

August 11, 2023

Via Email: [joy\\_beasley@nps.gov](mailto:joy_beasley@nps.gov)

Ms. Joy Beasley  
Keeper of the National Register of Historic Places  
National Register of Historic Places Cultural Resources, Partnerships, and Science  
1849 C Street, NW  
Washington, D.C. 20240

**RE: Young Performing Artists, Inc.’s Petition to Review Community of Royal Rural Historic District Nomination**

Dear Ms. Beasley:

Pursuant to 36 C.F.R. § 60.6(t), Young Performing Artists, Inc. (“YPAs”), by and through legal counsel, the Southern Poverty Law Center (“SPLC”), hereby petitions the Keeper of the National Register of Historic Places (“National Register”) for substantive review of the Community of Royal’s Rural Historic District Nomination (the “Nomination”), submitted on June 30, 2023, by Mr. Ruben Acosta, Bureau Chief and Deputy State Historic Preservation Officer of Florida (“Florida SHPO”).

YPAs commissioned an application on behalf of the Community of Royal (“Royal”) for listing on the National Register under Criterion A in the areas of Ethnic Heritage: Black, Exploration/Settlement, Community Planning and Development, and Agriculture, at the local, state, and national levels of significance, for the period of significance 1870-1972.<sup>1</sup>

YPAs is pleased that the Florida SHPO, based upon the majority vote of the Florida State Historic Review Board (“Review Board”), supported the YPAs’ Nomination for listing Royal on the National Register and submitted the Nomination to the Keeper. The YPAs believes that the

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<sup>1</sup> See Dr. Edward Gonzalez-Tennant and Diana Gonzalez-Tennant, Community of Royal Rural Historic District, U.S. Dep’t of Interior, Nat’l Park Service, Nat’l Register of Historic Places Registration Form, NPS Form 10-900 & NPS Form 10-900-a, Continuation Sheet, *available at* [https://drive.google.com/drive/folders/1yhLCkVc2WFScc5dqW7fLaOBDQjfwhmGS?usp=drive\\_link](https://drive.google.com/drive/folders/1yhLCkVc2WFScc5dqW7fLaOBDQjfwhmGS?usp=drive_link).

YPAs commissioned Diana González-Tennant of Digital Heritage Interactive to conduct research and write both the original and revised Nominations in conjunction with Dr. Edward Gonzalez-Tennant. For ease of reference, this Petition will refer to these collective efforts, including the revised Nomination submitted to the Florida SHPO and at issue here, as the YPAs’ Nomination.

listing of this historically Black, rural community on the National Register is warranted, appropriate, and backed by ample historical evidence.

However, YPAs requests that the Keeper substantively review two aspects of the Nomination that were arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law<sup>2</sup> and must be remedied by the Keeper before listing Royal on the National Register.

1. The Nomination, as submitted by the Florida SHPO, misconstrued the guidance of the National Park Service (“NPS”) and failed to recognize the national significance of Royal in addition to its state and local significance.
2. The Florida SHPO’s decision to unilaterally redraw the YPAs’ revised Nomination boundaries, resulting in the exclusion of 31 properties, was based on the views of a small minority of objecting white landowners; ignores the clear history of the properties owned by those objecting white landowners; excludes approximately two dozen parcels owned by Black families with qualifying properties who wish to be included within the Nomination boundaries; and, absent updated information from the State to the contrary, excludes several additional parcels of other landowners who voiced neither objection to nor approval of their inclusion, but whose properties fall within the historical boundaries of Royal. Although the Florida SHPO represented to the NPS that the Nomination boundaries for Royal pending before the Keeper total 2,500 acres, the total acreage is in reality closer to 1,945—nearly a 50% reduction from the YPAs’ original Nomination boundaries, which totaled 3,500 acres.

### **National Significance**

The Florida SHPO’s Nomination correctly acknowledges Royal’s local and state significance but arbitrarily refuses to recognize the community’s national significance. Staff Comments from the June 16, 2023, meeting reflect that the Florida SHPO declined to recognize Royal’s national significance because, “increasing the level to national significance would, in our view, require additional historic context and detailed comparison to similar districts outside of Florida.”<sup>3</sup> However, the Florida SHPO’s dismissal of the historical context provided in YPAs’ Nomination materials ignores guidance issued by the NPS and supportive materials included in YPAs’ Nomination. Accordingly, YPAs requests that the Keeper assess whether Royal has national significance that should be included within its listing on the National Register.

