

Item 153 on Council Calendar for Wednesday February 21, 2018
Informational Update for Portland City Council members in Response to testimony.

We have heard from some quarters that the National Register of Historic Places is unjust and inequitable and thus should be "honorific" with the implication that National Register listing is simply a respectful gesture without the intended result of providing protections for such properties.

This is a fundamental misreading of the history of the National Historic Preservation Act (NHPA) of 1966 and a warping of the intent and purpose of that groundbreaking legislation.

The point of the Act was to use Federal Government leverage to encourage individual states and local jurisdictions to protect worthy historic resources. Until the passage of the 1966 NHPA, historic preservation at the national level did not exist. Few states had even rudimentary programs. The Act was born of the national revulsion over the destruction of our historic fabric and precipitated by the loss of New York City's 1910 Pennsylvania Station among other tragic losses. This article provides some additional context:

https://en.wikipedia.org/wiki/National_Historic_Preservation_Act_of_1966.

The 1960s was a time of massive urban renewal. The extravagant spending on the Interstate Highway System cleared great swaths of urban and rural real estate. Redevelopment of every sort was painted as an enlightened path to an ever brighter (and more livable!) future. Portland was not exempt from the effects and lost much of its central city history along with some of its least affluent and ethnically diverse neighborhoods. As the resulting damage became manifest, the public and political leadership demanded legislation to protect and preserve their history and in some cases their homes. The Act is intended to apply to a variety of resources from individual structures, to urban districts, to historically important landscapes. The idea that the preservation movement is born of prejudice and disregard for the needs of society is fundamentally a false narrative.

Implementation of the Act places most power for local regulation with the states and their individual jurisdictions. The Act established a mechanism for nomination to the National Register, now adopted by all states, in the hands of the "State Historic Preservation Office"(SHPO) - a program funded by the federal government. The SHPO thus oversees the quality of the nomination and a public process that insures widespread public engagement of the affected owners. An element of the process allows property owners to block designation by notarized objection, a process again managed at the state level by the SHPO.

It was the intent of the Act to use the power of national designation in the National Register to empower state and local jurisdictions to protect these privately held resources to the extent that our Federal system will allow. Also empowered by the Act is a program of "certified local governments" charged to establish protections for National Register designated properties as well as locally designated properties.

Since enactment of the NHPA, Portland, among other Oregon cities, adopted local codes that apply protections to National Register designated properties. Under the Oregon Goal 5 reform of 2017, a public process to formulate and adopt protections is now required for newly designated National Register designated resources. The Goal 5 rules also mandate a locally administered demolition review process on all newly designated National Register listed in Oregon.

Does this negate the notion that protections be applied only by public process? No. The demolition review requirement simply defers the required public process until circumstances warrant -- namely the impending destruction of the historic resource. At that point, a public process is convened in which the same array of considerations must be taken into account as would be required to apply protections in the first place.

It is essential for Portland's future to respect and preserve its history and its distinctive character. While the National Register is not the only possible road to achieve preservation, it is the only effective tool now in place --and perhaps the model - for identifying and applying historic resource protections for properties meeting the high bar for recognition in the National Register of Historic Places.

Rod Merrick, AIA

ENA Board President

c: Council Record, Brandon Spencer- Hartle

**Testimony to Portland City Council
February 21, 2018
Sandra Shotwell**

**Impact of the National Park Service Historic District Designation:
“Only in Oregon...”**

National register historic district

Because it is honorary, the guidelines are voluntary (everywhere but in Oregon.)

