

4-1-1980

Reaffirmation of Local Initiative: North Carolina's 1979 Historic Preservation Legislation

Keith N. Morgan

Follow this and additional works at: <https://archives.law.nccu.edu/nclcr>

 Part of the [Cultural Heritage Law Commons](#), [Environmental Law Commons](#), and the [State and Local Government Law Commons](#)

Recommended Citation

Morgan, Keith N. (1980) "Reaffirmation of Local Initiative: North Carolina's 1979 Historic Preservation Legislation," *North Carolina Central Law Review*: Vol. 11 : No. 2 , Article 10.
Available at: <https://archives.law.nccu.edu/nclcr/vol11/iss2/10>

This Article is brought to you for free and open access by History and Scholarship Digital Archives. It has been accepted for inclusion in North Carolina Central Law Review by an authorized editor of History and Scholarship Digital Archives. For more information, please contact jbeeker@nccu.edu.

REAFFIRMATION OF LOCAL INITIATIVE: NORTH CAROLINA'S 1979 HISTORIC PRESERVATION LEGISLATION

KEITH N. MORGAN*

What is needed, then, is to recognize legal approaches to preservation as means to an end rather than as ends in themselves—as tools to implement both city-wide and neighborhood preservation plans.

Robert E. Stipe

The 1979 session of the North Carolina General Assembly increased opportunities for local historic preservation action. The recently ratified bills include amendments to the enabling legislation for local historic district and historic property commissions,¹ an addition to the state's eminent domain law to permit counties and municipalities to acquire by eminent domain locally-designated historic property in danger of demolition,² and a Conservation and Historic Preservation Agreements Act,³ which should serve as the foundation for an active easement and covenant program throughout the state. All four pieces of legislation represent a continued progressive attitude toward preservation law in North Carolina.

BACKGROUND

The passage of these bills was the culmination of a full year's effort by the Select Committee on Historic Preservation Legislation, gathered under the auspices of the Attorney General of North Carolina, Rufus Edmisten. The committee was carefully tailored to include all levels and aspects of the preservation community within the state, and emphasized the needs and concerns of local organizations.⁴ These efforts

* Preservation Planner, Archeological & Historic Preservation Section, Division of Archives & History, North Carolina Department of Cultural Resources. B.A., College of Wooster; M.A., Winterthur Museum Program, University of Delaware, Ph.D., Brown University.

1. N.C. GEN. STAT. §§ 160A-395.1 to -399.13 (Supp. 1979).

2. *Id.* § 160A-241.

3. *Id.* §§ 121-34 to -42.

4. Members and staff of several local historic district and local historic property commissions from across the state traveled regularly to Raleigh to contribute to these important discussions. The private sector interests were actively represented by the Historic Preservation Fund of North Carolina, Inc., and the Historic Preservation Society of North Carolina. The public expertise of the State Historic Preservation Officer, Larry E. Tise, and his staff at the Division of

were co-ordinated by an exceptionally able chairman, Robert E. Stipe, who guided the committee in its deliberations, evolved the language of the legislation, and supplied the professional/intellectual focus for the entire legislative package.

The committee's primary function was to consider amendments to the historic district and historic property commission enabling legislation. These commissions, authorized under North Carolina General Statutes, sections 160A-395 to 399.13, provide mechanisms for local jurisdictions to manage the identified cultural resources. Historic districts are established for areas that contain a unified collection of structures, buildings, or sites of historical, architectural, archeological, or cultural significance. Historic Properties Commissions are designed to protect individual, isolated landmarks. Both devices offer procedures for the identification of resources, the encouragement of conservation or rehabilitation, the possibilities of tax incentives, and the supervision of physical alterations that affect these resources. These opportunities have been widely embraced by North Carolina counties and municipalities. To date, there are nineteen historic property commissions⁵ that have designated scores of historic properties, and eighteen historic district commissions that administer the activities of twenty-six local historic districts.⁶ The number of new commissions is rapidly growing. Therefore, these clarifying and refining amendments to the state enabling legislation have appeared at an important time for local historic preservation action.

Archives & History, was combined with participation from the North Carolina League of Municipalities, the Institute of Government, and the Attorney General's Office. Bob Stipe's co-chairman was James A. Gray, who provided direction and experience in the lobbying efforts. Two committee members should be singled out for their invaluable contributions to the success of this legislative package: J. Myrick Howard of the Preservation Fund and Douglas Johnston of the Attorney General's Office.