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<sup>2</sup> See 5 U.S.C. § 706(2)(A); see also U.S. Const. amend. XIV, § 1 (“No state shall make or enforce any law which shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”).

<sup>3</sup> See Staff Comments, Fl. Nat’l Register Review Bd., Meeting Minutes (June 16, 2023) at 2, attached as Exhibit 1.

In registering rural historic districts, the NPS has advised that “[t]he evaluation of significance relates the district to the broad historical, architectural, archeological, or cultural context at the local, regional, state, or national level.”<sup>4</sup> “Decisions about whether a district is significant can reliably be made only within the context of an area’s history and comparable resources.”<sup>5</sup> (emphasis added). “A historic context is an important theme, pattern, or trend in the historical development of a locality, State, or the nation at a particular time in history or prehistory.”<sup>6</sup> “A set of historic contexts is a comprehensive summary of all aspects of the history of the area.”<sup>7</sup> (emphasis added). “Properties relating to the same historic contexts may be compared to identify those eligible for listing in the National Register and to determine the relative level—local, State, or national—at which the property is significant.”<sup>8</sup> (emphasis added).

By requiring a “detailed comparison to similar districts outside of Florida,”<sup>9</sup> the Florida SHPO misconstrued the NPS’s requirement that significance be evaluated “within the context of an area’s history and comparable resources” and failed to consider “all aspects” of Royal’s history.<sup>10</sup> The history of Royal is inextricably intertwined with the history of surviving Black and rural communities nationwide. But it is also intertwined with the histories of other Black and rural communities that no longer exist due to systemic racism; these communities “relat[e] to the same historic contexts” and must also be compared.<sup>11</sup> What the Florida SHPO failed to recognize in denying Royal’s national significance is that Royal survived into the modern era as a Black homesteading community against all odds. Its uniqueness within the national landscape—not just its similarity to other districts outside of Florida—is precisely why it must be listed with national significance on the National Register.

As explained at length in the supporting materials submitted by YPAs and historical archaeologist Dr. Edward Gonzalez-Tennant, Royal was settled in the 1870s by families who

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<sup>4</sup> U.S. DEP’T OF INTERIOR, CULTURAL LANDSCAPES: RURAL HISTORIC DISTRICTS IN THE NATIONAL PARK SYSTEM (1984) at 34, *available at* <http://npshistory.com/publications/landscapes/rural-historic-districts.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *See* U.S. DEP’T OF INTERIOR, GUIDELINES FOR EVALUATING AND DOCUMENTING RURAL HISTORIC LANDSCAPES, Nat. Reg. Bull. (1999) at 7, *available at* <https://www.nps.gov/subjects/nationalregister/upload/NRB30-Complete.pdf>.

<sup>7</sup> U.S. DEP’T OF INTERIOR, CULTURAL LANDSCAPES: RURAL HISTORIC DISTRICTS IN THE NATIONAL PARK SYSTEM, *supra* note 4.

<sup>8</sup> *See* U.S. DEP’T OF INTERIOR, GUIDELINES FOR EVALUATING AND DOCUMENTING RURAL HISTORIC LANDSCAPES, *supra* note 6, at 13.

<sup>9</sup> Exhibit 1, Staff Comments, *supra* note 3, at 2.

<sup>10</sup> U.S. DEP’T OF INTERIOR, CULTURAL LANDSCAPES: RURAL HISTORIC DISTRICTS IN THE NATIONAL PARK SYSTEM, *supra* note 4.

<sup>11</sup> *See* U.S. DEP’T OF INTERIOR, GUIDELINES FOR EVALUATING AND DOCUMENTING RURAL HISTORIC LANDSCAPES, *supra* note 6, at 13.

obtained 40-acre or more parcels under the Homestead Act of 1862.<sup>12</sup> Many of the parcels have been passed down by Black families through at least seven generations of continuous ownership. The parcels and the people formed the distinctive Community of Royal over time, in which the families continuously worked the land, operated businesses, worshipped together, and worked together as a cohesive, rural, and vibrant community.

