Easement Down the Road

Good News for Preservation

Joel Warren Barna

for county offices. The Pilott Building was allowed to stand also, but the tactics of the preservationists left County Judge Jon Lindsay, the Chamber of Commerce, and several Harris County commissioners thoroughly angered.

"We tried working with [preservationists], but they didn't deliver on the money or the help they promised to fix up the Pilott Building," Lindsay charged in an interview in 1982. "I can't wait until it falls down."

Even though the county commissioners were exploring suggestions for renovating the Pilott Building for a badly needed county law library, Harris County did not (according to preservationists) maintain the building properly. Lindsay got his wish earlier this year, when, after what one critic calls "10 years of accumulated county neglect," one of the Pilott Building's walls began to collapse.

"At this point, for whatever reason, the county decided to dispose of the problem once and for all, and yet about to demolish the building," says Shannon Vale, a lawyer with a major downtown law firm, who worked with the Volunteer Lawyers and Accountants for the Arts, the Greater Houston Preservation Alliance, and other groups to save the Pilott Building yet again. "The situation just shows how limited the code protecting Texas landmarks is."

All the county had to do, according to Vale, was notify the Texas Historical Commission of its intent to demolish and wait 60 days before tearing the building down. Citing the emergency created by the collapsing walls, however, Harris County sought to bypass the 60-day requirement. The Texas Historical Commission, the Greater Houston Preservation Alliance, and other groups mobilized quickly, raising money for public support. With County Commissioner Tom Bass heading the effort, they reached a compromise: All three exterior walls and a portion of a fourth were preserved and incorporated into the new design for the building. Not everyone was pleased. The Medalion, the Texas Historical Commission's magazine, denounced the compromise in a recent issue, noting that county commissioners had refused $100,000 offered by the state agency to help restore the building to its original form.

Others were satisfied. "What we'll have is a building lacking in historical unity but which preserves its original façade," says Shannon Vale. "It's not the ideal solution, but considering that we were looking at total demolition within 48 hours of a commissioner's short hearing, I think it's the best real-world solution we could reach."

Beverly Pennington, president of the Greater Houston Preservation Alliance, concurs. "I think the Pilott Building compromise represents a considerable victory," she says. "There is a new appreciation. More important, the controversy about it heightened awareness of preservation issues here. It got a lot more people to be involved."

Indeed, there are more people to be involved. After the rash of Market Square renovations in the 1960s, faded away, little public attention was paid to historic preservation, according to Pennington. Now there are several groups—the Harris County Heritage Society and its more active offshoot, Pennington's Greater Houston Preservation Alliance; the Old Town Development Corporation; the South Main Center Association; the Sabine Association in the First and Sixth Wards; and the Freedman's Town Association in the Fourth Ward—are some of the most active—working to preserve important architectural and historic places in many areas of the city.

John Hannah, who with Jesse W. Edmundson, III, bought and restored the 1884 Houston Cotton Exchange Building in 1973 (and sold it in 1983), says, "When we got started on the Cotton Exchange, there were all kinds of developers working in preservation in Houston. Now people with skills are easier to find—there's a real preservation market."

Says Shannon Vale, "The renovation of the Pilott Building will give us some other refurbished buildings—leading, we hope, to a kind of critical mass for preservation in the area, so that each additional building will be easier. You can already see it around Market Square, where several new shops and restaurants have opened recently. On the other hand, in the last year the Market Square area has seen several buildings torn down to make way for parking lots, of all things."

The second victory achieved by local preservationists was the acceptance of a new historic district in downtown Houston recently placed on the National Register of Historic Places. The district centers on Main Street north of Texas Avenue, and includes most of downtown's remaining 19th-century commercial buildings. The nomination, sponsored by the Old Town Development Corporation and forwarded to the U.S. Department of the Interior by the Texas Historical Commission earlier this year, was listed in the National Register on 18 July.