5. As of April 1980, there are nineteen local historic properties commissions active across the state. Counties and municipalities that have instituted these commissions include: Alamance County, Asheville-Buncombe County, Beaufort County, Charlotte-Mecklenburg County, Eden, Fayetteville, Gaston County, Hickory, Morganton, Raleigh, Reidsville, Rowan County, Scotland County, Selma, Stanly County-Albemarle, Transylvania County, Wilson, and Winston-Salem. More than one hundred local historic properties have been designed by these commissions, including private residences, governmental buildings, churches, hospitals, taverns, factories, archeological sites, commercial buildings, log houses, and skyscrapers. Approximately seven other counties or municipalities are currently considering the establishment of a local historic properties commission.

6. As of April 1980, there are eighteen local historic district commissions active throughout North Carolina. With some commissions being responsible for multiple districts, twenty-six local historic districts are now legally constituted. Counties and municipalities that have instituted local historic district commissions include: Asheville, Bath, Burlington, Chapel Hill, Edenton, Gaston County, Graham, Greensboro, Hillsborough, Madison, Rockingham, Tarboro, Salisbury, Wake Forest, Washington, Wilmington, and Winston-Salem. A score of other communities are currently considering or actively pursuing the establishment of local historic districts.

NEW DIRECTIONS COMMON TO BOTH THE DISTRICT AND PROPERTIES ACTS

The Select Committee intended to provide a greater consistency in the district and properties laws, and hoped to make the operation of local commissions less confusing, more procedurally responsible, and less encumbered by association with state or federal programs. To achieve these ends, the committee considered six items in the revisions to both laws:

1. The Certificate of Appropriateness

To coordinate the historic district and historic property commissions' operations, the device of a certificate of appropriateness, formerly required only for historic district commissions, was instituted for both types of commissions. Before a building within a local historic district or a locally-designated historic property may be materially altered, enlarged, constructed, reconstructed, moved, or demolished, the property owner must apply to the local commission for a certificate of appropriateness concerning the proposed action.⁷ The commission will grant, deny, or delay issuance of a certificate in accordance with rules of procedure and design review guidelines that have been previously adopted.

The certificate of appropriateness mechanism has always been an important aspect of local historic district commissions. It will now be adopted by property commissions who must adhere to guidelines for the design review decisions affecting the local properties that they designate.⁸ Requiring the application for a certificate of appropriateness for demolition is new to both commissions. Previously, a property owner wishing to demolish a building within a historic district or a local historic property was required to give the commission a notice of intent to demolish.⁹ The demolition could then be delayed for up to ninety days. Under the new amendments, certificates of appropriateness for demolition may not be denied, but their issuance may be delayed for up to 180 days.¹⁰ This six-month period is intended to give the local commission and concerned preservationists an opportunity to negotiate with the owner and other interested parties to find an alternative to demolition. This seemingly radical step is supported by recent historic preservation litigation, most notably the Grand Central Station case in New York City in which the United States Supreme Court

7. N.C. GEN. STAT. § 160A-399.6 (Supp. 1979).

8. *Id.* § 160A-399.4.

9. *Id.* § 160A-399.6 (1976). For a discussion of the prior law, see generally Ross, *Practical Aspects of Historic Preservation In North Carolina*, 12 WAKE FOREST L. REV. 9 (1976).

10. N.C. GEN. STAT. § 160A-399.6 (Supp. 1979).

ruled that the denial of a permit to construct a skyscraper on top of the historically and architecturally significant terminal, a New York City Landmark, was not considered a "taking" under the fourteenth amendment to the Constitution, as long as the owner was not denied a reasonable financial return on his property.¹¹

2. Appeals from the Actions of Local Commissions

The need for increasing legal awareness and strict proceduralism is also evident in the clarification of the nature of appeals from decisions of local historic district or historic property commissions. The amended legislation carefully establishes the fact that all appeals will be in the nature of a writ of certiorari and that appeals will be taken first to the zoning board of adjustment and ultimately to the superior court of the county.¹² Although this procedure had been assumed in North Carolina's legislation, the amendments should make every local commission aware of the legal consequences of their actions and of the need for the adoption of rules of procedure and design guidelines as well as the maintenance of carefully written commission records that will survive possible later judicial review. As these commissions increase in power, their responsibility to conduct their business in a correct procedural manner also increases.