This fact is of the utmost national significance, as centuries of racially discriminatory laws, policies, and economic conditions in this country, and particularly across the U.S. South, created generational inequality in access to resources and power. The ABA Journal reported that, “[b]y 1997, Black farmers lost more than 90 percent of the 16 million acres they owned in 1910.”<sup>13</sup> “As of 2017, there were just 35,470 Black-owned farms, representing 1.7 percent of all farms.”<sup>14</sup> The millions of acres lost by Black landowners are “conservatively estimated to be worth \$250 billion to \$350 billion today.”<sup>15</sup>

The ongoing economic effects of this systemic deprivation of Black home and land ownership—the primary method of building and passing generational wealth in this country—make Royal’s persistence intact as a predominantly Black homesteading community all the more unique in our nation’s landscape, and its national significance worthy of preservation. The Florida SHPO’s denial of Royal’s national significance ignored this historical context, in which many communities like Royal were lost due to racially discriminatory laws, policies, economic conditions, and land grabs, and have consequently disappeared. For example, as the YPAs’ Nomination mentions, “similar rural African American towns, such as Rosewood and Santos were either directly destroyed through racial violence or displaced through development.”<sup>16</sup>

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<sup>12</sup> See Gonzalez-Tennant, et al., NPS Form 10-900-a, Continuation Sheet, *supra* note 1, Sec. 7, at 1–2, 10.

<sup>13</sup> Dr. Dania V. Francis, et. al, *The Contemporary Relevance of Historic Black Land Loss*, A.B.A. Sec. C.R. & Soc. Just. Hum. R. Mag., Vol. 48, No. 2: Wealth Disparities in Civil Rights (Jan. 6, 2023), *available at* [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/wealth-disparities-in-civil-rights/the-contemporary-relevance-of-historic-black-land-loss/#:~:text=In%20addition%20to%20theft%20by%20state-sanctioned%20violence%2C%20intimidation%2C,control%20over%20access%20to%20credit%20and%20essential%20resources](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/wealth-disparities-in-civil-rights/the-contemporary-relevance-of-historic-black-land-loss/#:~:text=In%20addition%20to%20theft%20by%20state-sanctioned%20violence%2C%20intimidation%2C,control%20over%20access%20to%20credit%20and%20essential%20resources) (last visited Aug. 11, 2023).

<sup>14</sup> Kali Holloway, *How Thousands of Black Farmers Were Forced Off Their Land*, THE NATION, Nov. 1, 2021, *available at* <https://www.thenation.com/article/society/black-farmers-pigford-debt/>.

<sup>15</sup> *Id.*; see also June 15, 2023, Email from Univ. of Cent. Fl. Prof. Kristin Congdon to Ruben A. Acosta, Fl. SHPO Nom., Correspondence, at 29.

<sup>16</sup> Gonzalez-Tennant, et al., NPS Form 10-900-a, Continuation Sheet, *supra* note 1, Sec. 7, at 5, 8; Sec. 8, at 6, 17; see also Nicole Chavez, *Rosewood, Florida, marks 100 years since race massacre. Here’s what happened*, CNN, Jan. 8, 2023, *available at* <https://www.cnn.com/2023/01/08/us/rosewood-massacre-florida-what-happened-reaaj/index.html> (last visited Aug. 11, 2023).

But even under the Florida SHPO's inadequate interpretation of the NPS's guidance on national significance, requiring a "detailed comparison to similar districts outside of Florida," Royal meets the criteria. The history of Royal fits into the larger narrative of surviving African American communities throughout the United States, including Florida, that are fighting to preserve their cultural heritage and histories today. The NPS has recognized the national significance of some of these surviving communities and should similarly recognize Royal's national significance in the categories of Ethnic Heritage: Black, Exploration/Settlement, Community Planning and Development, and Agriculture.

Approximately one hour southeast of Royal, for example, sits the town of Eatonville, Florida, known as "The Town That Freedom Built."<sup>17</sup> Incorporated in 1887, Eatonville is the hometown of author Zora Neale Hurston and is one of the oldest incorporated Black municipalities in the country.<sup>18</sup> The Eatonville Historic District was listed on the National Register (Nat. Reg. Ref. No. 97001214) as nationally significant in 1997 in the areas of Ethnic Heritage (Black) and Community Planning and Development, among others.<sup>19</sup> Settled in 1870 (and possibly earlier), Royal's designation as nationally significant in the areas of Black ethnic heritage and Community Planning and Development, among others, is similarly warranted.

