

STACKING THE FEDERAL AND STATE COMMERCIAL TAX CREDITS



The Maritime Building in New Orleans underwent a substantial rehabilitation that started in 2007. It was previously an office building. In 2010, the work was completed and the building was placed into service as a mixed-use building, combining commercial and residential uses. Total rehab costs were \$25.7 million.

STACKING THE CREDITS

Some projects may be eligible for both the Federal and State Commercial Rehabilitation Tax Credit Programs. The most stringent program requirements must be met to qualify. This section serves to provide guidance on what information an applicant must submit and how the application process works when applying for both programs on the same project. It is important to remember that when applying for both programs, the Federal program in essence leads the application process. The State Commercial application piggy backs the Federal application.

The Tax Credit: A tax credit is a direct, dollar for dollar reduction in the amount of money a taxpayer must pay in taxes for a given year. The Federal Historic Rehabilitation Tax Credit Program offers a 20% credit and the State Commercial Tax Credit Program offers a 25% tax credit on the SAME qualified rehabilitation expenditures. This gives property owners the ability to offset their rehabilitation costs by 45%. Both credits are claimed for the year the building is placed in service. The Federal credit applies to Federal income tax and can be carried back one year and forward for twenty years. The State Commercial credit is applied to Louisiana income tax and can be carried forward for five years; after the first year, the remaining balance of the credit is fully transferable.

Who and What Qualifies: These programs encourage the rehabilitation of historic buildings by offering tax incentives that may be earned upon the successful completion of a project. These credits are available for what are termed “depreciable” properties, that is, income-producing. Generally, this means commercial, industrial, or rental-residential. Totally owner-occupied dwellings do not qualify. The credits are available to the owner(s) of a historic property (though in certain cases, long-term lessees may qualify). A building must meet the requirements for BOTH the Federal and State Commercial programs; for example, a building must be a contributing element to a National Register Historic District or individually listed in the National Register AND be located within the boundaries of a Downtown Development District or a certified Cultural District.

A Substantial Rehabilitation: The Federal program requires the qualified rehabilitation expenditures to exceed the adjusted basis of the building. If the building was purchased recently, the adjusted basis is the purchase price minus the appraised value of the land. If the building was not purchased recently, the adjusted basis is the current depreciated value of the property listed on the previous year's tax return. If the adjusted basis is very low (less than \$5000), rehab costs must exceed \$5000. The State Commercial program requires that the qualified rehabilitation expenditures exceed \$10,000.

To utilize both programs, the highest substantial rehabilitation test must be met. For example: if the building has an adjusted basis of \$86,000, then a minimum of \$86,000 must be spent on qualifying rehab expenditures to qualify for both the Federal and State Commercial programs (Federal—\$86,000; State Commercial—at least \$10,000). If the building has depreciated in value to \$5001, then at least \$10,000 must be spent on qualifying rehab expenditures (Federal—at least \$5000; State Commercial—at least \$10,000).

The Time Frame: Projects are generally completed within two years. Within 24 months, the project must have expended enough funds to exceed the building's adjusted basis. The project must be completed the year for which the credit is claimed. For example, if the project was completed in 2010, the credit can be claimed for 2010. A project may take up to five years if permission is reques-

-ted in advance and the work is phased. Project completion dates may not exceed the sunset date of the State Commercial program.

National Park Service Approval: All exterior and interior work must be certified by the National Park Service (NPS) as meeting the Secretary of the Interior's Standards for Rehabilitation. These are essentially guidelines for renovating historic buildings. The Standards provide that a building's historic features are preserved and that new additions and alterations are compatible with its architectural integrity. The Division of Historic Preservation (DHP) will, at the applicant's request, meet on site to ensure that the rehabilitation work proposed will meet the Standards. The review of the State Commercial application will follow any and all requirements that the National Park Service places on the Federal application.

The Application Forms: The Federal application consists of three parts. Part 1 is used to certify that the building in question qualifies for the program. Part 2 describes the proposed rehabilitation work. This should include all work on which money is being spent. Please note that Parts 1 and 2 need not be submitted separately. They can be reviewed concurrently. Part 3 is a request for certification that the work has been completed according to the Standards. The Federal application must be submitted in duplicate to DHP. Only the first page of each corresponding State Commercial application need be submitted, along with any appropriate review fee and supplemental material.