3. Role of the Division of Archives and History

Under the new amendments for both types of commissions, the Division of Archives and History has reduced responsibility for the review and approval of local activities.¹³ The Division now serves as an advisory agency that coordinates information on the local commissions and provides assistance and advice upon request, but does not approve the operations and decisions of the local commissions. The time period for review and comment by the Division for historic district boundaries, property designations, or certificates of appropriateness has been reduced from sixty to thirty days. The previous requirement that a local commission justify in writing a decision they make that conflicts with the recommendations of the Division was eliminated.¹⁴ In essence, the

11. Penn Cent. Transp. Co. v. City of New York, 438 U.S. 104 (1978). For a full discussion of this landmark case, see E. COWAN, HISTORIC PRESERVATION AND THE LAW. THE METES AND BOUNDS OF A NEW FIELD. WASHINGTON: THE NATIONAL TRUST FOR HISTORIC PRESERVATION *passim* (1978).

12. N.C. GEN. STAT. § 160A-397 (Supp. 1979).

13. *Id.* §§ 160A-395, -399.5.

14. *Id.* § 160A-397 (1976). The previous statute read: "If any certificate is issued contrary to the recommendations of the Department, the historic district commission shall enter the reasons therefor in the minutes of the meeting at which such action is taken . . ." The new language reads: "As part of the review procedure, the commission may view the premises and seek the

supervisory guidance assigned to the Division of Archives and History has now been minimized.

4. Relationship of Local Commissions to Federal Programs

The relationship of local commissions to the federal government, and specifically to the National Register of Historic Places, has also been amended. Authorized under the National Historic Preservation Act of 1966, the National Register of Historic Places is an honoric listing of buildings, sites, structures, areas, and objects significant in American history, architecture, archeology, or culture. Listing in the Register provides the possibility of restoration matching grants, tax incentives for rehabilitation, and limited protection from federally sponsored projects that might have an adverse effect on cultural resources. Before the amendments, the historic district and historic property commission legislation were inconsistent in their relationship to the national legislation: the historic property commission was charged with measuring its resources against the criteria of the National Register, while the historic district commission was given no standard in its enabling legislation for assessing significance. As the Division of Archives and History had been assigned a review power for certain local commission activities and it was also the state office charged with nominating properties and districts to the National Register, there was an understandable amount of confusion between local zoning and national programs. The 1979 amendments include simplified standards for assessing significance adapted from the National Register criteria. The National Register is pointedly not mentioned. In addition, both amendments state that it is solely the responsibility of the local commission to determine whether a district or property meets the standard for significance cited in the enabling legislation.¹⁵ These two clarifications, in conjunction with the reduction of the role of the Division of Archives and History in local activities, have definitely separated the local zoning actions of these commissions from the federal historic preservation programs.

5. Emphasis on Planning

Even more than its original form, the enabling legislation as amended in 1979 stresses the importance of good planning practices for the successful and effective operation of both historic district and historic property commissions. Before the creation of a historic district, a thorough survey of the resources within the proposed district must be

advice of the Department of Cultural Resources or such other expert advice as it may deem necessary under the circumstances." N.C. GEN. STAT. § 160A-397 (Supp. 1979).

15. *Id.* §§ 160A-395, -399.4 (Supp. 1979).

conducted and the Division of Archives and History must then review the survey report and boundary description.¹⁶ Similarly, historic property commissions are encouraged to have a jurisdiction-wide inventory undertaken to identify the properties that merit designation and preservation.¹⁷ The enabling legislation also recommends that the data base for both district and property commissions be evaluated and updated periodically to assure a comprehensive approach to the resources in question.¹⁸

6. Greater Autonomy for Local Commissions

Closely aligned with the increased procedural sophistication of the 1979 amendments is a greater degree of autonomy for the activities of local commissions. For both commissions, reference is made to the North Carolina Open Meetings Law,¹⁹ but they are given more freedom in determining how and when notice of their meetings will be posted and who will be considered an affected party in terms of certificates of appropriateness. It is specifically stated, however, that the commissions must formally adopt rules of procedures that will delineate the commission's handling of these issues formerly specified in the enabling legislation.²⁰

HISTORIC DISTRICT COMMISSION AMENDMENTS

In addition to the changes that were intended to bring the two pieces of enabling legislation more closely into line, there are a number of amendments that are unique to either the district or properties laws. These are summarized below under their headings.

1. Reports²¹

Prior to the legislation, the local planning board was assigned the responsibility of conducting the required inventory and investigation leading to the establishment of the initial historic district for any jurisdiction. The new legislation recognizes the fact that many zoning boards do not include individuals with the training or expertise required for a historical/architectural/archeological survey. This work is generally conducted by professional consultants. The new amendment does specify that the surveys leading to the creation of any subsequent

16. *Id.* § 160A-395.

