



## United States Department of the Interior

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



August 30, 2024

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Property: **122 College Street, Asheville, NC**  
Project Number: **46812, Part 2**  
Appeal Number: **1694**  
Action: **Final Administrative Decision**

Dear [REDACTED]

I have concluded my review of your appeal of the January 18, 2024 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 for meeting with me via videoconference on May 20, 2024, 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, submitted at my request after our appeal meeting, and online research I conducted, I have determined that the rehabilitation of 122 College Street is not consistent with the historic character of the property and that the project does not meet the Secretary of the Interior's Standards for Rehabilitation (the Standards). I hereby affirm the denial of certification of the Part 2 – Description of Rehabilitation application issued in the TPS Decision of January 18, 2024.

Built in 1917, 122 College Street is a three-story commercial building that has housed a variety of businesses and has been modified over time to accommodate different uses. It is a contributing resource to the National Register listed Downtown Asheville Historic District, which has a period of significance from 1890 to 1961. The NPS determined that the building is a “certified historic structure” for the purposes of the tax incentives program on August 24, 2023.

Although this is technically a Part 2 application and appeal, the reality is that this is a completed project. TPS received the Part 2 application on October 6, 2023. The application listed the start date as May 1, 2022, and the estimated completion date as December 31, 2023. Since construction was underway and probably nearing completion, TPS placed the project review on hold on November 6, 2023, asking for up-to-date information on the rooftop addition, interior alterations, and the replacement windows to be installed on the north and south facades. TPS also cautioned that the proposed rooftop addition may not be consistent with the Standards, depending on its visibility and impact on the historic character of the building.

TPS received your amendment with the requested additional information on December 6, 2023. After review of the entire file, TPS identified two aspects of the proposed but nearly completed work which, as constructed, violate the Standards, the rooftop addition and the replacement windows. Regarding the rooftop addition, TPS determined that the new tall rooftop addition, modern in design with large windows and clad in white simulated stucco panels, is a prominently visible new feature above the roofline of the building. TPS further determined that its height, width, and location change the historic silhouette, massing, and appearance of the historic building and is not compatible with the historic character and appearance of the building, contravening Standard 9.

Regarding the replacement windows, TPS determined that removing the historic multi-light double-hung windows on the north elevation violates Standards 2 and 5. TPS further found that the replacement windows on both the north and south elevations are incompatible with the historic character of the building and the surrounding historic district, also contravening the Standards.

In my review, I first studied the architectural drawings in the Part 2 application to determine how tall the rooftop addition actually is. Although un-dimensioned in a section drawing on Sheet A4, when extrapolated from other given dimensions, the top of the addition’s roof is approximately fifty-one feet above the sidewalk level. The third floor is twenty-five feet above sidewalk level and the new mezzanine floor and deck are at thirty-nine feet. Allowing for the addition’s roof thickness, the vertical height of the open spaces under the addition roof are nearly twenty-four feet above the third floor. The mezzanine deck is actually above the height of the front parapet but is set back approximately six feet from it. However, the top of the deck railing is almost four

feet above the parapet. These dimensions confirm TPS' assessment that this is a tall rooftop addition. Photographs taken from the surrounding areas of the historic district confirm that the rooftop addition is prominently visible, its prominence accentuated by the color of its exterior cladding materials. Although the rooftop addition meets the Standard 9 requirement to be differentiated from the old, it fails the test to be compatible with the massing, size, scale, and architectural features of the property. Thus, I concur with TPS that the rooftop addition compromises the historic character of the building and the surrounding historic district and find that it violates Standard 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.*"

