality existence to achieve a humane, healthy, aesthetic, civil and functional environment for human existence. I wrote my thesis entitled *Historic Preservation and Development Decisions* for the Master's of Architecture degree at the University of Kansas in the 1980s and early 1990s. See the Table of Contents included herein for your consideration. During the 1970s, as an undergraduate student of architecture, I worked to protect Nichols Hall at Kansas State University. In the 1990's I worked for five years to assure the protection of Kansas City's Union Station. We need more laws to protect historic structures and to assure those that are involved in protecting our landmarks are paid.

The Living History of our built heritage is unique. Unregulated destruction of historic buildings or lack of consideration of that built heritage in land planning and development decisions or permitting is an infringement upon the property rights of every American and a political affront upon their heritage. The review of the environs of a listed building does not in any way take the rights of a property owner. The property owner can choose to ignore the recommendations of the Kansas Historic Preservation Officer or SHPO unless the owner has been provided grants or tax credits. In many cases a property owner can demolish historic properties despite SHPO reviews recommending against it. An SHPO is trained to understand historic significance and they attempt to balance review with the needs and wants of the community and the property owner. Review of the Environs is like managing a watershed, we must think comprehensively. Mandatory 106 Review and Review of the Environs assure property owners, and communities are aware of the historic importance of their property or the properties adjacent to their land or a proposed development before a permit is considered. Why would setbacks for historic landmarks be any less constitutional than setbacks and other hurdles of project approval? When I asked a friend this question, he said he had no interest in historic buildings, but if you want to talk about sports including preservation of fishing and hunting areas, he was quite interested. What if we took away any consideration of hunting and fishing regulations? Where is the cooperation in singling out historic landmarks to be without the shelter of regulatory review? We may need to upgrade the review process to assure long term planning programs are in place to help communities maintain historic and new structures, however to claim review of the Environs is a taking is a far stretch of the imagination. Many historic buildings are better built than new construction. It is an extreme waste of resources to demolish these structural and historic assets. *Where is proper balance where there is no regulation?* Try making community leaders play football with the pros is already difficult, but without referrers, it is impossible.

HISTORY Revised 2009 Burlingame, Kansas

Burlingame, Kansas is located where the old Sana Fe Trail crosses the Santa Fe Railroad. This friendly town with a population of about 1,000 is in the center of a prosperous farming community. Burlingame strives to provide all the facilities for modern living, keeping pace with today's progress, yet keeping its' pioneer history alive.

The Kansas story began in 1541, when the Spanish explorer, Francisco de Coronado, accompanied by thirty horsemen and a Franciscan friar, marched to the land of the Indians and buffalo on his search for the fabled riches of Quivira. Coronado found no gold, but probably overlooked the most significant aspect of the area surveyed---the network of Indian trails leading East and West toward buffalo hunting grounds and rivers.

Spain's claim to the area was undisputed for 160 years. Except for a brief French occupation in the early 1700's, the region remained in possession of the Indians until 1803 when it was acquired by the United States as part of the Louisiana Purchase.

In the year 1827, the United States Government opened a mail route from Independence, Missouri to Santa Fe, New Mexico. The route had been selected sometime before by the Overland Freighters and was known as the Santa Fe Trail. It entered into what is now Osage County from the east, crossed One Hundred and Ten Mile Creek, and continued in the direct line through Burlingame, westward out of the county. Travel and settlement grew along this main trail, followed by the era of wagon trains, the stagecoach, military companies, the railroads and the homesteaders.

Kansas was made a territory May 30, 1854, following the passing of the Kansas-Nebraska Act. Shortly after that date John Frele came with his family to this area. The only person who lived anywhere nearby was a Shawnee Indian who owned a cabin y a spring located in the northern part of today's modern Burlingame. Mr. Frele bought the claim and moved into this cabin. The next winter a son was born to the Freles, and as the first white child born in what is now called Osage County.

The beginnings of the town of Burlingame came about in the 1850's when a group of Eastern promoters organized the "Emigrant Aid Society and Kansas League." From their office a group of men were sent to select a site for a town which was to be known as Council City. Plans were made for wide, tree-lined streets and a park. Several settlers moved to the site of the town during 1854. The present museum beards his name.

One of the first things done by these early settlers was to dig a large well in the very center of the town-to-be. A fine stream of cool water was struck at a depth of thirty feet. The well was walled up and an old fashioned sweep pump erected. For over forty years it serviced those who lived nearby and was a blessing for the prairie schooners, the old-time freighters, stage drivers and their passengers who used to travel the Santa Fe Trail.