17. *Id.* § 160A-399.3.

18. *Id.* §§ 160A-395, -399.4.

19. *Id.* §§ 160A-397, -399.5.

20. *Id.*

21. *Id.* § 160A-395(1).

historic districts will be supervised or contracted by the existing historic district commission. A second important change in this section is the removal of the word "historic" from before "significance," thus broadening the scope of resources meriting preservation to include all cultural values—architectural, archeological, educational, scientific, etc.

2. Criteria²²

As stated, the standards here are a simplification of the National Register criteria. Previously, the historic district enabling legislation had no guidelines for significance, a justifiable point for political criticism.

3. Appointment²³

Under the 1979 amendments, a local zoning board or a community appearance commission could be appointed to function as the historic district commission if a majority of the members met the qualifications of training or experience in the history of architecture. Conversely, at the discretion of the local governing board, a historic district commission could be appointed to fulfill the purposes of a community appearance commission or a local planning board for the district.

4. Certificate of Appropriateness²⁴

This section establishes what shall and may be considered by the local historic district commission in reviewing certificates of appropriateness. "The size and scale of buildings" has been added to the list of "exterior features" that shall be considered by a commission in reviewing certificates. The issues of color and of landscape features have been made optional. If a commission chooses to review these questions, they must add color and landscape features to their local ordinance and rules of procedure.

In line with the earlier omission of the word "historic," commissions are charged by this section with authority to deny certificates of appropriateness that would be incongruous with the "special," rather than the "historic," character of the district. Depending upon the resource, it may be the architectural character that must be considered in evaluating a certificate application. Prior to taking any action on a certificate of appropriateness, the commission must adopt and follow rules of procedure and design guidelines. This section now requires commissions

22. *Id.* § 160A-395.1.

23. *Id.* § 160A-396.

24. *Id.* § 160A-397.1. For a general discussion of appropriateness in historic districts, see generally Beckwith, *Developments in the Law of Historic Preservation and Reflection on Liberty*, 12 WAKE FOREST L. REV. 93, 97-98 (1976).

to adopt guidelines for even removal and demolition. The purpose for adopting these guidelines is to allow for adequate recording of a site before a building is relocated, to insure that buildings are not moved to inappropriate locations, and to gather the information contained in a site or a building before it is destroyed.

With the adoption of written guidelines, the commission may designate the review of specified minor alterations to its staff. The qualifications for and limitations of staff review must be carefully defined in the commission's rules of procedure. However, no certificate of appropriateness may be denied by a staff member. Any certificate application which cannot be approved by the staff must be presented to the commission for review. This amendment will hopefully eliminate the review of routine questions by the full commission.

This section also contains new directives for appeals from the actions and decision of the commission. These may be taken (1) by any aggrieved party, (2) within a time limit specified by the commission in its ordinance and rules of procedure, and (3) in the nature of a writ of certiorari.

5. Exemption for State Property²⁵

Added during the legislative review of the amendments, this new section states that municipalities and counties will be subject to local historic district ordinances, but that the property owned by the State of North Carolina, its agencies and instrumentalities, and the University System and its constituent institutions will not be subject to these laws. Preservationists are planning efforts to have this provision reversed by legislative or administrative action.

6. Delay of Demolition²⁶

A major victory of the historic district commission amendments is the 180-day delay for certificates of appropriateness for demolition. This doubling of the previous 90-day moratorium will provide a substantial period of time in which to explore the alternatives to demolition. The local historic district commission still retains discretion to reduce or eliminate this delay of demolition in situations involving a structure of no significance or exceptional financial hardship.

HISTORIC PROPERTY COMMISSION AMENDMENTS

The certificate of appropriateness legislation for historic property commissions is incorporated by reference to the historic district com-

25. *Id.* § 160A-398.1.

26. *Id.* § 160A-399.

mission provision for certificates of appropriateness summarized above.²⁷ In addition, the property amendments include significant specific changes, which will be reviewed below:

1. Municipalities²⁸

For the purposes of this amended law, a municipality is defined as either a county or a city/town. The amendments should encourage the establishment of county-wide or joint county-city historic property commissions to manage the identified cultural resources on a comprehensive basis. In addition, it is possible and often desirable that a joint historic property/historic district commission be established in a jurisdiction so that one commission can administer the similar functions.

