

# 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

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## **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](http://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.

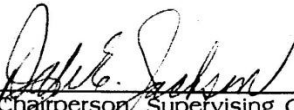
Vote NO on 2089 and write alternative House Bill to extend distance from 500 feet to 1,000 feet in an incorporated area and 5,000 feet within an unincorporated area. See Historic District in Burlingame for example where many historic buildings have no protection. In fact, listed buildings only stimulate 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.

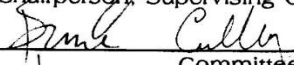
HISTORIC PRESERVATION AND DEVELOPMENT  
DECISIONS  
THE ARCHITECT'S ROLE IN CONFLICT AND  
COOPERATION  
A CROSS-CULTURAL STUDY

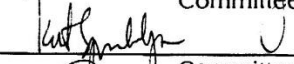
August 1988 - May 1991


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

Santa 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.

**NOTE: EXCERPT from my Thesis for Master's of Architecture  
*Historic Preservation and Development Decisions*  
KU School of Architecture 1991: Eileen M. Smith, M.Arch. 2013**

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Eileen M. Smith.

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Print Center in the School of Art and Design at the University of Kansas.

**Feb. 5, 2013 NOTE author has inserted excerpts from her thesis completed in 1991 for the Master's of Architecture. She has been involved in a variety of historic preservation decisions over 20 years.**

**106 Review and Review of the Environs are both mandatory to assure we retain historic structures and environments in our built culture. Heritage Tourism is a viable growing industry. We must build this industry via proper protection of historic buildings and structured business development activities. Economic development should be at the foundation of historic preservation. And, historic preservation must form the foundations of economic development. Eileen M. Smith, M.Arch.**

## ABSTRACT

Built heritage is disappearing at a tremendous rate. The condition of the built environment and care of cultural resources are rarely planned for comprehensively and followed through by communities in the United States. Often built heritage is demolished or preserved only after lengthy community battles. Too few projects are successfully integrating the new and the old through appropriate and timely review processes stimulating the needed consideration, resources and management of these assets.

The study herein is exploratory in nature seeking to delineate if, why, when, where and how cultural resources are addressed in the project development process. It asks how major construction projects can be in place before existing cultural resources on or near a site are considered and the criteria used to determine these decisions. The present and potential *role of the architect* in cultural resources review is explored and established as an important issue of the 1990s. Case study areas in seven communities of Italy, Spain, the United Kingdom and the United States provide a cross-cultural and intimate perspective of the myriad issues of preservation and development decisions within community -where they occur.

*Photographs are by the author unless otherwise specified.*

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(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

{42 U.S.C.A. § 4331(c)}  
Environmental Protection Act  
Enacted by the Congress  
of the United States of America 1969

CHAPTER ONE  
INTRODUCTION

*The cultural heritage of each people is an expression of the thousand and one facets of its genius and of the mysterious continuity which unites all it has created over the centuries and all it has the potential to create in the future.<sup>1</sup>*

Federico Mayor Zaragoza  
Director-General of UNESCO

The potential loss of a meaningful and historic fabric within the built environment of communities often generates community and professional concern over what, when, where and how to protect a community's architectural heritage and sensitively integrate new construction.

*Individuals and cultures are led from one memory to another by both their active interests as well as certain circumstances of repression. For example, believing admonitions that the "past" is dead or accessible only by pejoratively characterized "historicistic" and "nostalgic" inclinations indicates a submission to repressive commands. . . . It is sad that some critics of architecture attempt to alienate us from the millennium of architecture and ornament by characterizing so much of it as belonging to an inaccessible or "nostalgic" past despite our capacity to*

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*experience and embody "past" architecture in our lives today. . . . In Ruskin's words, they are focusing on "mere building" rather than architecture. This viewpoint can contribute to a psychic loss of time, as well as the antiseptic and immemorial character that pervades our buildings, lives, and environment today.<sup>2</sup>*

