



United States Department of the Interior

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



February 11, 2020

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

PROPERTY: **Aspen Times Building, 310 East Main Street, Aspen, CO**
PROJECT NUMBER: **36682**

Dear [REDACTED]:

I have concluded my review of your appeal of the December 11, 2018 Decision of Technical Preservation Services (TPS), National Park Service, denying certification of the *Historic Preservation Certification Application; Part 2 – Description of Rehabilitation* application, as amended, for the property cited above. 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 your representatives, [REDACTED], [REDACTED], [REDACTED], for meeting with me on April 25, 2019, and for providing a detailed account of the project.

After careful review of the complete record for this project, including the information submitted as part of your appeal, and the additional information subsequently submitted by [REDACTED], I have determined that the rehabilitation of the Aspen Times Building 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). Accordingly, the denial issued in TPS's December 11, 2018 Decision, is hereby affirmed.

The Aspen Times Building is a one-story wood frame building constructed in the mid-1890s. It featured a tall false storefront with large plate glass windows, and historically had a matching corner window on the east side. Prior to the rehabilitation, it had non-historic additions on its east and north sides, and a smaller addition on the west side. TPS certified the building as a contributing to the Aspen Historic District on August 17, 2017, although at that time the non-historic additions had been demolished, the building interior had been gutted, and the remaining shell had been moved off its site to allow excavation for a new basement.

The Part 2 application stated that the expected completion date for the rehabilitation would be February 28, 2018, but the review fee for the Part 2 application—which would allow TPS to

begin its review of the application—was not paid until September 11, 2018. That delay effectively presented TPS with a completed project to review and eliminated the opportunity for TPS to help guide 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)].

TPS determined that the cumulative impact of the changes made to the building in the course of the rehabilitation were so thoroughgoing that they caused significant loss to its historic character and appearance, and thus failed to comply with the Standards. Consequently, TPS found that the already-completed rehabilitation contravenes Standards 2, 3, 6, 9, and 10. 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.*” Standard 3 states, “*Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.*” 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.*” 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.*” Standard 10 states, “*New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*”

Initially, I note that the regulations state, “*A rehabilitation project for certification purposes encompasses all work on the interior and exterior of the certified historic structure(s) and its site and environment, as determined by the Secretary, as well as related demolition, new construction or rehabilitation work which may affect the historic qualities, integrity or site, landscape features, and environment of the certified historic structure(s).*” [36 C.F.R. 67.6(b)].

With regard to the overall impact of the rehabilitation on the historic character of the property, I note that although the rehabilitation removed later, non-historic additions, it also demolished approximately one-fifth of the historic building, where a three-story brick addition was subsequently constructed. Further, the newly exposed east (side) wall, which historically had several small openings, has been altered by the insertion of three large contiguous glazed doors that open onto the adjacent terrace. On the interior, virtually none of the building’s historic features were retained in the rehabilitation, and the new finishes match those in the adjacent Hotel Jerome, not the historic finishes removed from the Aspen Times building.

You provided a number of arguments as to why you believe these changes are sufficient to meet the Standards. With regard to your argument that structural deterioration and deficiencies required many of these changes, I have determined that the numerous examples of removed historic features and added finishes, whose removal or installation have no causal relationship to the structural deterioration and deficiencies described in the building, are inconsistent with this argument. You also referenced TPS guidelines, stating that, “*the replacement design may be [...]*

a new design that is compatible with the historic character of the building, district, or neighborhood,” to preface your argument that the added finishes are compatible with the historic character of the district because they match those in the adjacent hotel. This argument distorts the intent of this guidance by ignoring its context in interpreting the Standards, which logically require you to prioritize compatibility with the building’s historic character, when known. In this case, the added finishes do not match the historic finishes in the Times building, contravening Standard 6, and instead they mimic finishes in the adjacent hotel that are incompatible with the historic character of the Times building, contravening Standard 3. And, with regard to your point that the incompatible finishes are easily reversible, the reversibility of these finishes does not mitigate their incompatibility with the historic character of the Times building since their presence in particular creates a false sense of historical development. I concur with TPS that these changes were driven more by programmatic requirements than by structural or rehabilitative needs. Consequently, I find that the completed work does not comply with Standards 2, 3, 6, 9, and 10, quoted above.

Finally, I have determined that the extensive interior changes made to the building caused by the programmatic requirements for its reuse have caused irreparable damage to its historic character and integrity. Those changes include the demolition of approximately one-fifth of its original size, replacing much of the interior wooden structure with steel, reducing the formerly open plan by installing a partition wall to create a vestibule and stairwell to the new basement just inside the front windows, and finishing the interior with materials and decorative features incompatible with its previous use. Although the front façade and original massing are still apparent on the exterior, I find that the interior changes dictated by the new use do not comply with Standard 1, which states, *“A property shall be used for its 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.”*

Consequently, I find that the overall impact of the already-completed rehabilitation of the Aspen Times Building has significantly compromised the historic character of the property and thus fails to meet the Standards. I hereby affirm TPS’s December 11, 2018 Decision.

As Department of the Interior regulations state, my decision is the final administrative decision with respect to the December 11, 2018 Decision that TPS issued 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: IRS
SHPO-CO