In 1855, an election precinct was established, the Council House---a large block house was erected, and the site of the town was surveyed and staked out. This same year regular religious services were held in the vicinity. A minister, sent out by the American Missionary Society, held services during the summer in the cabins of the settlers or under the trees. These meetings were non-sectarian in character and were attended. The second pastor sent by the Society held church services in the Council House.



The City of Burlingame

Ray Hovestadt, Mayor
Patti Gilbert, City Clerk
Joey Lamond, City Superintendent
Jon Shaffer, Chief of Police

101 E. Santa Fe Ave. Burlingame, Kansas 66413

Phone: (785) 654-2414

Fax: (785) 654-3612

www.burlingameks.com

December 7, 2012

Eileen Smith
107 North Topeka Avenue,
Apt: 203
Burlingame, KS 66413

Re: Open Records Request


Dear Eileen,

I am writing regarding the ~~Open Records Request~~ you have placed with this office on December 6th. Your request was for an engineering report the owner of 105 East Santa Fe Avenue had obtained in the past.

After discussing the matter with our city Attorney Rick Godderz, his opinion in the matter is as follows: An issue of multiple real estate locations that is still pending with the City Council, the paperwork supplied by others is not available for copy. He did state you may obtain a copy from the owner Al Nika.

If you have any questions you may feel free to call our Attorney at 785-654-2428 regarding this matter.

Respectfully,


Patti Gilbert
City Clerk

Request for Public Records

(To Be Completed By Requestor)

NAME: Eileen M. Smith, M.Arch.

(Print)

Address: 107 N. Topeka Ave. #203 Burlingame, KS 66413 (785) 654-3169

(Print)

COPIES SOUGHT: Please provide as specific a description as possible of the record(s) you desire copied. Include record titles and dates.

To clarify this information, please refer to itemized summary on page 5 of 8 in the attached e-mail I sent to Patti Gilbert, City Clerk on Sunday February 24, 2013.

Record Title/Date	No. of Copies
1. <u>CDBG Grants/Dates Unknown/ Status: Two Active CDBG Grants w/City of Burlingame. Please Copy Cover Page and Schedule Page w/Dates</u>	<u>2 x 2 = 4</u>
2. <u>Asbestos/Hazards Study for 107 & 109 E. Santa Fe Ave. Burlingame, KS Cover Letter of Study Approval from Maggie Weissman, KDHE/Dates: Issued: 109 Santa Fe Avenue Oct.2012 and 107 Santa Fe Ave. Jan.2013</u>	<u>1 x 2 = 2</u>
3. <u>Asbestos/Hazards Contractor Abatement Scope & Estimate of Cost Cover Letter of Study Approval from Tom Connely, KDHE/Dates:</u>	<u>1-3 pgs x 2</u> <u>= 2 to 6 pgs</u>

Please contact me as soon as available. TOTAL PAGES PULLED AND COPIED: 8 to 14 pages

CHARGES: A charge for providing copies of public records is authorized by state law and is set by Council at a level to compensate the City for the costs incurred in honoring your request. The charge to you for copy(s) of the record(s) you request shall be at the rate of \$10 per hour per employees engaged in the record search (2 hour minimum) plus \$.25 per page.

No More than reasonable fee of \$1 page will be paid upon delivery to pull & copy 8 to 14 pages as specified herein = \$8 to \$14. Please see **Addendum to Public Records Request** herein. Please contact me to provide document handling services to the City of Burlingame to reduce expense of Burlingame staff time by making weekly posting of public documents on-line.

Eileen M. Smith Feb 25, 2013

Signature

(To be completed by City Clerk)

Time of Request: Date: _____ Time Access Provided: Date: _____

Time: _____ Time: _____

Per hour employee charge: _____

Charge per page copied - \$.25 x _____ = _____

Total \$ _____

City Clerk

PRELIMINARY REDEVELOPMENT SUMMARY PROFORMA 3 HISTORIC BUILDINGS

105 E.Santa Fe Avenue ~ 107 E.Santa Fe Ave. ~ 109 E.Santa Fe Ave.

**Historic District Burlingame, Kansas
THREE BUILDINGS ARE INTERDEPENDENT**

Eileen M. Smith, M.Arch. (785) 654-3169
Friday, March 01, 2013 EileenMSmithMArch@yahoo.com