The owner should not begin work on the project without a Part 2 approval from NPS. Construction may begin without an approved Part 2, but any work done without approval is done at the owner's risk. Work that does not meet Standards may preclude the owner's ability to earn the tax credit. All applicants are advised to consult with their tax attorneys and/or certified public accountants when developing projects to determine if the credit will be applicable.

When a Part 2 application is submitted, there are three possible review outcomes. The first outcome would be the application has been determined to meet the Standards as proposed. The second outcome, which is the most common, is that the application is approved with conditions that bring the project into conformance with the Standards. Conditions are typically statements such as, "Ceilings must have a finished appearance, through the use of gypsum board or plaster," or, "Photos or drawings of the replacement windows must be submitted in duplicate to DHP for approval prior to installation." The third outcome would be a denial of the project. The project's proposed work does not meet the Standards and there are no conditions that could be placed on the project to bring it into conformance with the Standards. This is an extremely rare occurrence.

The Internal Revenue Service (IRS) and the Department of Revenue (DOR) will not allow a rehabilitation tax credit on any project when work is completed before the application forms are submitted and the owner has a ruling from NPS. The approval issued by NPS is for the purpose of historic rehabilitation tax credits only. The approval process does not take the place of any local regulatory requirement (such as obtaining a work permit), or state or federal requirements.

For example, if your project involves a federal loan, permit, loan guarantee, or grant, it must be reviewed through the Section 106 environmental review process. This is a separate process with its own application procedure. If you need assistance with this program, please contact the Section 106 Staff at 225.342.8160.

Fees: The National Park Service (NPS) requires a project review fee upon receipt of the Part 2 application. The fee is based on the estimated overall project cost listed on the Part 2 application. Half of the project fee must be paid upon submittal of the Part 2 application. The remaining balance of the project fee must be paid upon the submittal of the Part 3 application. NPS will bill the applicant once the Part 2 or Part 3 has been received. The project fees can be seen below. Total review fees range from \$845 to \$6500 based on the estimated project cost. NPS cannot review your project until the appropriate fees are paid. These fees are subject to change and should be confirmed through the NPS website prior to application.

<u>FEE</u>	<u>PROJECT COST</u>
\$-0-	\$0-79,999
\$845 + 0.15% (0.0015) of rehabilitation costs over \$80,000	\$80,000—\$3,849,999
\$6,5000	\$3,850,000

In addition to fees charged by NPS, DHP requires an additional fee upon receipt of the State Commercial Part 2 and Part 3 applications. The State Commercial Tax Credit application fee must be submitted in the form of a personal check, cashiers check, money order, or certified check, made payable to the Division of Historic Preservation. Applications not accompanied by the required fee payment will be held by DHP for up to sixty days or until payment is received, whichever comes first. If payment is not received after sixty days, the application will be returned to the applicant. The Part 2 and 3 fees are for review and handling only, and in no way determine the outcome of the review. Fees are subject to change and should be confirmed through the DHP and NPS websites prior to application.

No Retroactive Tax Credits: Projects cannot receive tax credits retroactively. Once a building has been placed in service, it is no longer eligible for tax credits. A Federal Part 1 must be submitted before the project has been completed. The only exception to this is if the property is individually listed in the National Register of Historic Places.

Recapture: In order to get and keep the full credit, the owner must hold the building for five years after the rehabilitation. If he sells the building before five years have passed, he loses 20% of the earned Federal credit for each year short of the full five years. Additionally, any work undertaken beyond routine maintenance during the recapture period must be approved as meeting the Standards by NPS.

Taking the Credit: Under normal circumstances, applicants claim the credit for the year a project is complete and once they have an approved Part 3. Applicants may begin to take the Federal credit once they have exceeded the adjusted basis and they have an approved Part 2. However, please note that in such cases the applicant is proceeding at his own risk. There is no corresponding provision for the State Commercial credit.

