



Oregon

Kate Brown, Governor

**Parks and Recreation Department
State Historic Preservation Office**

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September 30, 2022

Joy Beasley
Associate Director, Cultural Resources, Partnerships, and Science and
Keeper of the National Register of Historic Places
National Park Service
1849 C St. NW, Mail Stop 7228
Washington, D.C. 20240

RE: Resubmission of the National Register of Historic Places Nomination Form for the Eastmoreland
Historic District, Multnomah Co., OR

Dear Associate Director Beasley:

I nominate the proposed Eastmoreland Historic District, Multnomah Co., OR (District) to the National Register of Historic Places (National Register) at the recommendation of the Oregon State Advisory Committee on Historic Preservation. Applying Chapter 36 of the Code of Federal Regulations, part 60 (36 CFR 60) and Oregon Administrative Rule (OAR) 736-050-0220 through 736-050-0270, the Oregon State Historic Preservation Office (SHPO) ascertained a total of 2,151 property owners and counted 640 valid objections as of 3pm on September 30, 2022. I therefore determine that a majority of property owners do not object and that there is owner consent to list the District in the National Register.

The re-submitted materials include a true and correct copy of the National Register of Historic Places Registration Form (nomination form). Also submitted are a list of property owners, correspondence received, and digital copies of each received objection to listing the District, withdrawal of objection, or assertion of ownership of real property within the District.

In consideration of the intense public interest in this nomination effort, I request that this action be posted in the Federal Register and that the agency provide a 45-calendar day public comment period.

The following discussion provides a brief administrative history of the nomination of the District to the National Register, and specifically answers questions concerning establishing owner consent raised in your letter dated July 18, 2019.¹

¹ Joy Beasley, Acting Associate Director, Cultural Resources, Partnerships, and Science and Keeper of the National Register to Christine Curran, Deputy State Historic Preservation Officer, "Proposed Eastmoreland Historic District, Portland, Oregon," July 18, 2019. Letter also includes a more complete description of prior submissions discussed in this document.

Previous Submissions

On May 18, 2017, I submitted the nomination form for the District with my finding that the District is eligible for listing in the National Register, but that our office could not determine if there was owner consent to list the property. The nomination form was subsequently returned by your office on July 3, 2017 for a prejudicial procedural error with direction to resolve the issue of establishing owner consent.

On April 25, 2018, I resubmitted the nomination form for the District with a request for a determination of eligibility because the majority of the owners objected to listing the property in the National Register. In that submission, I noted that the owner and objection count differed significantly from the previously-provided count because in March and April 2018 five property owners of four separate properties within the District executed deeds conveying 0.1% interest in their property to 1,000 different trusts. The National Park Service (NPS) returned the request on June 29, 2018 with direction to our office to resolve questions regarding counting owners and objections and to determine whether the identified trusts were “valid,” had “legal effect,” and constituted a “fee simple” holding as required by the federal regulations.

On May 24, 2019, I again resubmitted the nomination for the District with the determination that there was owner consent to list the District in the National Register. I arrived at my finding after excluding trusts from the property owner list and not counting any objections submitted on behalf of trusts in compliance with an Oregon state court ruling, *Tom Brown v. Parks and Recreation Department*. In our submission, I acknowledged the conflict between federal practice that recognizes trusts as “owners,” and state law. In response, our office provided a count of owners and objections that did include trusts as owners and objections submitted on behalf of trusts, and we determined that doing so did not affect the outcome. In the same memorandum, we explained that we believe that counting trusts as a single owner, regardless of the number of trustees, is consistent with the NPS’s regulations implementing the National Register program. On July 18, 2019, your office returned the nomination form to our office citing correspondence from multiple parties that questioned the accuracy of the tallies, methodology for determining the total number of owners and objections, and inconsistency between the Oregon state court ruling and the NPS’s interpretation of implementing rules for the National Register program. Your return letter directed our office to fulfill our responsibility under 36 CFR § 60.6 to “determine the identity of the property owners within a historic district, the number of property owners within that district, and whether a majority or minority of the owners object to listing.” The letter further stated that the questions regarding counting owners and objections, and specifically how these questions pertain to trusts under Oregon State law, are “a legal question under Oregon law that the Keeper is not in a position to resolve.” In a July 24, 2019 letter to your office the SHPO acknowledged our responsibility and stated that our agency would revise the state rules for the local administration of the federal National Register of Historic Places program to address the NPS’s concerns regarding counting owners and objections.

Counting Owners and Establishing Owner Consent for Current Submission

The adoption and amendment of state rules for the federal National Register of Historic Places program in June 2021 addresses outstanding questions raised in the NPS’s July 18, 2019 return letter regarding the definition of “owner” under state law, particularly as it related to trusts, and

the processes for creating the property owner list and counting objections. The revised state rule now identifies each unique individual settlor of a revocable trust as an owner with a single opportunity to object to listing a property in the National Register and an irrevocable trust as a single owner, no matter how many trustees the trust may have. The definition of “owner” in the state rule is consistent with the NPS’s application of 36 CFR Part 60 that states that an “owner” is any person or entity with fee simple absolute or fee simple defeasible estate title to real property within the boundary of a nominated district. The revised state rule explicitly allows for owners to submit an objection to listing a property in the National Register, withdraw their own objection or the objection of a previous owner, and assert ownership of real property not previously identified. Following additional amendment in April 2022, the state rule also allows these written statements to be validated either by a notary public verifying the identity of the signing individual, or the signer attesting that the provided information is correct under “penalty of perjury” in compliance with 28 USC § 1746.² A copy of the effective state rule is available upon request.