ESTIMATED EXPENSES RESTORE 3 HISTORIC INTERDEPENDENT BUILDINGS		
\$500,000	105, 107 & 108 Santa Fe Avenue	TOTAL
\$100,000	City of Burlingame Makes 3 Buildings Safe to Restore	
\$100,000	City Abates Asbestos/Hazards (more if demolish)	
\$200,000	Redevelopment Team Restoration Investment	
\$100,000	Redevelopment Team Interior Structural	
	Interior Finish To Be Established by Tenant/Owner	

VOTE YES TO RESTORE

City would spend \$100,000 in Asbestos/Hazards Abatement Plus \$50,000 to Demolish. Significant Cost to Burlingame in Loss of Historic Buildings in Skyline If Demolished CITY WILL PAY \$150,000 TO \$200,000 WHETHER TO RESTORE OR TO DEMOLISH Encourage City of Burlingame to Allow Public Presentations of Restoration Alternatives

VOTE YES TO HERITAGE TOURISM INDUSTRY

Support Existing Heritage Tourism Efforts in Burlingame Historic District and Council Grove

No written List or Schedule of Improvements Provided to Property Owner by City "Burlingame building inspector Jim Welch said ... owner Al Nika had not done anything since last two times he met with council."

REALLY? We saw him working numerous days... even in cold weather! EMS

Redevelopment team specializes in preservation and financing.
City Could Invite Bids for Property Redevelopment with Purchase/Restore Contracts



REF: Feb 28, 2013 Herald-Chronicle FP/pg3

REF: Feb 19, 2013 Burlingame City Council Meeting Minutes

REF: Feb 4, 2013 eye witness City Council Meeting EMS

Burlingame City Council voted to move forward w/demolition in illegal opposition to engineer's report.

REF: Pioneer Group in Topeka, Kansas

Feb 4, 2013 Rick Kready, VP of Operations *one alternative*

SUMMARY LIST OF GOALS AND OBJECTIVES w/SCHEDULE:

Information reflects documents on file at Burlingame City Hall ~ data may be amended as needed.

GOAL I Protect, restore and assure quality safe reuse of 105, 107, and 109 Santa Fe Avenue for 30-50 years.

GOAL II Stop pattern of neglect and demolition of historic buildings in Historic District of Burlingame, Kansas.

GOAL III Use this restoration project to stimulate Grant to plan and execute restoration of Burlingame Historic District

PROPOSED SCHEDULE OF ACTION OBJECTIVES

4-Mar-13

1-Mar-13 Write up Summary List of Goals and Objectives w/Schedule

3-Mar-13 Canvas local residents w/PERFORMA & PETITION to Place Restore vs Demolish on Ballot

3-Mar-13 Visit Schlyer Museum for special event and share PETITION for BALLOT

Mar-13 Bring City together w/redevelopment groups that specialize in historic preservation.

4-Apr-13 Burlingame residents vote for redevelopment group to Restore two to three buildings.

a. City will negotiate redevelopment contract with historic preservation developer.

b. City will sell 107 and 109 E. Santa Fe Avenue to Developer for \$1 each

1-May-13 City will put \$200,000 in escrow account to complete specified improvements:

1 \$100,000 used to Abate Asbestos/Hazards for 107 and 109 E.SFA

2 \$50,000 used to enclose S. Wall and to brace E. Wall 109 E. SFA

3 \$50,000 used to restore dangers in 107 E. SFA like floor, etc.

1-May-13 Developer will put \$200,000 in escrow account to complete restoration.

1 \$100,000 used to complete restoration of 109 E. SFA

2 \$100,000 used to complete restoration of 107 E. Santa Fe Avenue.

1-May-13 Redevelopment Group will verify \$100,000 also available for finish out of interiors.

1-May-13 Depending on what happens with 105 E. SFA restoration plan and assistance to be provided.