APPLICATION PROCESS TIMELINE

At the beginning of the project:

Complete Federal and State Commercial Part 1 and Part 2 Applications Received by Division of Historic Preservation (DHP), including State Commercial Part 2 Fee

30 Days

Federal Applications Forwarded to National Park Service (NPS)

Mail Time + Log In Time

Federal Part 2 Fee Request Sent to Owner

Mail Time

Federal Fee Received by NPS

30 Days

Federal and State Commercial Part 1 Approvals Sent to Owner

Federal and State Commercial Part 2 Review Determinations Sent to Owner

Once the project is completed:

Complete Federal and State Part 3 Applications are Received by DHP, including State Commercial Part 3 Fee

30 Days

Federal Part 3 Application Forwarded to NPS

Mail Time + Log In Time

Federal Part 3 Fee Request Sent to Owner

Mail Time

Fee Received by NPS

30 Days

Federal and State Commercial Part 3 Review Determinations Sent to Owner

THE APPLICATION PROCESS

The Internal Revenue Service (IRS) will not accept and the National Park Service (NPS) will not review any project that is submitted after the work is completed. It is vital that you submit the Federal Part 1 form immediately. Any work completed before approval from NPS is done at the owner's risk. Therefore, the Federal Part 2 form should be submitted as soon as possible, preferably as soon as floor plans are available, NOT after approval by the Fire Marshal's office. All applications and supplementary materials are submitted to the Division of Historic Preservation (DHP). One set of Federal material remains at DHP in Baton Rouge; the other set is forwarded to NPS with DHP's review and recommendations. If the Federal application is complete, it is forwarded to NPS in Washington D.C. within thirty days. With Federal Part 2 applications, NPS sends an initial fee request based on the overall estimated project cost and reviews the project only after the fee is paid. The Part 3 fees are scaled to the size of the rehabilitation. The initial fee payment is deducted from the final fee when the Federal Part 3 is submitted. These fees are subject to change and should be confirmed through the NPS website prior to application. If an incomplete project is submitted, the review time may be extended to ninety days or more, whereas a complete application should be returned to the owner with the NPS ruling in approximately sixty days. The applications are not complete unless all blanks are filled in and all work items are described in writing. Notes on architectural drawings and plans can clarify or add to the written work description, but they cannot serve as a substitute for the written description. Do not submit bid specifications for this work description.

Part 1 — Evaluation of Significance

- ☐ Original Federal form with blue signature and one copy.
- ☐ Original State Commercial form, first page ONLY, with blue signature.
- ☐ Photographs: Two sets of BEFORE photographs keyed to the existing floor plan. Each photograph must be numbered on the back. You may also add descriptive labels to the back of each picture. Under no circumstances should photographs be printed on plain sheets of paper or placed in any kind of binding. Place each set of photographs loose in an envelope.
- ☐ An existing floor plan with the photographs keyed to it and one copy.
- ☐ Map showing the building's location within the National Register District and one copy.
- ☐ Map showing the building's location within a Downtown Development District or certified Cultural District
- ☐ Sanborn Fire Insurance Map and one copy. This map should show the first appearance of the building in its current location and should be dated.

Part 2 — Description of Rehabilitation

- ☐ Original Federal form with blue signature and one copy.
- ☐ Original State Commercial form, first page ONLY, with blue signature.
- ☐ Photographs: If construction is underway, two sets of work-to-date photographs.
- ☐ Floor plans: For simple projects, owners may draw their own plans using as a model the plans

shown under the "Photographs" section. All windows, doors, chimneys, porches, and steps must be shown. Preferably, there is a set of BEFORE and a set of PROPOSED plans. If any elevations are available, they should be submitted. For complex projects, elevations, cross sections, the window and door schedule, and the plans for HVAC must be submitted. DO NOT submit electrical, plumbing, and complete mechanical plans. For architects, please submit one full sized set of plans to be forwarded to the National Park Service (NPS) and one reduced size set to remain at the Division of Historic Preservation (DHP).

- ☐ State Commercial Part 2 application fee. (Payable to DHP.)