2. Powers²⁹

The 1979 amendments include a re-arrangement of the historic property commission powers to emphasize certain functions. Placed at the top of the list under subsection (1) is the power to conduct an inventory of the resources within the jurisdiction of the commission. Although this section does not require that an inventory be completed before individual properties are designated, the location of the inventory power in a priority position is intended to stress to new commissions the importance of developing the strongest data base possible for the decisions of the commission. It is important to note that archeological resources are specifically mentioned here, because they are too often overlooked by both district and property commissions.

Subsection (3) slightly expands the real estate holding powers of the historic property commission, citing the power to "acquire the fee or any lesser interest, including option to purchase" The purchase option, and the eminent domain and preservation easements laws discussed below, make historic property commissions potentially powerful forces for local historic preservation activities through real estate acquisition and disposal.

3. Standards for Historic Properties³⁰

Prior historic property commission enabling legislation contained a cumbersome and unnecessary list of "standards" for commissions to consider in designating historic properties. References to the "possibility for adaptive re-use, cost of acquisition, suitability for preservation" were intended to raise common sense questions that should be consid-

27. *Id.* § 160A-399.6.

28. *Id.* § 160A-399.1(b).

29. *Id.* § 160A-399.3.

30. *Id.* § 160A-399.4.

ered by a commission before purchasing a historic property, but they were not actually standards of significance. As stated, these standards have now been replaced by guidelines derived from the National Register criteria, and the evaluation of properties against these standards is reserved to the historic property commission alone.

For the first time, the 1979 amendments suggest what information should be included in designation reports—the data that must be gathered on a property before it can be designated “historic.” The designation report shall present those qualities of the property “that are integral to its historic, architectural, and/or archeological value, including the approximate area of the property.” Beyond these simple requirements, the historic property commission here, as elsewhere in the 1979 amendments, is given discretion in determining the format and content of its reports. Similarly, this section has changed the placing of historical markers on locally-designated property from something a commission *shall* do to something it *may* do.

4. Procedures³¹

Once again emphasizing the importance of proper planning, this section states that “at the earliest possible time and consistent with resources available to it . . .” the commission will conduct an inventory of resources within its jurisdiction. The survey report will be submitted “expeditiously” to the Division of Archives and History for review and comment, but not for approval.

5. Review³²

The general discussion of the review of commission actions by the Division of Archives and History is found in this subsection. The Division may review the “substance and effect” of a designation report. The time limit for review has been reduced from sixty to thirty days.

6. Certificate of Appropriateness³³

This new section to the historic property commission enabling legislation refers back to the amended historic district act: “a certificate of appropriateness issued in accordance with procedures and standards set forth in Part 3A of this article.” Thus, members of local historic property commissions now need to be familiar with the content of the historic district enabling legislation, at least in part.

31. *Id.* § 160A-399.5.

32. *Id.* § 160A-399.5(3).

33. *Id.* § 160A-399.6.

7. Exemption for State Property³⁴

As in the historic district amendments, a new section was added to the historic property commission legislation concerning the applicability of these amendments to state property. In this case, the exception was minor and temporary. This subsection states that the law will apply to state property, excepting those owned by the University System for which an application for a certificate of appropriateness had been submitted prior to the effective date of the act. Since these amendments became effective upon ratification on May 25, 1979, no locally-designated historic property owned by the State of North Carolina is now exempt from the enabling legislation provisions.

The certificate of appropriateness mechanism and the increased delay of demolition, coupled with the expanded power of these commissions to deal in real estate, make local historic property commissions effective forces for local preservation action. Two other pieces of legislation ratified by the 1979 session of the North Carolina General Assembly, the eminent domain provision for local historic property and the Historic Preservation Agreements Act, strengthen further the opportunities of the local commission. These new laws, and the ad valorem tax deferral already available to owners of locally designated historic property, represent a set of preservation tools of substantial legal and financial significance.

EMINENT DOMAIN AMENDMENT

In addition to the increased powers specified in the historic property commissions enabling legislation, the 1979 amendments provided authority for counties and municipalities to acquire locally-designated historic property by eminent domain.³⁵ This change means that if an area has a local historic property commission, the governing board may acquire any designated property by eminent domain for the purpose of preservation if the property is threatened by demolition. Section 160A-241 requires that a certificate of appropriateness for demolition must have been submitted before acquisition by eminent domain may be exercised. Therefore, the eminent domain provision will not be a "last resort" measure for preservationists to press their local governing board to adopt, unless proper planning, creation of a historic property commission, and designation of historic property has already taken place. On the contrary, acquisitions of historic landmarks by eminent domain will only be used by those counties and municipalities where the historic property commission has gained the respect and the cooperation

34. *Id.* § 160A-399.11.