Projected Completion & Proforma Plan to Restore

BUILDING	USE	GRANTS &/or USDA	
		No Interest Loans	30 Years
105 E. SFA	Electronics	Unknown	Unknown
107 E. SFA	Communications	\$150,000	\$5,000
109 E. SFA	Grocery	\$150,000	\$5,000

	12			Estimated MO Utilities and Renewable Payments	OWNER/TENANT MO EXPENSES
	Yearly Mortgage	Monthly Payments	WEEKLY		
105	Unknown	Unknown	Unknown	Unknown	Unknown
107	\$5,000	\$416.67	\$96.15	\$100	\$516.67
109	\$5,000	\$416.67	\$96.15	\$100	\$516.67

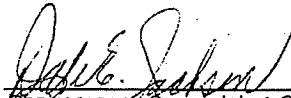
EXCERPT from my Thesis for Master's of Architecture
Historic Preservation and Development Decisions
KU School of Architecture 1991 NOTE: EMS 2013

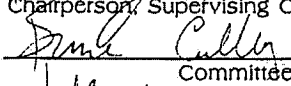
HISTORIC PRESERVATION AND DEVELOPMENT
DECISIONS
THE ARCHITECT'S ROLE IN CONFLICT AND
COOPERATION
A CROSS-CULTURAL STUDY

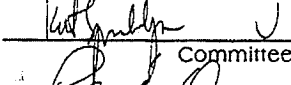
August 1988 - May 1991

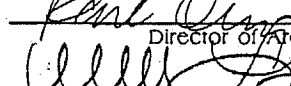
This thesis project herein is presented in partial completion of
the requirements in the School of Architecture and Urban Design
at the University of Kansas Regents Center for the
Master of Architecture in Management degree

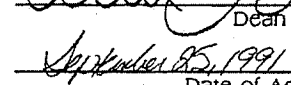
Eileen M. Smith
Bachelor of Arts in Music

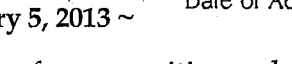


Chairperson, Supervising Committee


Committee Member


Committee Member


Director of Architecture


Dean of School


Date of Acceptance

ccccccSanta Fe Trail February 5, 2013 ~

Note my 22+ years of

preservation work.

The expertise and influence of communities and government entities must be educated to stimulate local appreciation and protection of historic structures and their environs. Builders educated in historic preservation crafts are limited and in demand. A developer I talked to yesterday indicated he does not get involved with projects under \$6 million dollars. It is the small projects often with individual owners that are left without guidance and protection. Historic preservation pays for itself in many ways. Expert testimony I provided gratis for the City last evening before the Burlingame City Council concerned the value of three 100 year old historic structures threatened with demolition due to uneducated unorganized hostile community decision-making. Because they have limited insight into the value of their City's historic assets, leaders try to silence related information and illegally suppress community preference of restoration behind closed doors. They plan to replace the historic structures with a grocery store that will likely be a tin building. This would be the fourth tin building in the two-block historic district of Burlingame, Kansas where the Santa Fe Trail Met the Santa Fe Rail. Two sit empty. In 1906, Daughters of American Revolution [DAR] placed marker to acknowledge two-block Burlingame main-street for its significant role in the settlement of America 1822 to 1872. Preservation of historic structures reduces waste and builds cultural identity.

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REVIEW OF DOCUMENTS INCLUDED IN TESTIMONY PRESENTED HEREIN:

1. Cover Photograph of three buildings in Burlingame, Kansas threatened with demolition due to City Council interest in grocery store project. These three buildings have been interdependent for 100 years. Buildings need restoration.
2. Cover page for Expert Testimony Feb 5, 2013 to House Committee on Local Gov. in opposition to HB 2118 No Environs Review & HB 2089 that would allow local governments to *opt out* of mandatory 106 Review of potential impact on listed bldgs.
3. Summary of my testimony opposing HB 2118 and HB 2089 as presented Feb 5, 2013.
4. My opposing response to Feb.5, 2013 testimony advocating HB 2118 & HB 2089.
5. History of Burlingame, KS taken from official website reveals historic significance.
6. Letter from Burlingame City Clerk refusing to provide public records as requested.
7. Feb.25, 2013 another public records request that was not provided. It was sent via e-mail as instructed and no one replied. Clerk Patti Gilbert initially indicated they did not charge preservation advocates minimum \$20 research fee if promote restoration. Recently discovered 10,000 SF grocery store is why they are pushing to demolish the critical buildings in the Historic District. 107 and 109 E. SFA has 6,000 SF retail space.
- 8-9. 2-page flyer to educate community about ballot petition that would allow community to vote on whether they want to restore or demolish these buildings. 95% say restore.
- 10-13. Signature Title Page & Table of Contents for my Thesis, "Historic Preservation and Development Decisions, the Architect's Role in Conflict and Cooperation"
14. Photograph of back of 105 E. Santa Fe Ave. and this summary of exhibits-testimony.