Part 3 — Request for Certification of Completed Work

- ☐ Original Federal form with blue signature and one copy.
- ☐ Original State Commercial form, first page ONLY, with blue signature.
- ☐ Photographs: Two sets of AFTER photographs keyed to the completed floor plan. Each photograph must be numbered on the back. You may also add descriptive labels to the back of each picture. Under no circumstances should photographs be printed on plain sheets of paper or placed in any kind of binding. Place each set of photographs loose in an envelope. If possible, these photographs should be the same views seen in the Part 1 or BEFORE photographs.
- ☐ A completed floor plan with the photographs keyed to it and one copy.
- ☐ State Commercial Part 3 application fee. (Payable to DHP.)

Parts 1, 2, and 3

The owner's original, dated signature must be on all forms and copies. Please make sure that the signature is in blue ink!

The owner's taxpayer ID number or Social Security Number must be on all forms and continuation sheets.

DHP is unable to forward any fee payments submitted by check to the National Park Service for the Federal fee. A check must be submitted for the State Commercial program.

REMEMBER TO KEEP A COPY OF ALL DOCUMENTS AND SUPPLEMENTARY MATERIALS FOR YOUR OWN RECORDS!

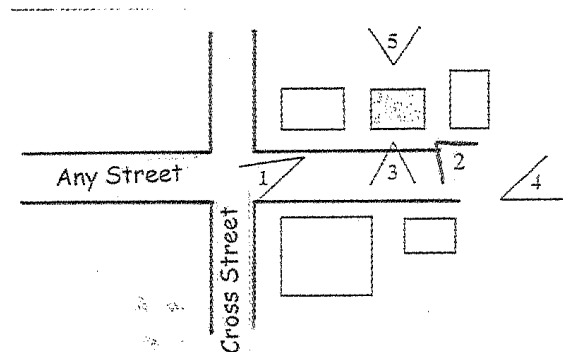
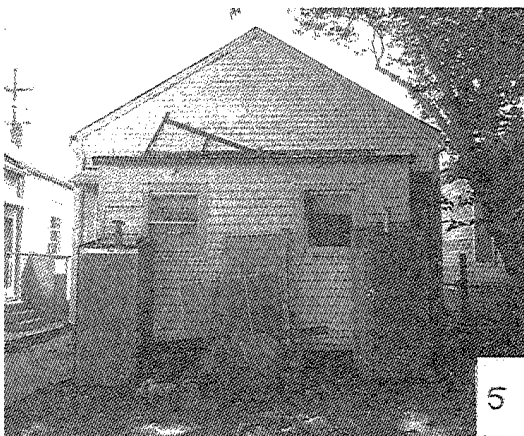
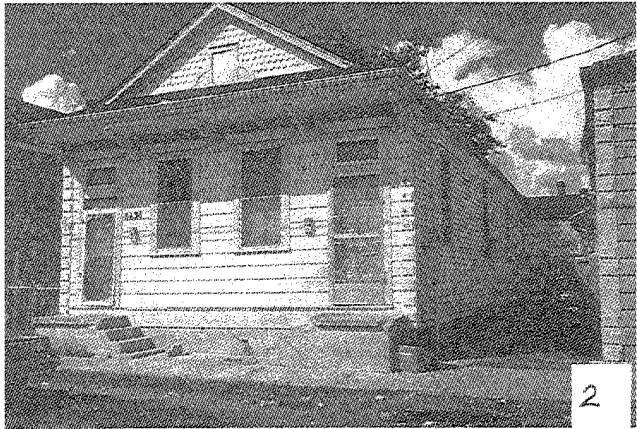
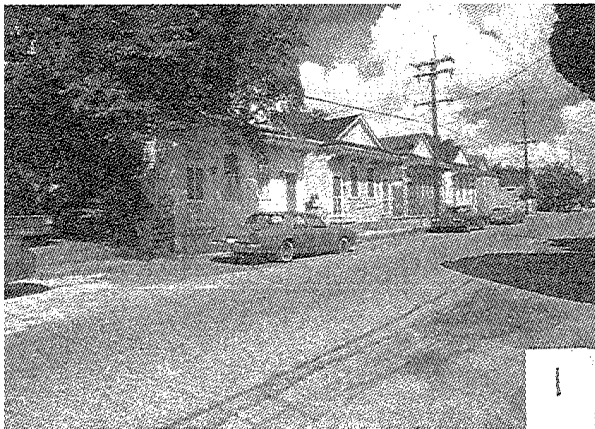
PHOTOGRAPHS