"Having the new historic district won't keep anybody from tearing down buildings [there]," says Charles Hearns, Old Town Development Corporation's president. "But it will help us do alternative things to give property owners more than one economic choice. There are significant tax incentives that can become available in the area now that before, were available only to owners of buildings individually on the National Register. Our aim is to provide economic assistance to landowners so they can preserve historic properties, rather than spend our time trying to block their plans to do otherwise. That kind of confrontation hasn't worked in the past."

Beverly Pennington of the Greater Houston Preservation Alliance concurs. "I don't think we'll ever have effective development controls in Houston—people here are too opposed to zoning," she says. "So if preservation is going to be viable, it's going to have to work economically. That's going to be hard in downtown, where land values have gone so high and where the buildings are so small. But nevertheless it's important to Houston—as the downtown goes, so goes the city. A state tourism expert recently reported here that when people visit a city, the number one thing they want to do is sightsee, to get an idea of the his-
During the night of Friday, 16 September, demolition was begun on the B.A. Shepherd, Dumble, and South Texas National Bank buildings. No advance warning of this action was given by the owners, 201 Main Ventures, an investment group that includes T. Frank Glass, Jr., Leo Womack, and Dean Maddox among its members. The Shepherd and Dumble buildings were 100 years old. All three buildings were listed in the National Register of Historic Places by virtue of their inclusion in the Main Street-Market Square Historic District.

The marble, temple-fronted South Texas National Bank Building (built in 1910 and occupied until 1955 by a predecessor of Texas Commerce Bank) was one of a distinguished collection of bank buildings near the foot of Main Street whose classical architecture has been remarked by Henry Hope Reed. The Shepherd Building, designed by one of Houston's first professional architects, George E. Dickey, was regarded as one of the outstanding surviving High Victorian commercial buildings in Texas. Its builder was Benjam­in A. Shepherd, a pioneer Houston banker in whose memory the School of Music at Rice University is named. The Houston National Bank (now Republic Bank, Houston), from its organization in 1889 until 1912, occupied the Shepherd Building. The loss of the Shepherd and Dumble buildings fundamentally alters a segment of Houston streetscape that had survived almost intact from the 19th century.

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by all subsequent owners. Even if a building is acci-
dently destroyed, a new structure generally must
conform to the original use and size and must also
receive the preservation group's approval.

Hundreds of property owners have contributed façade
easements to preservation groups in Washington,
D.C., Charleston, New Orleans, and other cities since
1976. According to Warshauer, no easement donation
programs have as yet been implemented in Texas.

The government recognizes the simple proposition
that such a preservation burden decreases the poten-
tial uses of the property and can make it more dif-
ficult to sell (or cuts into its current value), says
Warshauer. But tax breaks afforded under the dona-
tion regulations have turned out to be anything but
simple. The regulations are ambiguous on the value
of the donated easements, allowing it to be somewhere
between the current market value of the property and
its "highest and best use."

Cite Seeing

Buildings and Places
that Ought
To Be Recognized
and Preserved

Photographs by Paul Hester

Since 1974 52 buildings, four districts, and two ar-
chaeological sites in Houston and Harris County have
been listed in the National Register of Historic Places.
This is only a fraction of the buildings, structures,
places, and neighborhoods that could qualify for rec-
ognition, however. Lack of knowledge about the
requirements for (and benefits of) National Register
listing, compounded by the fear that listing will de-
value property (the reverse is usually true), impose
legal restrictions (it doesn't), or lead to govern-
ment interference (it won't), inhibits owners of po-
tentially worthy properties from applying to the
National Register.

The National Register of Historic Places was es-
ablished in 1966 as a part of the National Historic Pre-
servation Act. It is administered by the National
Park Service of the Department of the Interior
through the Texas Historical Commission. The pur-
pose of the Register is to record buildings or places
that possess "significance in American history, ar-
chitecture, archaeology, and culture," according to
Park Service criteria.

Included here is just a sample of historically and
architecturally significant Houston buildings, places,
and structures that should be recognized and
preserved.