Additionally, Royal is one of only two surviving homesteading communities in the country in which Black families still own land. The other is Nicodemus, Kansas, "one of the oldest and most famous Black towns on the western plains," which was designated as a National Historical Site of national significance by the NPS in 1996, and the Nicodemus Historical District was listed on the National Register (Nat. Reg. Ref. No. 76000820) as nationally significant in 1976 in the areas of "Black; Exploration/Settlement; Social History."<sup>20</sup> The Homestead Act of 1862 offered newly emancipated Black families a chance at "the American Dream" through land ownership and the promise "of a racially equitable and welcoming society."<sup>21</sup> Despite the crushing reality of racial

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<sup>17</sup> See Deneige Broom, *Eatonville: "The town that freedom built," a history of America's first incorporated Black town*. WFTV, Feb. 23, 2021, <https://www.wftv.com/news/eatonville-town-that-freedom-built-history-americas-first-incorporated-black-town/JQEQRXQG5HSVAQ74JVRZREB6I/> (last visited Aug. 11, 2023).

<sup>18</sup> National Register of Historic Places Registration Form, Eatonville Historic District, Sec. 8, at 1, <https://npgallery.nps.gov/GetAsset/e5fa60c5-551d-41d3-bbef-2a52ff3a7b0b> (last visited Aug. 11, 2023); see also Gonzalez-Tennant, et al., NPS Form 10-900-a, Continuation Sheet, *supra* note 1, Sec. 8 at 6 ("Eatonville, incorporated in 1887, is one of the oldest surviving African American communities in the nation.")

<sup>19</sup> See, generally, Eatonville Historic District, *supra* note 18.

<sup>20</sup> See The Five Historic Buildings, NATIONAL PARK SERVICE, <https://www.nps.gov/nico/planyourvisit/the-five-historic-buildings.htm> (last visited Aug. 11, 2023); see also Gonzalez-Tennant, NPS Form 10-900-a, Continuation Sheet, *supra* note 1, Sec. 8, at 1.

<sup>21</sup> Reed Karaim, *Discover the Kansas Town Settled by Black Homesteaders in the 1870s*, NATIONAL TRUST FOR HISTORIC PRESERVATION, Preservation Mag. (Spr. 2020), <https://savingplaces.org/stories/discover-the-kansas-town-settled-by-black-homesteaders-in-the-1870s> (last visited Aug. 11, 2023).

violence and oppressive white supremacist policies in the American South in the years that followed, both Nicodemus and Royal survived. With a similar homesteading history as Nicodemus, and a shared steadfastness despite many obstacles, Royal should also be designated as nationally significant in the areas of Black Ethnic Heritage and Exploration/Settlement. Notably, the YPAs cited Nicodemus as an example in its Nomination.<sup>22</sup>

Royal’s national significance in the area of Agriculture is similarly supported by the listing of numerous other sites in the National Register as nationally significant where enslaved Africans made contributions to agricultural labor, trade, and technology. *See, e.g.*, the Pee Dee River Rice Planters Historic District (Nat. Reg. Ref. No. 100005674, historical resources associated with 17 rice plantations in South Carolina)<sup>23</sup>; the Naval Live Oaks Reservation (Nat. Reg. Ref. No. 98001169, the first federally funded tree plantation, located in Florida);<sup>24</sup> the Faunsdale Plantation (Nat. Reg. Ref. No. 93000602, Alabama plantation operated by enslaved Africans until emancipation and “continuously owned and operated as a working plantation by the Harrison family and their descendants since 1844”).<sup>25</sup> If the forced, unpaid labor and contributions of enslaved Africans to the agricultural sphere is of national significance for the evidence it provides of the plantation “way of life,”<sup>26</sup> then surely the remarkable contributions of newly emancipated African Americans and their descendants in Royal are evidence of a new agricultural way of life in the post-Civil War Era, and are also worthy of listing on the National Register at the same level of significance.<sup>27</sup>

In sum, the Florida SHPO’s denial of Royal’s national significance based on the lack of a “detailed comparison to similar districts outside of Florida” misconstrued the NPS’s guidance by ignoring the fate of many similar communities that were lost to racist violence and policies. Even

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<sup>22</sup> Gonzalez-Tennant, et al., NPS Form 10-900-a, Continuation Sheet, *supra* note 1, Sec. 8, at 1.

<sup>23</sup> National Register of Historic Places Registration Form, Pee Dee River Rice Planters Historic District, <https://catalog.archives.gov/id/118996126> (last visited Aug. 11, 2023).