Two sets of color photographs taken BEFORE any work begins must be submitted. Each photo should be at least 4" x 6" in size and printed on glossy paper (prints from drugstores and photo retailers are best!). One set is forwarded to the National Park Service (NPS) in Washington D.C. and one set remains at the Division of Historic Preservation (DHP) in Baton Rouge. Typically, 24 to 36 photos are used to document a small single-family rental residence. The photos should be sufficient in number to accurately describe the building—your building may require more or less. Digital pictures must print extremely clearly, with no pixilation. We do not accept the following: photos submitted via email or on computer disc, Polaroids, or color photocopies.

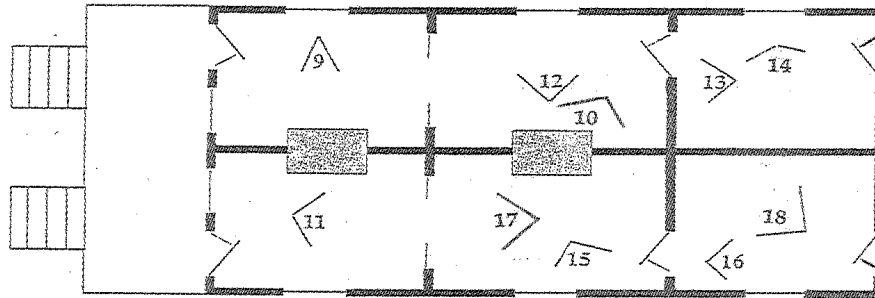
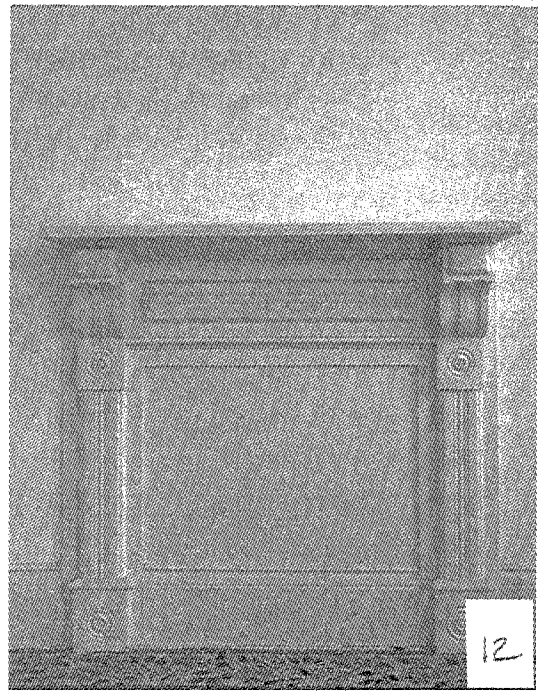
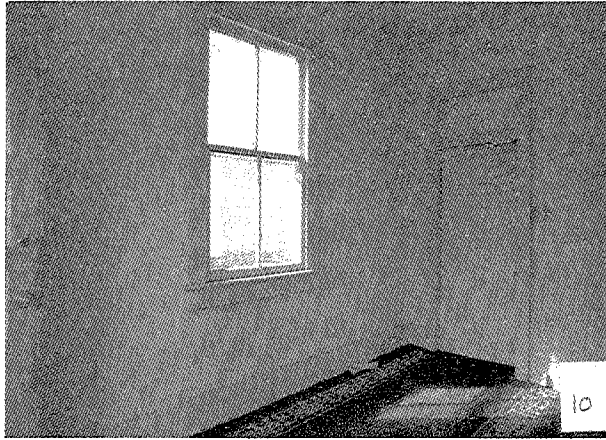
Number the photographs on the reverse side and key them to a plan, as illustrated. Photos may additionally be labeled on the reverse with the address and a brief description of the view, though that is not necessary. Put each set of photographs in an envelope with the project address. Photos must be submitted loose in the envelopes. DO NOT attach them to any sheet, folder, or booklet.