1 Shady Grove, Main and Montrose, 1916, George E.
Kessler, landscape architect and planner
2 Clarke and Courts Building, West Clay and Van
Buren, 1936, Joseph Finger, architect
3 Link House (now Administration Building, University
of St. Thomas), Montrose and West Alabama, 1913,
Sanguineti, Staints and Barnes, architects
4 Fourth Ward (Freedmen's Town) as seen from
downtown
5 Lovett Hall, Rice University, 1912, Cram, Goodhue
and Ferguson, architects

The Internal Revenue Service this year initiated audits
of some 50 donations in Washington and 80 in New
Orleans, claiming that the rights donated to preserva-
tion groups had been overvalued. The organizations
and taxpayers affected contend that, with few excep-
tions, the easements are valued properly, and com-
plain that the IRS could destroy the attractiveness of
the easement donation program nationwide simply
by threatening audits.

The Houston group is keeping tabs on the problems
encountered in other cities and has decided on a
strategy to keep them from cropping up here. They
will wait until later this year, when new IRS regulations are to be published, before proceeding with property evaluations. They recommend that anyone contemplating façade donations engage as appraiser the firm with the most conservative record in the country and the best track record with the IRS. The group is currently working with a number of appraisal firms.

Warshauer points out that the IRS has challenged preservation easements most successfully in cities that already have strong historic preservation ordinances. This, he contends, could actually work in favor of Houston preservation interests. "The IRS argues that since state restrictions and city ordinances in New Orleans, for example, already protect so many buildings, a property owner there is really not giving much away when he gives up a façade easement," says Warshauer. "In Houston, of course, the situation is much different. A property owner here is largely unrestricted, and donating a façade easement is really encumbering the property. That makes the donations much more valuable and at the same time harder to contest."

The Houston group also hopes to avoid another problem that has cropped up in New Orleans and other cities: competition between groups that accept façade easements. "In New Orleans there are three different groups, each providing different services and each charging different prices."

6 Eastwood Elementary School, Telephone Road and McKinney, 1910, Maurice J. Sullivan, architect; 1927, Harry D. Payne and James Raskin Bailey, architects

7 Lockwood Drive Bridge, Lockwood Drive over Buffalo Bayou, 1928. James Gordon McKenzie, engineer. This concrete counter-weight steel lift-span bridge is slated for demolition by the City of Houston

8 Petroleum Building, Texas and Austin, 1927. Alfred C. Bossom with Briscoe and Dixon and Maurice J. Sullivan, architects

9 Niels Esperson Building, Travis and Rusk, 1927. John Eberson, architect

11 Brady House, Wilmer and Milby, ca. 1860
different amounts to process the paperwork and over-
see the maintenance of the donation," says War-
ster. "Some people go to the most expensive
organization, which provides the most complete ser-
vice, and have the preparatory work done, then turn
around and donate their easements to another group, which
charges a smaller fee. This undercuts the abil-
ity of all the groups to maintain easements properly,
and could damage the whole program."

To avoid such conflicts, the Houston groups involved
are combining to set up a single entity to handle the
easement donation program. Although details remain
to be worked out, the group has tentatively decided to
create a body for accepting easement donations as a
committee within the Greater Houston Preservation
Alliance. As a city-wide preservation organization, the
Alliance is better suited to the donation program than
neighborhood-specific groups such as Houston Old Town or the Sabine Association. Seats on the
easement committee will be allotted to representatives of
other interested groups, however.

"The facade easement idea may not be a panacea, but it
will at least give us something new to work with," says
Beverly Pennington. "We'll have to wait and
see what some of the appraisals end up being to see
just how attractive it is to property owners as a
tax incentive."

But others think that, for downtown Houston at least,
the easement donation program may be a lot too little
and a little too late. Truett Latimer, former director of
the Texas Historical Commission, now vice presi-
dent for public relations and marketing of Spaw-
Glass, Inc., is among the most pessimistic.

"The best [preservation] strategy would have been for
somebody, 10 years ago, to buy up all the land north of
Texas Avenue," Latimer says.