#### HISTORIC PRESERVATION AND DEVELOPMENT

##### A Turn-of-the-Century Definition

*Historic preservation is an issue of cultural identity that reaches beyond the mere designation of historic landmarks. It is an important contemporary issue for all cultures (and subcultures) to seriously consider in the decisions that evolve their built environment.<sup>3</sup> Retention of a meaningful and aesthetic architectural fabric is a valuable asset to communities because it provides experiential education within a living history, it stimulates constructive identity development, and it generates tourism and related recreational activities. Preservation of built heritage evolves a shared sense of belonging, security and community pride.<sup>4</sup>*

When viewed in a holistic context, preservation may be interpreted to include peripheral issues of sociological impact effecting crime rate, homelessness, community health, cultural identity, economic stability, aesthetics and the overall atmosphere and condition of community. The preservation



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ordinance of Kansas City, Missouri declares a governmental commitment to not only protect built heritage, but to *"promote the safety, health, morals and general welfare of the city as a whole."*<sup>5</sup> The built environment is often a direct reflection of the decision-making processes, values and technologies used to create, manifest and maintain it over time.<sup>6</sup>

For a glossary of terms related to historic preservation, cultural resources and the related decision-making processes refer to the glossary provided with the Cultural and Historic Resources statutes of the City of Lawrence, Ordinance 5950 passed in 1988.<sup>7</sup>

How Are Preservation Issues Recognized and Addressed?

Developers, architects, property owners, city planners and other citizens of a community share similar basic values, needs and concerns.<sup>8</sup> Reading, observation, personal experience and conversations reveal that the values, needs and concerns people most frequently discuss, express they want, and demonstrate a willingness to share include:<sup>9</sup>

- (1) The economic health and prosperity of a community.
- (2) A sense of community and a cultural-historic identity.
- (3) The beauty, accessibility and safety of a community.

If the communality of these elements is not recognized and acknowledged, then they cannot -and will not be constructively shared and realized. These values are most concretely expressed through the built environment. The processes and

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regulations available to potentially manifest and evolve these shared interests may greatly obscure or constructively generate understanding in related decision-making and design-approval processes.<sup>10</sup> What is in it for me -for us echoes the star phrase of the past decade.<sup>11</sup> The Autumn 1989 issue of *Business in the Community Magazine* editorial by Michaela O'Brien as managing editor establishes the new trend for business in the 1990s.

*We highlight the potential linking marketing strategy to community involvement, drawing on examples from both the U.K. and the U.S. 'Selling Through Caring' is a growth area for the next decade.*<sup>12</sup>

Community systems of evaluation vary in their capacity, skill and success to balance preservation and development issues in the decision-making processes that evolve our built environment.<sup>13</sup> The National Environmental Policy Act enacted by Congress in 1969 promises to protect our built heritage. We turn to the preamble which appears as the epigraph of this paper and read at (b)(4):

*. . . preserve important historic, cultural, and natural aspects of our national heritage, and maintain whenever possible an environment which supports diversity and variety of individual choice.*<sup>14</sup>

# ENGINEERED BLIGHT AND FRAUD

The Osage County

2720 12-06-13 0018A53  
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BURLINGAME KS 66413-

# Herald-Chronicle

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com  
friends

## City to review demolition bids

Gabe Faimon | Reporter

BURLINGAME—All Burlingame City Council members were present for the Jan. 7 council meeting. Burlingame City Council President Carolyn Strohm presided, due to absence of Burlingame Mayor Ray Hovestadt. Burlingame city attorney Rick Godderz was absent.

Bids to demolish buildings at 107 and 109 E. Santa Fe Ave. were opened. Three bids had been received, including: Bahm Demolition, Inc.; Four Corners Garage; and Williamson Excavating. The council did not initiate action to accept or reject any bid, agreeing that each needed review before any action could be taken.

"All the paperwork has been signed, and the property has been switched to the city," said Burlingame city clerk Patti Gilbert. She added that the first floor at the back end of the newspaper building at 107 E. Santa Fe Ave. had collapsed into the basement. Burlingame Public Works Department superintendent Joey Lamond said electric, gas and water service to both structures would soon be shut off.

In a related matter, during discussion of repairs to the building owned by Al Nika, 105 E. Santa Fe Ave., Burlingame building inspector James Welch made a recommendation on the west founda-

tion of the adjoining building, 107 E. Santa Fe.