Regarding the replacement windows, photographs in the project file, your appeal presentation, and Google Street Views show them over the history of the building. A 1920s photograph documenting the College Street streetscape shows the original windows on the second and third floors to be one-over-one light sash. A circa 1970 photograph shows that the second-floor windows had been replaced in a configuration similar to picture windows in a suburban ranch house. A 2022 Google Street View shows the second-floor windows returned to a one-over-one light configuration, but the third-floor windows were changed to three single light fixed windows flanked by one-over-one-light sash, with the lower sash an operable casement. Sheet A6 of the Part 2 architectural drawings show that the proposed replacement windows were specified to be one-over-one-light single-hung sash and Sheet 2.1 shows the locations where they were to be installed. For the College Street façade, they would have matched the windows visible in the 1920s photograph and been compliant with Standard 6. Because the installed windows on the third floor match the historic configuration, they meet the Standards. However, the installed windows on the second floor do not match the historic or the specified configuration in the Part 2 application. Instead, they consist of a large fixed upper light and a short lower awning light in the same plane that places the meeting rail significantly lower than in the historic configuration. Thus, because the new second-floor windows do not match the old, they are not compliant with the requirements of Standard 6. Standard 6 states, "*Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.*"

The second and third floor windows on the Lawyers Walk (alley) façade appear in a pre-rehabilitation photograph to have been original to the building. At the third floor, they were nine-over-nine-light double-hung sash with a single-light transom. At the second floor, they were six-over-six-light double-hung sash, also with a single-light transom. I acknowledge that the windows appear in the photograph to be deteriorated, but the Part 2 application and your

appeal presentation did not present convincing evidence that they were beyond repair. Replacing them contravenes the Standard 6 requirement that deteriorated historic features shall be repaired rather than replaced. The installed replacement windows are completely different from the old. The new second-floor windows are one-over-one-light sash of unequal size with the meeting rail higher than the historic and without a transom. The new third-floor windows are also one-over-one-light sash of unequal size with the meeting rail higher than the historic and without a transom. Although Sheet A6 specifies that the new windows are to be the same height as the originals, the sills for the installed third-floor windows were raised so that they are shorter than the old. I acknowledge that Lawyers Walk is functionally a service alley and your argument in the appeal presentation that it has very limited line-of-sight is reasonable, but I disagree with your argument that, *“In particular, rehabilitation allows for replacement when the original windows are too deteriorated to repair and provided the new windows and exterior façade bear a resemblance to the old where possible.”* Further, I note that the replacement windows significantly compromise the historic character of the second and third floor interior spaces. Consequently, I find the new replacement windows on the Lawyers Walk façade contravene the Standard 6 requirement that the new features shall match the old.

In your Owner Statement, you noted that the pandemic had a major impact on the timeline and logistics of the rehabilitation. I acknowledge that the pandemic had a significant impact, but the challenges of the pandemic were universal and not unique to your project. You also stated that the replacement window design was dictated by building code requirements but argued that the replacement windows are compatible with the historic character of the original windows, and further noted that they were similar to replacement windows in other rehabilitated buildings in Asheville. I respectfully disagree that the replacement windows—except for the third-floor windows on the College Street facade—are compatible with the historic character of the building. I also 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)].

You also showed examples in the appeal presentation of other historic buildings with similar replacement windows and rooftop additions. Regarding other rehabilitation projects, they are not relevant to this review. The regulations state, *“Because the circumstances of each rehabilitation project are unique to the particular certified historic structure involved, certifications that may have been granted to other rehabilitations are not specifically applicable and may not be relied on by owners as applicable to other projects.”* [36 C.F.R. 67.6(a)(1)].

The issues discussed above could have benefited from prior consultation with TPS, as the Decision noted: *“Had the NPS been able to provide feedback on the design of the new rooftop addition or the windows before they were constructed, it would have been possible to provide*

*guidance to bring the project into compliance with the Standards.” 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)].*

I concur with TPS that the overall impact of the rehabilitation on 122 College Street has significantly compromised its historic character and integrity, causing the completed work to fail to meet the Secretary of the Interior’s Standards for Rehabilitation. Accordingly, I affirm the Part 2 denial of certification issued by TPS in its January 18, 2024 Decision.

As the Department of the Interior regulations state, my decision is the final administrative decision with respect to TPS’s January 18, 2024 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** Digitally signed by JOHN A BURNS  
Date: 2024.08.30 15:31:52 -04'00'

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

cc: NC SHPO  
IRS