<sup>24</sup> National Register of Historic Places Registration Form, Naval Live Oaks Reservation, at 9, <https://catalog.archives.gov/id/77841654> (last visited Aug. 11, 2023).

<sup>25</sup> National Register of Historic Places Registration Form, Faunsdale Plantation, Sec. 8, at 4, <https://catalog.archives.gov/id/77835376> (last visited Aug. 11, 2023).

<sup>26</sup> *See* Faunsdale Plantation, *supra* note 25, Sec. 8, at 4; *see also* Gonzalez-Tennant, et al., NPS Form 10-900-a, Continuation Sheet, *supra* note 1, Sec. 8, at 1 (“While the vast majority of Royal has been and continues to be owned by African Americans—a significant feature in and of itself—property ownership is not an excluding factor for determining an area’s significance to African American history. This includes areas worked by enslaved peoples of African descent and Black tenant farmers. Plantations and Postbellum lands leased to African Americans were almost exclusively in White ownership.”).

<sup>27</sup> *See, e.g.*, Community of Royal Cultural Resources Assessment Survey, Digital Heritage Interactive, June 30, 2017, at 17 (discussing hurdles faced by newly emancipated Black farmers during Reconstruction), 26 (discussing the achievements of newly emancipated Black farmers in horticulture), 28 (discussing the history of agricultural work in Wildwood, Florida, where Royal is situated), Fl. SHPO Nom., Correspondence.

putting this omission aside, the Florida SHPO further ignored the comparison to the similar surviving communities of Nicodemus, Kansas, and Eatonville, Florida, which were cited in YPAs' Nomination, and countless other examples of Black communities recognized as nationally significant, such as every community of enslaved Africans that was forced to work the plantations across the American South. In so doing, the Florida SHPO undermined the NPS's goal of ensuring "the protection, wise stewardship, and appropriate management of significant rural landscapes within the National Park System,"<sup>28</sup> as well as the Florida Division of Historical Resources' own goal of "promot[ing] Florida's role in regional, national, and international history."<sup>29</sup> For these reasons, the Florida SHPO's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

### **Nomination Boundaries**

The decision by the Florida SHPO to unilaterally redraw the YPAs' Nomination boundaries to exclude 31 properties was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because it was unsupported by the historical evidence meticulously set forth by YPAs, Dr. Gonzalez-Tennant, and others in support of the Nomination and is now overly exclusive. Further, the Florida SHPO's decision to exclude these properties without even acknowledging to the Keeper their eligibility for listing on the National Register<sup>30</sup> was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

YPAs first submitted the Nomination with its original boundaries of approximately 3,500 acres to the Florida SHPO on September 6, 2022, and those boundaries were presented at the January 19, 2023, Review Board meeting. After a handful of white landowners lodged objections over the inclusion of their properties in the Royal Historic District boundaries at that January 19 meeting, the Review Board "returned the nomination to staff for edits" to redraw the YPAs' revised boundaries.<sup>31</sup> The Florida SHPO agreed that the YPAs should revise and narrow the Nomination boundaries. In a show of good faith, YPAs agreed and submitted revised boundaries of approximately 2,700 acres to the Florida SHPO on April 15, 2023, excluding properties that, while related to Royal's history, were determined to be largely outside the period of significance by Dr. Edward Gonzalez-Tennant. After that, the Florida SHPO unilaterally denied YPAs' revisions and redrew the Nomination boundaries. This resulted in the Nomination boundaries currently pending before the Keeper, which exclude an additional 31 properties, including a small number of

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<sup>28</sup> U.S. DEP'T OF INTERIOR, CULTURAL LANDSCAPES: RURAL HISTORIC DISTRICTS IN THE NATIONAL PARK SYSTEM, *supra* note 4, at 1.

<sup>29</sup> Vision, Mission and Values, FLORIDA DIVISION OF HISTORICAL RESOURCES, <https://dos.myflorida.com/historical/about/vision-mission-and-values/> (last visited Aug. 11, 2023).