Photographs must include 1) two to four streetscape shots showing the buildings across the street and on both sides of your building; 2) exterior views including, but not limited to, both sides, the façade, porch, balcony, front windows, front door, gable, etc; 3) interior views including, but not limited to front rooms, halls, mantles, windows, doors, stairs, ceiling medallions, etc; and, 4) clear views of each room, including ceiling condition, floor, and walls.

Two full sets of AFTER photographs must be submitted with the Part 3 following the same guidance.



EXAMPLES: Interior BEFORE
photos keyed to a floor plan.



123 Any Street, Anytown, LA
First Floor Plan with Photo Key



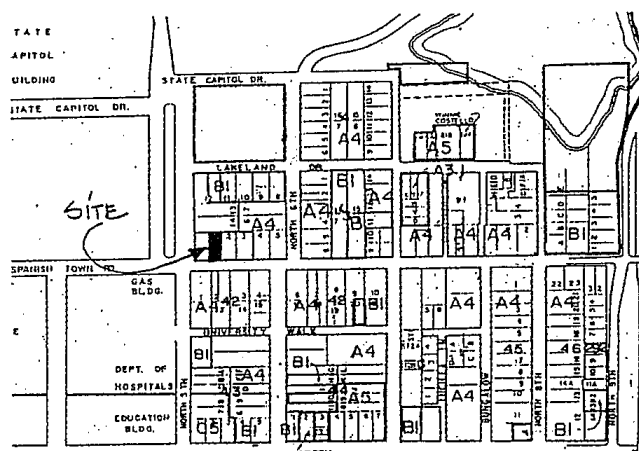
NOTE: These are only examples.
Your application should include
24-36 photos to cover accurately
all of the building and
streetscape.

MAPS

In addition to the photographs and plans, applicants in National Register Historic Districts **MUST** submit a map of the district with both the district boundary and the applicant's property marked clearly. Maps of Louisiana's National Register Historic Districts may be found on the National Register Database at www.louisianahp.org.

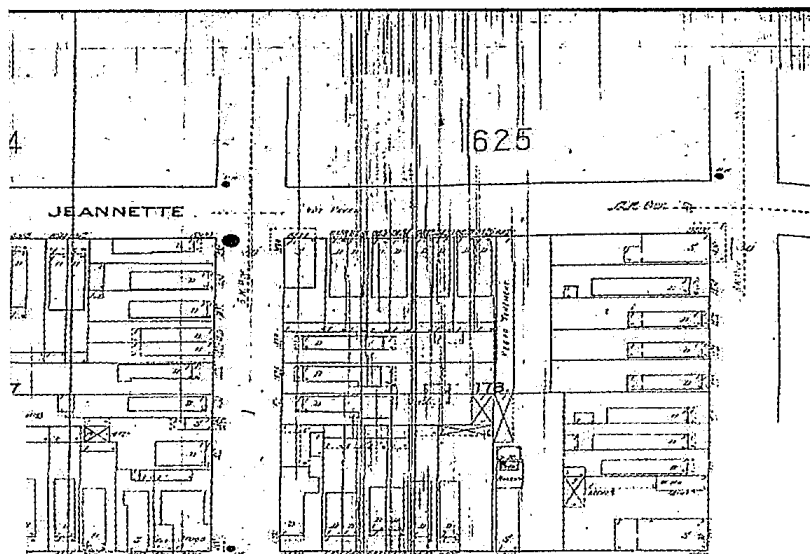
Please include a dated Sanborn Insurance Map closest to the date of construction or major changes if possible. Sanborn maps are digitized maps detailing property and land-use for Louisiana cities and towns. Extensive information is given on building construction and use, street names and addresses, and property boundaries. Other features shown include pipelines, railroads, wells, and dumps. Map dates range from 1885 to 1951, with most falling within the early part of the 20th century.

No additional information should be keyed to these maps. As with all materials, maps should be submitted in duplicate.



