



# United States Department of the Interior

NATIONAL PARK SERVICE  
1849 C Street, N.W.  
Washington, D.C. 20240



December 11, 2020

[REDACTED]

**PROPERTY: Langston Medical Group Clinic, 1212-14 North Hudson, Oklahoma City, OK**  
**PROJECT NUMBER: 35484**

Dear [REDACTED]

I have concluded my review of your appeal of the May 4, 2020 Decision of Technical Preservation Services (TPS), National Park Service, denying certification of the Part 2 – Description of Rehabilitation application for the property cited above (the Decision). The appeal was initiated and conducted in accordance with Department of the Interior regulations [36 C.F.R. part 67] governing certifications for federal income tax incentives for historic preservation as specified in the Internal Revenue Code. I thank you, [REDACTED]

[REDACTED] for meeting with me via video conference on July 21, 2020, and for providing a detailed account of the project.

After careful review of the complete record for this project, including the materials presented as part of your appeal, and the additional information, including digital photographs of the building interiors from August 29, 2016 and December 1-2, 2016, that you submitted August 10, 2020, I have determined that the proposed rehabilitation of the Langston Medical Group Clinic is not consistent with the historic character of the property, and hereby affirm the denial of certification issued by TPS in the Decision.

The 1210-1212-1214 North Hudson Historic District consists of three contiguous buildings, the Langston Medical Group Clinic at 1214 North Hudson, constructed in 1955, the Uptown Theater at 1212 North Hudson, constructed in 1941, and a small one-story commercial building at 1210 North Hudson, constructed in 1946. This small three-building historic district was listed on the National Register of Historic Places in 2018. The historic district is significant for its commercial and health/medical associations. The period of significance, 1941-1968, represents

the development of business uses along North Hudson, which had been predominately residential, and ends following the decline of medical and commercial activity in the area. The historic district is what remains intact from this period of commercial development.

In 1955, the Uptown Theater ceased operating as a movie theater. Between 1956-57 it was extensively remodeled to become part of the recently completed Langston Clinic. The interior of the theater auditorium was subdivided by inserting a second floor and consequently lost most of the character defining features associated with its original use. The street façade was also significantly changed by removing the vertical marquee sign and canopy lighting, replacing the recessed theater entrance with a new brick-clad wall with full-height storefront windows and glass entry doors flush with the façade, and by removing twelve original steel casement windows on the second floor but only installing six aluminum double-hung windows in their places. The 1955 clinic building and the former theater building were combined during the period of significance as part of the Langston Medical Group Clinic, thus making these buildings functionally related historically and considered a single property under program regulations. The extensive changes to the former theater building as part of the 1956-57 remodeling are significant to the building and to the district and have acquired significance in their own right.

TPS received the Part 2 – Description of Rehabilitation application for 1214 Hudson, on July 28, 2017, although the review fee was not paid until August 23<sup>rd</sup>, at which time TPS could begin its review. The application included architectural drawings showing that the interior of all three buildings in the historic district would be stripped of all partition walls, the ceilings would be removed, and the floor finishes removed down to the concrete slabs. Much of this work was already complete in the photographs submitted with the Part 2 application. However, although the accompanying architectural drawings showed proposed work in all three buildings within the historic district, the written description described only the clinic building at 1214 Hudson. On September 17, 2017, because 1212 and 1214 were historically functionally related, TPS placed the review on hold and requested additional information on 1212 Hudson to be able to complete its review.

TPS received a revised Part 2 application on December 11, 2017, but placed its review on hold at the applicant's request on December 14, 2017. On March 16, 2018, TPS received additional information and, after review of the revised and supplemented application, on April 27, 2018, placed the review on hold and asked for more information on 1210 Hudson, which was included in the architectural drawings but not in the written description. Although 1210 Hudson was labeled in the drawings as "NOT INCLUDED IN APPLICATION," there is a connecting door into 1212 Hudson on both the first and second floors, which makes it related construction subject to review.

TPS received additional information on July 12, 2018, and on August 10, 2018, again placed the project review on hold to provide the applicant the opportunity to address three issues that cause the project to not conform to the Secretary of the Interior's Standards for rehabilitation (the Standards). The three issues were: 1) the size, massing, materials and detailing of the addition at the rear of 1210 Hudson, 2) the new rooftop stair enclosure and skylight on the roof of 1214 Hudson must not be visible from the public right-of-way, and 3) the proposed new window and door at the north end of the façade of 1212 Hudson must be deleted from the project.

TPS received Amendment #1 on May 15, 2019. The amendment noted that the rooftop stair enclosure on 1214 Hudson had been eliminated from the project and that the skylight had been reduced in height from ten feet to seven feet, the proposed new window and door at the north end of the façade of 1212 Hudson had been eliminated from the project, but did not propose changes to 1210 Hudson but explained that the connecting openings into 1212 Hudson were code-mandated for fire egress and ADA compliance. However, I note that the regulations state, “*The Secretary’s Standards for Rehabilitation take precedence over other regulations and codes in determining whether the rehabilitation project is consistent with the historic character of the property and, where applicable, the district in which it is located.*” [36 C.F.R. § 67.7(e)]. TPS noted that the project completion date in the Part 2 application was December 2018, and on June 10, 2019, requested photographs of the work completed to date.

TPS received the requested photographs of the completed work on February 25, 2020, and began a holistic review of the entire project. The photographs of 1214 Hudson show that portion of the overall project to be complete and in service. Photographs of 1212 Hudson show some completed work, but no tenant improvements, although the second egress stair and ADA compliant elevator for 1210 Hudson and connecting openings between the two buildings are visible. After further review, on May 4, 2020, TPS denied certification of the amended Part 2 application as described below.