<sup>30</sup> The Florida SHPO acknowledged at the January 19, 2023, Review Board meeting that "[o]verall, staff finds that the district is eligible for listing in the National Register of Historic Places." *See* Fl. Nat'l Register Review Bd., Meeting Minutes (Jan. 19, 2023), at 14, attached as Exhibit 2. At that time, the Nomination included the YPAs' revised boundaries, and the Board's acknowledgment of eligibility therefore also extended to the 31 properties the State's redrawn boundaries would later exclude. *Id.*

<sup>31</sup> *See* Fl. SHPO Nom., June 30, 2023, Letter from Ruben Acosta to Joy Beasley, at 2.

objecting white landowners; approximately two dozen parcels owned by Black residents who wish to be included within the Nomination boundaries; and, barring updated information from the State, several other landowners who voiced neither objection to nor approval of their inclusion. In the State’s final nomination, the Florida SHPO claims that the revised boundaries total 2,500 acres. However, according to Dr. Gonzalez-Tennant’s calculations, the State’s boundaries for the historic district are in reality closer to 1,945 acres—nearly a 50 percent reduction from YPAs’ original boundaries, which totaled 3,500 acres.

Based on communications between the Florida SHPO, YPAs, and Dr. Gonzalez-Tennant, the Florida SHPO has never before decided to redraw the boundaries of a nomination based upon the objections of a few landowners. This is for several good reasons.

First, permitting a small minority of objecting property owners to “opt out” and dictate the boundaries of a historic district, and whether excluded properties will even be designated as eligible for inclusion on the National Register, sets a dangerous precedent. It “compromise[s] the professional integrity of the National Register of Historic Places” and raises serious due process, equal protection, and other concerns by allowing private property owners to decide how their historical properties are regulated and whether certain procedural protections created by Congress apply to them.<sup>32</sup> Permitting landowners to opt out also subjects the preservation of important historic and cultural heritage that “enhance[s] the quality of life for all” to the will and whims of private property owners.<sup>33</sup>

Second, the regulations specify that, in nominations of a district for listing on the National Register, the district “will not be listed if a majority of the owners object to listing.” 36 C.F.R. § 60.6(g) (emphasis added); *see also* 54 U.S.C. § 302105(b) (“If the owner of any privately owned property, or a majority of the owners of privately owned properties within the district in the case of a historic district, object to inclusion or designation, the property shall not be included on the National Register . . . [.]”). Thus, the regulations permit a majority of objecting landowners within a district to prevent a nominated district as a whole from being listed on the National Register, but

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<sup>32</sup> *See* Julia Hatch Miller, *Owner Consent Provisions in Historic Preservation Ordinances: Are They Legal?*, 10 Preservation L. Rep. 1019, 1022 (1991) (noting that “the *eligibility* of a property for listing in the National Register, rather than the listing itself, triggers the application of the Section 106 Review Process” under the National Historic Preservation Act of 1966), attached as Exhibit 3; *see also id.* at 1028–37.

<sup>33</sup> *See Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 108, 138 (1978) (explaining that the designation of a historic district without the owner’s consent does not constitute a taking where “[t]he restrictions imposed are substantially related to the promotion of the general welfare and not only permit reasonable beneficial use of the [historical] site but also afford [landowners] opportunities further to enhance not only [their property] proper but also other properties.”); *see also* Miller, *supra* note 32, at 1028–38 (discussing, among other things, the constitutionality of delegations of agency and legislative power to private parties through owner consent and protest provisions in historical ordinances, the necessity of a comprehensive preservation scheme, and the importance of the fair, uniform, and rational application of regulations to historical properties).



do not permit the redrawing of a nominated district’s boundaries to exclude the selective properties of objecting landowners in a piecemeal way.<sup>34</sup>

Third, the objecting landowners did not form a majority here. The Florida SHPO redrew the boundaries based on the views of a small minority of objecting landowners, even though the vast majority of landowners in Royal support the Nomination with YPAs’ revised boundaries. Indeed, State staff acknowledged that, “[a]s of January 18, 2023, we have received twenty-one objections to listing, out of 629 identified property owners.” *See* Exhibit 2, Fl. Nat’l Register Review Bd., Meeting Minutes (Jan. 19, 2023), at 14. By contrast, ahead of the same meeting, the Florida SHPO received letters of support for YPAs’ revised boundaries from 40 property owners and dozens of others statewide.<sup>35</sup>

YPAs’ Nomination with revised boundaries should have been viewed as a whole district, and the objecting landowners did not form a majority of landowners within the district. *See* 54 U.S.C. § 302105(b); 36 C.F.R. § 60.6(g). Therefore, the objecting white landowners’ properties should have been included within the Nomination boundaries or at least acknowledged as eligible for listing.<sup>36</sup> To the extent that the Florida SHPO excluded these parcels from the Nomination boundaries based on a lack of integrity, *see* Boundary Justification, Fl. SHPO Nom., Sec. 10, at 4–5, that basis is amply refuted by the record. The historical uses of the properties by African American residents of Royal are well documented and have been provided in support of the Nomination by Dr. Gonzalez-Tennant and others. Additionally, regardless of their present ownership, the properties are still rural and located in Royal.