**Example: Spanish Town
Historic District Map
Baton Rouge, Louisiana**
Note: Site is clearly marked.

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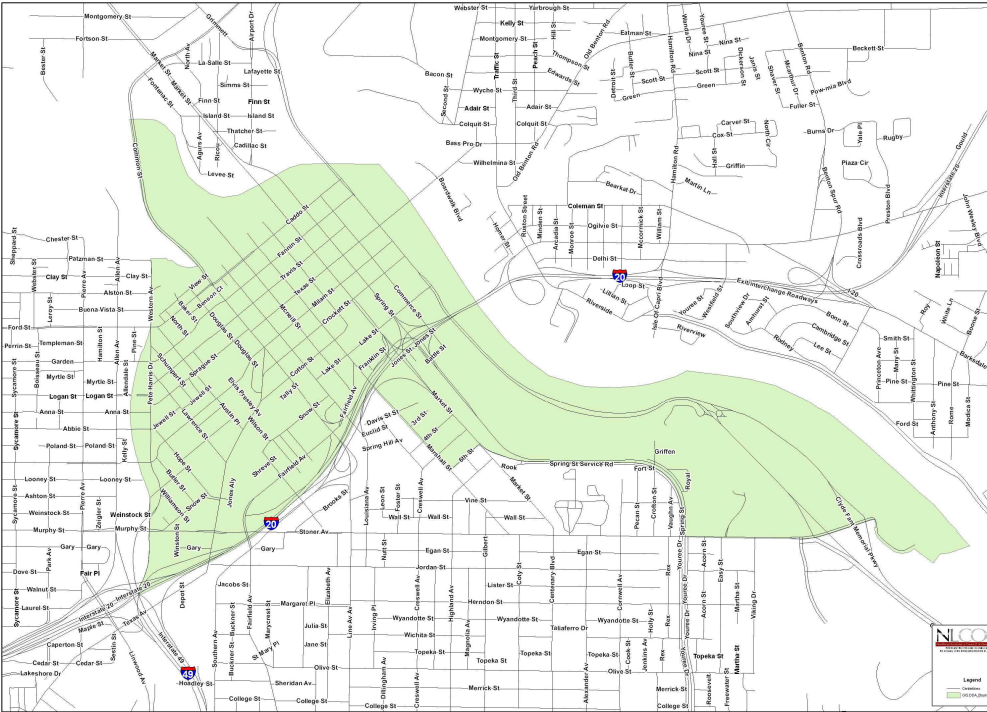
**Example: Sanborn Fire
Insurance Map, New Orleans,
Louisiana**
Note: Copy includes the date
& volume of the map.

Applicants must also submit a map of the Downtown Development Districts or certified Cultural District with both the district boundary and the concerned property marked clearly. In some cases, maps to certain Downtown Development Districts may be unavailable. In such cases, the applicant must submit a letter provided by the city’s Downtown Development Authority verifying that the property is located within the boundaries of the district. Maps of Louisiana’s certified Cultural Districts may be found in the Tax Incentives section of the Division of Historic Preservation’s website at www.louisianahp.org.

**Old South
Baton Rouge
Cultural District**



**Shreveport
Downtown
Development
District**





This historic hotel located at 121 Royal Street in New Orleans was once one of the finest establishments located off of Canal Street in the Vieux Carre. Its monumental staircase is open on either side, enhancing a sense of openness and light to what might otherwise be a shadowy space. The light surely washed down the stairs from the immense skylight located directly above. Sadly, it appears as though this hotel was simply abandoned one day—all of the furniture was still in the rooms when the Division of Historic Preservation’s staff was on-site.

The current owners of the building requested the staff to walk through the property with them so that they could determine if the planned use and rehabilitation work would meet Standards. Most of the interior historic finishes remain intact, though the first floor storefront has been severely altered. Nevertheless, the extensive amount of historic fabric assured both the staff and applicant that the building would qualify for a Part 1 approval.

Balancing life-safety code requirements with the Secretary’s Standards for Rehabilitation may be challenging, but the Division gladly works with the State Fire Marshal’s Office, and local regulatory agencies and historic district commissions to ensure historic buildings returned to safe, productive use.