Regarding the exterior of 1214 Hudson, I concur with TPS that reorienting the main entrance of the building from Hudson Avenue to the alley behind it is a fundamental change in character and contravenes Standards 1 and 2. Standard 1 states, “*A property shall be used for its intended historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.*” Standard 2 states, “*The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*” However, I disagree with TPS that the materials and color of the new addition are not compatible with the historic character of the building or the district. Rather, I have determined that the new materials are compatible in design and suitably differentiated in color, consistent with Standard 9, which states in part, “*The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*” Regarding the rooftop additions, I concur with TPS that the “*large new monitor and new rooftop equipment are highly visible and alter the continuous roofline of the building’s parapet wrapping the northwest corner of the building.*” In this instance, I note that the skylight could have been designed to provide interior daylight illumination without projecting seven feet above the roof and that the large mechanical equipment installations could have been located in less prominent locations. I have determined that, together, these three new features compromise the clean lines of the original design and thus contravene Standard 2.

Regarding the interior of 1214 Hudson, TPS determined that, “*the typical condition for all of the spaces on the first and second floors of the 1955 building consist of painted and exposed structure above both floors without a finished ceiling, polished concrete floors, and exposed mechanical, electrical, and plumbing systems. All the existing steel columns supporting the second floor and the roof have been stripped of their covers and left exposed. The new stairs*

*connecting the first and second floors are open metal stairs. Pipe and metal mesh railings with a distinctive industrial character, similar to the stairs railings, surround the floor cuts on the second floor. The new interior treatment significantly alters the historic character and appearance of the building and gives it a raw, industrial character that is incompatible with the finished historic character of the property.”* I concur with the TPS assessment that the cumulative impact of the rehabilitation on the interior of 1214 Hudson contravenes Standard 2, quoted above.

Regarding 1212 Hudson, Amendment #1 deleted the denial issues of the proposed new window and door in the street façade. However, without information on proposed tenant improvements to the interior of this building, TPS could not complete its review of the rehabilitation of this building. Accordingly, I cannot comment except to state that tenant improvements are subject to review for compliance with the Standards.

Regarding 1210 Hudson, I agree with the TPS determination that it is subject to review as related and adjacent new construction. Indeed, 1210 Hudson is dependent on 1212 Hudson for a secondary egress path and to provide ADA compliant access to its second floor. Although photographs available online show that the addition on the rear of 1210 only lightly touches the former exterior wall of 1212 Hudson, its size and massing more than quadruples the size of the original 1210 Hudson building, dwarfing it in scale. And, although its alley façade is compatible with the alley façade of the new addition on the rear of 1214 Hudson, its south façade is incompatible with the south façade of the original 1210 Hudson and with the historic character of the south end of the historic district. Consequently, I concur with TPS that the size, massing, materials and detailing of the addition at the rear of 1210 Hudson contravene Standards 1, 2, and 9. Standard 9 states, *“New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.”*

You assert that the National Park Service should be estopped from denying certification of the project because the Oklahoma SHPO had given indications that the project would get a recommendation of conditional approval because of your modifications to project plans made prior to submission to the NPS. However, the NPS is not bound by SHPO action or decisions. The regulations state, *“Recommendations of States with approved State programs are generally followed, but by law, all certification decisions are made by the Secretary, based upon professional review of the application and related information. The decision of the Secretary may differ from the recommendation of the SHPO.”* [36 C.F.R. § 67.1]. Moreover, the NPS is not responsible for the actions of a SHPO, as the regulations note, *“The SHPO acts on behalf of the State in this capacity and, therefore, the NPS is not responsible for any actions, errors or omissions of the SHPO.”* [36 C.F.R. § 67.1]. Regardless it is not even clear that such action, error, or omission even occurred, and I note that in this case when the SHPO reviewer went on maternity leave, the SHPO forwarded the application without a recommendation, which seemed more like an action preventing further delay than a prejudicial decision under the circumstances known to you and to the TPS reviewer at the time.

Regarding your assertion that the length of the review time caused hardship, in the twenty-nine months between payment of the Part 2 review fee on August 23, 2017, and the TPS May 4, 2020 Decision denying certification, TPS placed its review on hold four times for lack of information (a singular denial issue under the regulations), once at your request, and once to allow time to resolve the denial issues TPS had identified. In each instance, the TPS review time was approximately one month, although the final review took three months. The remaining twenty-one months TPS spent waiting for responses. Thus, most of the review time was under your control. Although you decided to proceed with construction during this time period, the regulations state, “Owners are strongly encouraged to submit part 2 of the application prior to undertaking any rehabilitation work. Owners who undertake rehabilitation projects without prior approval from the Secretary do so strictly at their own risk.” [36 C.F.R. 67.6(a)(1)].

Accordingly, I have determined that the cumulative impact of the proposed—and substantially complete—rehabilitation of the Langston Medical Group Clinic has significantly compromised the historic character of the property and, secondarily, the environment of the 1210-1212-1214 North Hudson Historic District, and thus fails to meet the Standards. I hereby affirm TPS’s May 4, 2020 Decision.

As the Department of the Interior regulations state, my decision is the final administrative decision with respect to TPS’s May 4, 2020 Decision regarding rehabilitation certification. A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,



John A. Burns, FAIA, FAPT  
Chief Appeals Officer  
Cultural Resources

cc: OK SHPO  
IRS

[Redacted]