- An honorary designation, with voluntary historic guidelines at the national level
- One person can designate a neighborhood
- Assumed consent – owners are assumed to support the designation. To block the designation, more than 50% of owners must sign notarized objections.
- Only in Oregon, linked to land use restrictions, historic resource review, fees, delays, demolition review
- Expensive – only wealthy neighborhoods can afford the required consulting
- More than 1000 Eastmoreland homeowners objected, yet the process grinds on (see assumed consent above)

Portland local historic district – the contrast

- Requires active consent of owners, public process to develop guidelines.
- Harder to get - one person cannot do this, owners must consent
- Linked to historic resource review
- Does not include demolition review

Requests to the Council:

1. Make historic resource review for national register historic districts voluntary, as it was intended at the national level. Only develop review guidelines if more than 50% of owners actively consent. Consider separate consent votes on demolition review and historic resource review.
2. Request the Oregon legislature to delink national register historic districts from historic resource review. This is how other states handle the national designation. Oregon appears to have linked them inadvertently when intending to require owner consent for historic district designations (see next page). I believe the legislature will listen to you.
3. For our local historic districts, consider adding an option for demolition review, a key item of interest in historic preservation.

Contact info:

Sandra Shotwell
7505 SE 36th Ave., Portland, OR 97202
Sandra.shotwell@gmail.com 503-348-0855

**Testimony to Portland City Council
February 21, 2018
Sandra Shotwell (continued)**

It seems the exemption in this Oregon statute simply was meant to allow honorary national register historic district designations to continue - as **honorary** national designations, with **voluntary** national guidelines.

Has misinterpretation of this language led to our present situation, where one person can place an entire neighborhood under required local historic resource review?

2015 ORS 197.772 - Consent for designation as historic property. (1)
Notwithstanding any other provision of law, **a local government shall allow a property owner to refuse to consent to any form of historic property designation** at any point during the designation process. Such refusal to consent shall remove the property from any form of consideration for historic property designation under ORS 358.480 to 358.545 or other law **except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act** of 1966, as amended (16 U.S.C. 470 et seq.).

(2) No permit for the demolition or modification of property removed from consideration for historic property designation under subsection (1) of this section shall be issued during the 120-day period following the date of the property owner's refusal to consent.

(3) A local government shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government.

**PORTLAND CITY COUNCIL
COMMUNICATION REQUEST
Wednesday Council Meeting 9:30 AM**

Council Meeting Date: Feb 21, 2018

Today's Date 11/6/17

Name Sandra Shotwell

Address 7505 SE 36th Ave, Portland OR 97202

Telephone 503-348-0855 Email sandra.shotwell@gmail.com

Reason for the request:

Oregon is the only state that links honorary National Park Service designation
to land use restrictions. As a result, wealthy Portland neighborhoods are
persuing HD status. Eastmoreland's Neighborhood Assoc. spent \$53,000 of
neighborhood funds to persue a designation when their own poll showed lack of
support among neighbors. Other neighborhoods
are persuing this, with harmful impacts for housing
and diversity. An undemocratic process, which reduces housing fairness + afford-
ability

(signed)

Give your request in writing to the Council Clerk's office to schedule a date for your Communication. Use this form or email the information to the Council Clerk at the email address below.

- You will be placed on the Wednesday official Council Agenda as a "Communication." Communications are the first item on the Agenda and are taken at 9:30 a.m. A total of five Communications may be scheduled. Individuals must schedule their own Communication.
- You will have 3 minutes to speak and may also submit written testimony before or at the meeting. Communications allow the Council to hear issues that interest our citizens, but do not allow an opportunity for dialogue.

Thank you for being an active participant in your City government.

Contact Information:

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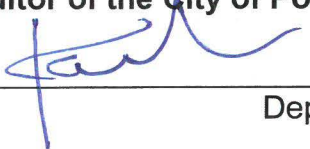
Request of Sandra Shotwell to address Council regarding
Eastmoreland Neighborhood Association spending funds to pursue
Historic Designations (Communication)

FEB 21 2018

PLACED ON FILE

Filed FEB 13 2018

MARY HULL CABALLERO
Auditor of the City of Portland

By  Deputy

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
1. Fritz		
2. Fish		
3. Saltzman		
4. Eudaly		
Wheeler		