He continues, "That didn't happen and the property,
values in the area have escalated to the point that it
will be very hard to preserve anything but large
buildings with considerable square footage for reha-
bulitions. The buildings in the Market Square area
are two-and-three-story buildings, standing on prop-
erty that's selling for between $200 and $400 per
square foot. The development pressure is on that part
of town. And that means that there is no way an indi-
vidual, even taking advantage of all the incentives
available (unless he wants to be a philanthropist), can
come up with an economically viable way to save
those buildings."

Developer John Hannah, although he says his experi-
ence with the Cotton Exchange was "very positive," agrees with Latimer about the prospects for saving buildings in the newly designated downtown historic
district.

"Back then we didn't have the tax advantages avail-
able for renovating historic structures that exist now,"
Hannah says. "But it was a whole different picture for
land values at that time. Now, with land prices
over $100 per square foot, all the tax incentives there
are won't let you recover your historic building and
generate enough income from it to justify saving the
building."

Some people who asked not to be quoted said that
after the Pilott Building battle, the next big strug-

The Tretton Development Company demolished the 115-year-old Erikson Building on Market Square earlier this summer to build an 11-story parking
garage, designed by Morris & Aubry Architects. One preservationist pointed out that Texas Commerce
Bank, owner of the Rudoff Building (1896), has al-
ready filed public notification of its intent to raze the
building for an extension of its drive-in banking facili-
ties, designed by I. M. Pei and Partners. A recent
issue of The Medalion singled out the Dumble and
B. A. Shepherd buildings (both 1883) at the corner
of Congress and Main for special concern. The buildings
belong to the 201 Main Venture, among whose mem-
bers are Frank Glass. Through Spaw-Glass, Inc., and other partnerships, Glass has participated in the renovation
of the Kiam and Hogg Buildings in Houston and other
important preservation projects here and in San
Antonio. But 201 Main Venture's plans for a
40-story office tower by Morris & Aubry Architects
call for demolition of these two structures, most of the
adjoining South Texas National Bank Building
(1970) and Zinder's (1921).

Acknowledging the concern for the Dumble and B.
A. Shepherd buildings, Truett Latimer says, "There's
nothing being saved on that block. The façade of
the First National Bank Building is being saved.
Whether the other buildings can be saved, we don't
know — nothing is final yet. There are several plans
floating around and the final plan will depend on the
client and the client's needs. In the event those build-
ings have to be demolished, however, there might be
the alternative of saving their façades, as has been
done with the Texas Theater in San Antonio." Latimer
points out that Spaw-Glass is separate from the 201
Main Venture and is not directly involved in the plans
for the block.

And, says Latimer, "No one is building speculative
office buildings downtown at this time. Now you wait
until you have a major tenant lined up — you can't get
financing unless you do."

"Houston real estate values are going through another
transition," says lawyer Shannon Vale. "Basing deci-
sions on 1981 price levels could be a mistake. There's
been a big change, not in real estate prices yet, but in
the psychology of the market. You don't hear people
predicting that Houston will be bigger than New York,
the way you used to. And you have to remember that
there are several major buildings nearing completion
that will increase the space available. RepublicBank,
Four Allen Center, 1600 Smith: All remain to be
filled. It'll be some time before downtown Houston
can absorb that much new office space. So tearing
down buildings north of Texas to put up new office
towers doesn't make sense for now. Maybe that will
give us enough breathing room. If the last 10 years
show anything, it's that preserving them won't be
easy."

 Says Charles Heinsath. "The downtown in the office
market in downtown may be the best ally these old
buildings have.

Beverly Pennington agrees. "The easement donation
program will probably be a lot easier to use and
more effective in the historic neighborhoods than
downtown," she says. "But we're going to do our
best to help property owners with it downtown too.
It could be a very good thing."

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Historic Preservation Incentives — In Houston?

Minnette B. Boesel

Never before have incentives been so great for preserving the historic fabric of Houston. A local ordinance and nationally legislated economic incentives, coupled with an enlightened new city planning administration, will, we may hope, encourage the preservation of the remnants of Houston's past.