"Leave the foundation wall of the newspaper office against Nika's building, because that will reinforce it that much more," Welch said. He added that Jan. 11 was the scheduled date for a structural engineer to review repair progress.

Eileen Smith presented an appeal to the council, calling for continued efforts to secure resources to preserve and restore the buildings.

"The three buildings that are threatened with demolition at 105, 107 and 109 Santa Fe Avenue have a strong balancing role for the four segment historic district of Burlingame," she wrote in her introductory statement. "Mayor Hovestadt and Carolyn Strohm are leading the way to demolish the remaining historic buildings on this SE segment of the historic district in Burlingame. It will be expensive to renovate where the foundations need to be rebuilt - however, I believe the resources will evolve with continued efforts. Where the buildings will need to be rebuilt, I am urging any interested persons to contact Burlingame's mayor and city council to encourage that they dismantle the buildings in lieu of the traditional bulldoze demolition they have planned."

"This is a unique and rare environment, historically, where Santa Fe Trail meets Santa Fe Trail," Smith said in her verbal presentation. "To me, its almost anti-American to demolish buildings along Santa Fe Trail. Why do we want to preserve this downtown historic district? We want to preserve it, not because it costs too much, but because heritage tourism is one of the number one industries in this nation. It's growing dramatically."

### In other business, the council:

□ Scheduled a work session for 2 p.m. Jan. 16, with Osage County Director of Economic Development Stephanie Watson. The focus will be on economic development.

□ Convened an executive session to protect privacy during discussion of non-elected personnel. The session was extended two times, with Gilbert and Lamond called to participate during the first extension.

□ Approved 2013 renewal of an electric and plumbing license for Burgess Plumbing.

□ Adopted a motion, by 3-2 vote, to pay the January 2013 health insurance premium for Gerold Grandstaff, with council members Vikki DeMars and James Nelson dissenting.

your neighbors. I see  
nately don't want to  
before zoning."

See

## Melvorn Council refines

Peggy M

MELVERN—At their city council members refinance the debt on general obligation bond department of Health and Dave Malone, vice president for Central States Capital Mo., appeared before proposals for refinancing KDHE debt. After some unanimously approved. Malone presented three different proposals at the December meeting, the council unanimously approved a proposal that would approximately \$13,000.

However, after the council he believed up with a couple more save the city even more come back in January.

Council members agreed vote, allowing Malone refinance plan.

See M

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# 2012: The Year in Review

## JULY

A developer proposing to build a youth ministry camp and bail bondsman training center near Lyndon faced opposition in finalizing the facility's plans. The Osage

County Planning and Zoning Board considered a request for a conditional



The Scranton Fire Department independently, discussed a fire district.

## AUG

Finian Wozniak was located search around the Sail-A-Way

# Three Historic Structures Threatened with Demolition by Irresponsible Illegal Council Actions

## Burlingame Lacks Historic Review Feb. 4, 2013

In many attempts to protect buildings from demolition the largest problem that occurs where 106 Review is not provided as a focus in controversial projects, city officials throw around false numbers insisting it is too costly to renovate. In Burlingame's case City Hall has issued numerous false claims quoting outrageous figures insisting it is not affordable to renovate these three buildings. They insist the buildings are dangerous and then stack mounds of dirt demanding conformity to their plan to demolish. Discussion in council meetings is not allowed.

The buildings could be renovated to last another 100 years where the community had leaders to help the citizens evolve these historic assets. The City Council meeting last evening set a hostile tone of winner gets all instead of working with building owners and advocates. They were rude, antagonistic and very disrespectful to the elder property owner that has had an electronics store in his historic stone building for fifty years. He continually attempts to meet the City Council's demands, but they change every time his work is reviewed demanding more and insisting he is doing something wrong justifying their abusive and illegal behavior toward him as a senior citizen and property owner. There are no official engineers brought in to answer questions and outline the options to the public. Intervention is strongly discouraged. 106 Review is not mandatory where the only listed building is 800' from the structures.