Even if the Florida SHPO’s decision to redraw the Nomination boundaries to exclude the properties of a small number of objecting white landowners was proper (it was not), and even if the Florida SHPO’s decision to not designate these same properties as eligible for listing was proper (it was not), the redrawn boundaries are now overly exclusive. The Florida SHPO’s arbitrary decision to redraw the Nomination boundaries has resulted in the total exclusion, without acknowledgment of eligibility, of approximately two dozen parcels owned by Black families who wish for their properties to be included within the boundaries.<sup>37</sup> In the Nomination materials

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<sup>34</sup> *See* Sept. 26, 2022, Letter from Ruben Acosta to YPAs at 2 (notifying YPAs that its property was within the boundary of the Royal Rural Historic District and that “[i]f a majority of private property owners within the district object, the district will not be listed”), attached as Exhibit 4.

<sup>35</sup> *See* Letters of Support from Property Owners in District, Fl. SHPO Nom., Correspondence, at 273–313; Letters of Support from Outside Community, at 314–334; *see also* Fl. SHPO Nom., June 30, 2023, Letter from Ruben Acosta to Joy Beasley, at 1.

<sup>36</sup> *See* Exhibit 4, Letter from Ruben Acosta to YPAs, *supra* note 34, at 2 (explaining that a nominated district that is not listed in the National Register because a majority of landowners object “will still be forwarded to the Keeper of the National Register for a determination of eligibility for listing in the National Register”).

<sup>37</sup> Even if the NPS finds that objecting landowners’ property was properly excluded from the Nomination boundaries and that it was proper to not designate them as eligible for listing on the National Register, the approximately two dozen parcels with non-objecting owners should be

submitted to the Keeper, the Florida SHPO included letters from 20 of the Black owners of excluded parcels.<sup>38</sup> A few of the non-objecting Black landowners' comments<sup>39</sup> are particularly illustrative:

- “I lived here all my life. My parents lived here all their lives. My grandparents lived here all their lives so on so on many generations in Royal.” *See* Memorandum of William Jackson, Parcel ID C33-006A, June 13, 2023.
- “Our property was passed down to us by my grandfather Mr. Lens Patterson. He purchased it by sharecropping with Bill Nichols. I can only imagine the sacrifices my grandparents made to purchase this property. By no means do we want our property excluded from the boundaries of the Royal Community.” *See* Memorandum of Brenda and Levi Solomon, Parcel ID C33-003, June 10, 2023.

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included within Royal's historical boundaries. To the extent this would result in minor boundary discontiguity, due to the relative positionality of the objecting and non-objecting landowners' parcels, the Keeper's listing of the Royal Community with discontiguous boundaries would not be unprecedented. *See, e.g.*, the Dodd Road Discontiguous District, LeSueur and Rice Counties, Minnesota (Nat. Reg. Ref. No. 03000520), *available at* <https://npgallery.nps.gov/GetAsset/3a5abf23-cf88-433e-8383-3ffc55196abf> (last visited Aug. 11, 2023); the Birwood Wall, Detroit, Michigan (Nat. Reg. Ref. No. 100006100), *available at* [https://detroitmi.gov/sites/detroitmi.localhost/files/events/2019-08/MI\\_Wayne%20County\\_Birwood%20Wall\\_0.pdf](https://detroitmi.gov/sites/detroitmi.localhost/files/events/2019-08/MI_Wayne%20County_Birwood%20Wall_0.pdf) (last visited Aug. 11, 2023).

Indeed, the NPS's guidelines for evaluating rural historic landscapes specifically contemplates the inclusion of “outlying” and “peripheral” farms in rural districts. For example, “A rural property, such as a farm, may have its own significance, but also be part of a significant collection of neighboring farms or an entire community with a village cluster, outlying farms, and interconnecting roads, that form larger historic districts.” *See* U.S. DEP'T OF INTERIOR, GUIDELINES FOR EVALUATING AND DOCUMENTING RURAL HISTORIC LANDSCAPES, *supra* note 6, at 25. “Peripheral land that provides historic setting, such as forested hillsides or rock escarpments, may be included only if the historic record indicates that the land was historically an integral part of the property being nominated. Such an integral relationship can be established through common historic ownership, the role of the peripheral land in significant land uses or community development . . . [.]” *Id.* at 26; *see also id.* at 25 (discussing peripheral farms included in the boundaries of South Lima Township Rural District).