Congress has passed a number of legislative acts to protect our nation's cultural heritage, but it was not until the passage of the Tax Reform Act in 1976 that tax incentives were provided to owners and lessees of income-producing historic structures.

Investment Tax Credits

In 1981 President Reagan signed the Economic Recovery Tax Act (ERTA) into law. Its sweeping tax reform included even greater tax advantages to those restoring older and/or historic income-producing properties.

Conservation credits range from 15% to 35% of rehabilitation costs, depending on the historic significance of the property.

Preservation Tax Credits

In 1976 Congress passed a law allowing for tax credits on actual rehabilitation costs of non-historic, income-producing, non-residential structures more than 100 years old:

- 20% investment tax credit for similar structures more than 60 years old;
- 35% investment tax credit on rehabilitation costs of designated historic structures that are income-producing (including residential).

A higher depreciation of 87.5% is also given on the rehabilitation costs of historic structures.

By the end of 1983 the government estimates that $3 billion will have been invested in historic properties as a result of the investment tax credit provisions. The effects of this kind of investment, for the most part in inner-city urban areas, are catalytic. New jobs, revitalized areas, increased tax bases, tourist attractions, and the influence on others to invest in their communities multiply the initial figure many times over.

To qualify for the 25% ITC, a structure must be listed in the National Register of Historic Places, as administered by the U.S. Department of the Interior, or be in a locally designated historic district whose ordinance has been certified by the Department of the Interior. All rehabilitation work must also be certified by the Interior Department as compatible with the architectural and historic integrity of the building. In Texas, National Register nominations and all certification are coordinated by the Texas Historical Commission in Austin.

Grants-in-aid

As outlined in the National Historic Preservation Act of 1966, National Register properties are eligible for grants-in-aid for preservation planning and actual restoration costs. In Texas, the Texas Historical Commission administers this program as well as a state grants program. The amounts available vary from year to year, depending on state and national appropriations. Grants cannot be used in conjunction with the 25% investment tax credit.

Preservation Easements

In 1976 Congress passed a law allowing for tax deductions on the value of easements given to charitable organizations or governmental entities. Amended language in 1980 specifically mentions historic buildings. Preservation easements place restrictions on the development or alteration of historic structures, the loss in income value can be taken as a charitable deduction. In downtown Houston a preservation easement on a qualifying building could result in a large tax deduction. Currently, there is no non-profit organization or governmental entity in Houston with an easement program. Such a program is being examined.

Local Property Tax Abatement

Houston buildings listed in the National Register or Texas Historic Landmarks designated by the Texas Historical Commission are eligible under a local ordinance passed in 1981 for property tax abatement of up to 50% annually. A penalty for part or all of the back taxes due is imposed if the property in question is damaged or destroyed, or if taxes are delinquent.

The new City Planning Department director, Efrain Garcia, has stressed his commitment to the revitalization and redevelopment of inner urban areas of Houston. His recent application to seek Houston's first Urban Development Action Grant (UDAG) is a sign that city government recognizes the economic advantage of the adaptive use of historic structures. The grant will assist in the redevelopment of the Lottman-Myers Manufacturing Company building as the "Mercedo," a festive retail area targeted for Houston's Hispanic community. This structure, begun in 1904, is part of a 15-acre project that abuts Buffalo Bayou and U.S. 59.

Houstonians in general are now recognizing the need to redevelop and preserve what is left of Houston's historic built environment. In this climate of economic austerity where big is not necessarily better, developers can take a breath and examine what is here and not what could be here. Areas such as the Main Street Market Square Historic District, a part of the original town site of Houston adjacent to Buffalo Bayou, have the potential of Baltimore's Harbor Place, San Antonio's Riverwalk or Boston's Faneuil Hall Marketplace. All the ingredients are there. It will take guts, vision, capital, coordination, and as many economic incentives as possible.

Houston's vibrancy as a "new town" can be coupled with Houston's "old town" elements not only to continue the growth of the city but to maintain its history and character as well.