The resubmission process began with re-examining the original unedited property owner list created from Multnomah County tax records provided by the City of Portland on November 18, 2016. This list was drawn not more than 90 days prior to the meeting of the state review board in 2017 to consider the nomination of the District to the National Register. The SHPO requested a new property owner list from the City of Portland dated December 15, 2021 to compare to the original property owner list to identify discrepancies between the two lists for further investigation. Following the comparison of the two lists, staff reviewed each previously-received statement (objection, withdrawn objection, or assertion of ownership of real property not previously identified). SHPO staff carried out comparisons of the tax records and the evaluation of submitted statements on a case-by-case basis applying the provisions of federal and state law and program rules. The SHPO mailed all persons who submitted documents that met the requirements and matched the tax records a letter acknowledging that their statement was received and met the requirements to be counted. SHPO staff then identified discrepancies in the tax records, between submitted statements and tax records, and submitted statements that did not meet the federal and state requirements. The SHPO mailed all persons whose name or property address did not match the tax records or whose statements did not meet the federal or state standards a letter describing the issue and how to correct it. In cases where persons submitted multiple statements or where multiple statements were submitted for the same property, the SHPO considered the most recent statement that met all requirements to be the valid statement. The SHPO continued to accept new statements from property owners throughout the process, and evaluated each of these against the same criteria.

In July 2022, the SHPO contacted by mail persons associated with trusts as identified in the tax records and submitted correspondence who had not previously provided documentation

² Joy Beasley, Acting Associate Director, Cultural Resources, Partnerships, and Science and Keeper of the National Register to State Historic Preservation Offices, “Validation of Owner Objection(s) to Listing on the National Register of Historic Places or Designation as a National Historic Landmark,” November 12, 2021.

concerning their ownership interest. The letters requested that the identified person(s) provide documentation to demonstrate their ownership status, specifically if the identified trust was revocable or irrevocable and who the settlors and trustees were. Any persons who were not responsive to the information request received a second letter in September 2022 asking for the same information. The last letter mailed to each person indicated how the SHPO would count the number of owners should the contact person choose to not respond. For those who chose to not respond, the SHPO made a determination regarding the ownership status of the property on a case-by-case basis using available tax records and submitted documentation. Prior to submission to the NPS, SHPO staff completed a randomized quality assurance process to check for any unidentified systemic errors. A more complete description of the counting process and related documentation is available upon request.

Public Outreach for Current Re-Submission:

The following is a brief record of the public outreach effort regarding the resubmission of the District to the NPS. Copies of documents are available upon request.

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| April 2022 | Provided notification that the SHPO would resubmit the nomination document to the NPS for consideration: <ul style="list-style-type: none">○ Updated agency project website○ Sent postcard notification to all property owners in the District○ Sent notification letters to the City of Portland Landmarks Commission, City of Portland Mayor, Ted Wheeler, and all nine federally-recognized Native American Tribes in Oregon○ Issued a press release○ Printed a Public Notice in local newspapers, <i>The Oregonian</i> and <i>The BEE</i> |
| July 2022 | Sent letter to persons identified as associated with trusts who had not previously submitted documentation asking that they provide evidence documenting their ownership status. |
| September 2022 | Sent letter to persons identified as associated with trusts who had not responded to July 2022 requests for information asking that they provide evidence documenting their ownership status.

Provided notification that the SHPO resubmitted the nomination document to the NPS for consideration: <ul style="list-style-type: none">○ Updated agency project website |

- Sent notification letters to the City of Portland Landmarks Commission, City of Portland Mayor, Ted Wheeler, and all nine federally-recognized Native American Tribes in Oregon
- Issued a press release

October 2022 Will send postcard notifications to all property owners in the District stating that SHPO submitted the nomination form for the District

Review of National Register of Historic Places Registration Form

In a November 15, 2017³ letter to our office, NPS affirmed the SHPO’s determination that the District is eligible for listing, all procedural requirements were met, and that the form is adequately documented and is technically and professionally correct and sufficient.” Subsequent to this finding, the Oregon SHPO reviewed and made minor revisions to the nomination form and determined that the District retains its eligibility for listing in the National Register. SHPO staff twice reviewed City of Portland building permits issued between December 15, 2016 and June 15, 2022 to identify alterations that may impact the historic integrity of individual historic resources. On July 5, 2022, SHPO staff visited the District to assess the integrity of properties identified in the analysis of building permits, complete a general assessment, and retake photos as needed. Staff then reviewed the total distribution of non-contributing buildings and determined that the distribution of non-contributing buildings did not require altering the boundary. Following the analysis, staff made minor edits throughout the nomination form to reflect the current count of contributing and non-contributing buildings and updated the eligibility maps in the nomination form (figure 3) to reflect the eligibility changes. A more complete description of the process is included in the submitted nomination form. All owners of properties where the resurvey caused a change in eligibility were notified by letter.

I appreciate your consideration of the resubmission of the proposed Eastmoreland Historic District for listing in the National Register of Historic Places. Please contact Ian Johnson, Associate Deputy SHPO at (971) 718-1137 or ian.johnson@opr.d.oregon.gov and Robert Olguin, National Register of Historic Places Program Coordinator at (503) 602-2468 or robert.olguin@opr.d.oregon.gov with any questions or requests for additional documentation.

Sincerely,



Christine Curran
Director, Heritage Programs and
Deputy State Historic Preservation Officer

3 J Paul Lother, Chief, National Register/National Historic Landmarks and Keeper of the National Register to Ian P. Johnson, Associate Deputy State Historic Preservation Office, “Eastmoreland Historic District National Register Nomination.” November 15, 2017.