At the very least, the two dozen or so parcels of non-objecting landowners should be included within the Nomination boundaries as outlying or peripheral farmlands that are significant both in their own right and that “provide[] historic setting” as part of a “collection of neighboring farms or an entire community with a village cluster, outlying farms, and interconnecting roads, that form [the] larger historic district[] [of Royal].” *Id.* at 25, 26.

<sup>38</sup> *See* Fl. SHPO Nom., Correspondence, at 6–26.

<sup>39</sup> *See* Correspondence, *supra* note 38 at 6 (William Jackson), 10 (Brenda & Levi Solomon), and 14 (Charley & Bernice Gordon).

- “To preserve the original preservation of the historical site of Royal, and which we’ve been fighting for as a community for years to protect our families, history, that our ancestors struggle to purchase and build for our family generations to come to have this strip away, would not only hurt my family. It would take away the true historical district of the Royal Community. So please reconsider your stance and include us back into the boundaries submitted for the Community of Royal, Florida.” *See* Memorandum of Charlie and Bernice Gordon, Parcel ID C33-005, June 12, 2023.

The Florida SHPO’s arbitrary new boundaries also excluded several parcels with qualifying histories whose owners indicated neither objection to nor approval of their inclusion within Royal.

By excluding all of these parcels from the Nomination boundaries, the Florida SHPO disregarded the desire of the Black landowners of approximately two dozen parcels who wanted their properties included; excluded several other properties of non-objecting landowners from the boundaries for no reason; and ignored the consistent historical use and positionality of all of these parcels within Royal. Therefore, the Florida SHPO’s decision to redraw the boundaries of the Community of Royal Rural Historic District in its Nomination was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

Put simply, the Florida SHPO offered no justifiable basis for unilaterally redrawing the Nomination boundaries to exclude both objecting and non-objecting landowners from Royal, and for failing to even designate these properties as eligible for listing on the National Register. This determination was based on the will of a small minority of objecting white landowners when it “should [have] be[en] made exclusively by objective, professional determinations of historic . . . significance.”<sup>40</sup>

Accordingly, YPAs respectfully requests that the Keeper accept the Florida SHPO’s Nomination of Royal to the National Register with the following modifications:

**Recommendation:** Restore the Nomination boundaries to the revised boundaries that YPAs submitted on April 15, 2023, and presented to the Florida Historic Review Board at the June 16, 2023, meeting, which included 31 additional properties: the parcels of some objecting white landowners, the approximately two dozen parcels of Black landowners who wish to be included but are presently excluded, and the parcels of other landowners who voiced neither objection nor approval of their inclusion, but whose properties fall within the historical boundaries of Royal.

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<sup>40</sup> *See* Miller, *supra* note 32, at 1023.

**CONCLUSION**

In sum, YPAs respectfully requests that the Keeper assess the national significance of the Community of Royal Rural Historic District Nomination. YPAs further recommends that the Keeper accept the Community of Royal Rural Historic District Nomination with YPAs' revised boundaries instead of the Florida SHPO's boundaries.

In further support of this Petition, YPAs directs the Keeper to the ample record submitted with the YPAs' Nomination, which details the history of the parcels within the YPAs' revised boundaries,<sup>41</sup> and the petition to the NPS submitted by Dr. Gonzalez-Tennant on July 19, 2023, seeking substantive review of the Community of Royal Rural Historic District. Please let me know if I can provide any additional information to assist your review and decision.

Sincerely,

/s/ Kirsten Anderson

Kirsten Anderson, Fla. Bar No. 17179

kirsten.anderson@splcenter.org

Southern Poverty Law Center

P.O. Box 10788

Tallahassee, FL 32302-2788

Office: (850) 521-3000

Cell: (352) 318-7284

ATTORNEY FOR YPAS

cc: Sherry Frear, Chief, National Register & National Historic Landmarks Program,  
[sherry\\_frear@nps.gov](mailto:sherry_frear@nps.gov)

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<sup>41</sup> See Gonzalez-Tennant, et al., *supra* note 1.