35. *Id.* § 160A-241.

of the governing board. Primarily it will be a device of last resort only when other channels could not save an obviously landmark-quality building or historically/archeologically significant site. In conjunction with the local government's ability to condemn property that does not meet the building code, it may be possible to use this eminent domain amendment to alleviate the danger of demolition by neglect, common in many areas. Preservationists now have an opportunity and a challenge to work within the local political arena to make this amendment a viable tool.

HISTORIC PRESERVATION AND CONSERVATION AGREEMENTS ACT

One of the most exciting aspects of the 1979 legislative package is the conservation/preservation easement and covenant bill.³⁶ Environmentalists of both the natural and man-made environment have long recognized the need for this statutory basis for deed restriction programs. Realizing the logical merger of these similar interest groups, North Carolina has taken an intelligent and progressive step for the comprehensive protection of resources. The possibility of a historic preservation easement and covenant program had existed under previous legislation, but the possibility of enforcing these agreements was doubtful. Litigation had basically established that an easement or covenant was valid only for the lifetime of the grantor of the agreement. Section 5 of the new legislation attempts to remove any uncertainty as to whether an easement/covenant will be in perpetuity or will "run with the land." Obviously, to make the negotiation of the donation or purchase of an agreement worth the time, expense, and effort, there needed to be a firm guarantee that the provisions or restrictions inherent in these agreements would not be tied to the potentially short life of the current property owner, but would secure the qualities of a particular property for the enjoyment and benefit of future generations.

This act provides an opportunity for branches of state and local government and for appropriate private, non-profit organizations to acquire deed restrictions on properties that merit preservation or conservation.³⁷ For example, the Division of Archives and History, the Historic Preservation Fund of North Carolina, Inc., and the Natural Heritage Program have already organized to develop the necessary

36. *Id.* §§ 121-34 to -42. In addition to North Carolina seven other states have passed similar preservation legislation: ARK. STAT. ANN. §§ 50-1201 to -1206 (Supp. 1977); CONN. GEN. STAT. ANN. §§ 47-42a to -42c (West 1978); GA. CODE ANN. §§ 85-1406 to -1410 (1978); LA. REV. STAT. ANN. § 9:1252 (West Supp. 1979); MASS. GEN. LAWS ANN. ch. 184, §§ 31-33 (West 1977 & Supp. 1979); N.H. REV. STAT. ANN. §§ 477:45-47 (Supp. 1977); R.I. REV. STAT. ANN. §§ 477:45-47 (Supp. 1978). See Comment, *An Assessment of the North Carolina Historic Preservation and Conservation Agreements Act of 1979*, 11 N.C. CENT. L.J. 362 (1980).

37. N.C. GEN. STAT. § 121-34 (Supp. 1979).

educational material and financial/legal procedures to operate comprehensive statewide programs.³⁸ For present purposes, this law will benefit local historic property commissions to secure and enforce "less-than-fee" management of identified resources. Unfortunately, historic district commissions are not authorized to hold property, so those groups may not be involved directly in easement or covenant acquisition. This distinction may require historic district commissions to consider petitioning their local governing boards to assume the role and power of a historic property commission.³⁹

USE OF THE 1979 LEGISLATION

As Bob Stipe has stated in the quotation used for the preface to these remarks, we must "recognize legal approaches to preservation as means to an end rather than as ends in themselves."⁴⁰ North Carolina's citizens now possess as sophisticated and effective a set of laws for local historic preservation action as any other state in the nation. Unless the selective adoption of these laws in relationship to the opportunities or requirements of local resources is carried out, however, the advantages have been lost or squandered. The time for successful preservation planning and action is ripe in North Carolina. The legal framework is established, effective public and private organizations exist to provide expertise and advice, limited funding is available from many sources, and popular appreciation for goals of historic preservation is constantly growing. Taking these legislative advances "as tools to implement both city-wide and neighborhood preservation plans," North Carolinians can more fully insure the protection and enhancement of the cultural resources that enrich our lives.

38. L. PEACOCK & C. ROE, *CONSERVATION AND HISTORIC PRESERVATION EASEMENTS. TO PRESERVE NORTH CAROLINA'S HERITAGE* (1980).

39. N.C. GEN. STAT. § 160A-399.3(3).

40. R. Stipe, *Urban Planning, Local Government, and Historic Preservation* (1967) (privately printed in 1967 by R. Stipe).