Information from advocates is misconstrued by Council to devalue the historic buildings, and the advocates of historic preservation. While 106 Reviews can at times be misleading, they are generally an official authoritative source regarding the costs and benefits of historic preservation and the potential impact of proposed building projects on historic listed buildings. 106 Review allows a well-documented evaluation of the historic significance of a building and the possible impact of construction on its environs. In the case of the three historic buildings in Burlingame, an engineer hired by the property owner has indicated a price of \$50,000 to secure the gapping wall and brace the historic east wall. Demolition would cost between \$50,000 to over \$100,000 according to the City Clerk Patti Gilbert depending upon the amount of asbestos in the structures. Renovation would retain the historic facades and balance the visual effects in the historic district. It would be helpful to have a guide to development to document the process each time a building project has the potential of impacting an historic structure.

**Who will facilitate responsible review if city governments opt out?**

**106 Review reduces informal conflict evolves supportive protection!**

A checklist documentation and evaluation guide will list tasks that must be or are done. It would be an official documented public record and a summary for those genuinely attempting to understand the process and determine the status of each requirement from pulling permits to asbestos abatement to 106 Review. It would reduce staff time in attempting to answer questions they are not trained to address. The official figures of engineers must by law be relied upon to provide complete estimates instead of unspecified general projections from corrupt City departments to devalue a building and/or demolish it for their special interests. Presently, citizens are discouraged from intervention and related attempts to impact decisions are met with an attempt to devalue and demolish advocates as well. Corrupt land deals like the 353 blight laws in Kansas City, Missouri used to take over prime land in a City reflect a scarcity of land; however rural communities also need ethical 106 Review.

#### **MAINTENANCE PROVIDES JOBS AND PROTECTS HISTORIC BUILDINGS**

Maintenance grants and a list of mandatory documents for each project impacting a listed building would relieve much of the confusion leading to adversarial situations. After nearly a year of unclear demands from the Burlingame City Council they informed Mr. Nika yesterday that even though demolition of 107 and 109 Santa Fe Avenue could damage his historic structure with a 22" foundation, they insisted the City could not be held liable for such damage. Their tone was threatening and taunted Mr. Nika to sue them if he did not like their decision.

Maintenance of the built infrastructure provides more jobs with more highly productive results than any other industry. Legislative efforts to require ongoing maintenance with grants where necessary to keep buildings maintained could be a valuable partnership to 106 Review and evaluation of the Environs of historic structures. People do not want these important administrative steps because they are in many cases not being used appropriately to stimulate support for historic preservation. Legislature needs to assure more classes and support for property owners to assure ongoing timely care of our nation's historic structures. Maintenance grants and tax rebates are needed to protect historic structures of Kansas in lieu of doing away with historic reviews. In this case, the City Council headed by Mayor Hovestadt who demolished his building on this block last year due to years of neglect, is courting a supermarket project for the site where the historic buildings now stand. Lack of regulation related to negligence of historic buildings perpetuated

a condition the City has refused to take responsibility for while imposing unrealistic demands upon property owners to fix the City's resultant condition per the neglect of historic buildings. Retaining our built heritage should be joy not a drudgery.

Owning an historic building is a privilege and a responsibility. While many of the buildings in our historic rural communities sell for under \$10,000 and there are many who would love to invest in these properties, there is very little realistic support to help the historic property owners organize a long term maintenance and restoration plan for their buildings. Many are afraid to list their historic buildings due to the fear of unrealistic and economically challenging demands by the state historic preservation departments. Organizing a better plan for preserving our historic structures while promoting new construction or a combination of new and old structures would cost far less than the loss of our historic infrastructure that continues to serve and beautify our communities.

Chairman Huebert, thank you for the opportunity to testify before the Committee of Local Governments in the House of Representative. I am available for more thorough consulting services with over twenty years of experience in community based decision making and historic preservation activities. Presently, I am heading up the Kansas Solar Electric Co~operatives, Inc. and The K-SEC Model with the goal to install 1,000 MWp BI-PV Solar Capacity in Kansas by 2025. The program is structured to integrate historic preservation and homeland security activities in the planning and execution of solar energy projects in Kansas. K-SEC will provide 7% of the electricity we consume in Kansas by 2025.

Respectfully submitted,

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## APPENDIX

- A. Historic District ~ Burlingame, Kansas
- B. Petition to Restore three (4) historic buildings threatened with demolition
- C. Santa Fe Trail Restoration Plan for three historic buildings
  - Real Buildings Real Communities*
  - a. 105 Santa Fe Avenue, Burlingame, Kansas
  - b. 107 Santa Fe Avenue, Burlingame, Kansas
  - c. 109 Santa Fe Avenue, Burlingame, Kansas

### A. Historic District ~ Burlingame, Kansas



Google earth

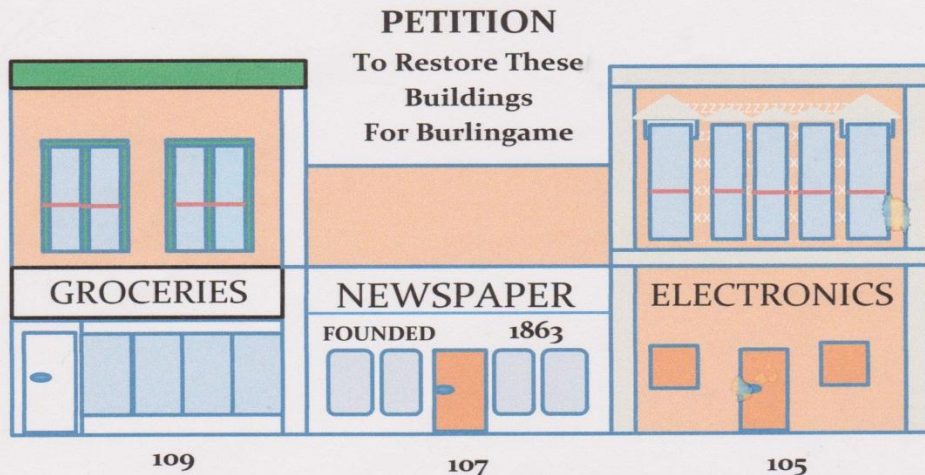
feet 1000  
meters 400

# HISTORIC DISTRICT

**Settlement of America 1822 to 1872**

**Where the Santa Fe Trail Meets the Santa Fe Rail  
Burlingame, Kansas**

**B. Petition to Restore three (4) historic buildings threatened with demolition**



**109** Restored Historic Grocery Location of New Locally Owned Food Co-op ... to offer quality fresh produce.

**107** Historic Location of Locally Owned Newspaper for 100 Years Restored to for Media Museum & Print Shop ...to offer computers Internet & copies.

**105** Location of Electronics Shop for Fifty Years Restored to Exhibit Collection of Historic Electronics Technology

**HISTORIC SANTA FE AVENUE in BURLINGAME, KS**  
**Burlingame, KS Santa Fe Trails Redevelopment Group to**  
**Restore Buildings on SE Segment of Historic District**

NAME	ADDR	PHONE	E-MAIL	SIGNATURE
1 Sharon Malhiot	124 W. Fremont	785-654-2318	esmalhiot@juno.com	Sharon Malhiot
2 Jacob Timmons	3175 Dacotah	785-387-1110	Jake.Timmons@juno.com	Jacob Timmons
3 Ken Thompson	315 Dacotah	620-794-0888		Ken Thompson
4 Janelle Sawyer	317 Dacotah	785-260-4628		Janelle Sawyer
5 Shayla Coffman	317 Dacotah	785-230-8969		Shayla Coffman
6 David Coffman	317 Dacotah		Webs19@juno.com	David Coffman
7 David E. Coffman	317 Dacotah			David E. Coffman
8 Clayton Bullock	213 Seward	785-580-3928	clay8@rocketmail.com	Clayton Bullock
9 Angela Fryberger	229 Seward	785-654-2351		Angela Fryberger
10 Melissa Ledem	211 Seward			Melissa Ledem
ALBERT F. NIKA	308 NEH ST HARVEYVILLE	785-654-3359		Albert F. Nika

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[EileenMSmithMArch@yahoo.com](mailto:EileenMSmithMArch@yahoo.com)

SEE FLYER ~ THIS IS PAGE OF PETITION SIGNATURES



**C. City Hall's Santa Fe Trail Restoration Plan for three historic buildings in Burlingame**

90% of people contacted door to door indicated they want the buildings restored and do not want demolition.



