

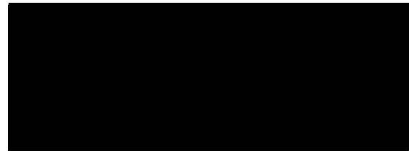


# United States Department of the Interior

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




September 1, 2020



Property: **310 East Lanvale Street, Baltimore, MD**  
Project No.: **39061**

Dear 

I have reviewed your appeal of the September 30, 2019 Decision of the Technical Preservation Services (TPS), National Park Service, denying certification of the historic rehabilitation of the property cited above (the Decision). You initiated your appeal under the 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 and  for meeting with me on December 3, 2019, and for providing a detailed account of the project.

After careful review of the complete record for this project, including the materials you submitted as part of your appeal and after our appeal meeting, I concur with the September 30, 2019, TPS Decision that the rehabilitation of 310 East Lanvale 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).

The building at 310 East Lanvale Street is a three-story brick rowhouse with a rear two-story extension with a side parapet. It was constructed circa 1885 and was certified as contributing to the significance of the North Central Historic District on September 18, 2018. The end unit of a row of five similarly-detailed three-bay brick rowhouses, its entrance façade is on Lanvale Street and the long side elevation is along Latrobe Street, one of several narrow, almost alley-like, streets that are a characteristic feature of the historic district. Prior to rehabilitation the exterior walls had been stuccoed and the windows were non-historic. However, three of the other rowhouses retained intact their brick façades with segmentally-arched openings, decorative brick coursing, brick entablatures and dentilled cornices, and stone window sills and stoops. The interior of this property had been altered, but retained historic window and door moldings, historic main entrance and inner foyer transoms with transom bars and trim, and a historic fireplace mantle on the third floor.

The proposed rehabilitation would convert the property into a four-flat apartment building. TPS conditionally approved the May 30, 2018, Part 2 – Description of Rehabilitation application and the July 19, 2018 Amendment on September 18, 2018, stipulating ten conditions:

1. *To ensure compliance with the Standards, please submit both photographic and narrative descriptions of the lath and finish difference between the south (front) and west (side) elevation stucco. Insufficient information was provided showing that these materials were installed at different times to determine whether removal of one elevation's stucco but not the other is appropriate, per Standard #2 and #3. The photographs of the two elevations show metal lath, which does not necessarily indicate installation at different times.*
2. *Stucco must be removed using the gentlest means possible, per Standard #7. Once the stucco has been removed, photographs of the full masonry façade must be submitted, documenting the condition of the masonry, any decorative details, and whether the façade had previously been painted. Masonry paint must be vapor-permeable (typically a mineral paint/ stain). Latex paint is not appropriate for masonry as it does not allow the masonry to properly breathe. Please submit product information on the proposed masonry paint on an Amendment form for review and approval to ensure compliance with the Standards.*
3. *The cleaning of masonry must be accomplished using the gentlest means possible without damaging the surface of the masonry. This work must be accomplished in accordance with the guidance provided in Preservation Brief #1: Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings. A cleaning specification and test sample must be reviewed and approved prior to fully commencing this work to ensure compliance with the Standards. Good-quality overall and close-up photographs of the masonry both before and after cleaning must be submitted with the Part 3 – Request for Certification of Completed Work.*
4. *The repointing mortar must match the color, texture, composition, joint width, and joint profile of the existing mortar, per Standard #6. This work must be accomplished in accordance with the guidance provided in Preservation Brief #2: Repointing Mortar Joints in Historic Masonry Buildings. Good-quality before and after photographs of the mortar joints must be submitted with the Part 3 – Request for Certification of Completed Work.*
5. *Repairs to historic stucco must be done in accordance with the guidance provided in Preservation Brief #22: The Preservation and Repair of Historic Stucco. Good-quality photographs of the repaired stucco must be submitted with the Part 3 – Request for Certification of Completed Work.*
6. *The interior foyer transom must not have black and white hex tile installed. This transom appears to retain the historic detailing, which has been painted. However, it does not appear to be black and white hex tile. To ensure compliance with the Standards, please submit a revised scope of work for the inner foyer transom.*
7. *Upon removal of the non-historic floor finishes, such as vinyl tile, photographs of the historic wood flooring must be submitted with an existing floor plan indicating where the historic flooring remains. Any repair or replacement of the wood flooring must match the historic in size, color, texture, composition, and other visual qualities, per Standard #6.*
8. *The new third-story, rear addition must not impact the existing cornice along the west (side) elevation, per Standard #2 and #5.*
9. *To ensure compliance with the Standards, HVAC, electrical, and plumbing drawings must be submitted on an Amendment form for review and approval.*

10. *Existing historic window and door trim must be retained and repaired. If any existing historic openings require replacement trim, the new trim must match the historic in profile and design, per Standard #6.*

In its review of the Part 3 – Request for Certification of Completed Work application, TPS determined there were four issues that were cause for denial of the project. These were: 1) the lack of differentiation between the new third floor addition and the historic massing and materials of the house; 2) the historic two-story north façade was demolished and rebuilt with a different fenestration pattern; 3) the historic entrance vestibule trim was removed and replaced with plain wood trim; and 4) the historic third floor fireplace was not retained and was replaced with a different mantle.

TPS determined that the new third-floor addition had not been completed as stipulated in Condition 8 that the addition "*must not impact the existing cornice along the west (side) elevation, per Standards #2 and #5.*" The photographs of the completed work showed that the west wall of the addition along Latrobe Street was constructed directly on top of the historic parapet and cornice. This resulted in an addition that is not differentiated in any way from the historic building and creates a false sense of historic development and appearance. TPS determined that this work does not meet Standards 2, 5, and 9.

TPS also noted that the two-story rear façade was altered during the course of construction without prior review or approval. Although the addition of a third story was approved, the completed work photographs and supplemental information show that the two-story rear wall was completely rebuilt and does not match the pre-rehabilitation configuration, changing the building's historic appearance and character on a street elevation. Window sizes and locations were also altered. TPS determined that these façade changes cause the project to violate Standards 2, 3, 6, and 9.

The Part 2 application stated that the two front-entry arched transoms would be retained and the door casing would remain. Completed work photographs show that the transom windows were retained, but the historic wooden transom bars and door casing that were present prior to rehabilitation were removed and replaced with non-matching, plain wood transom bars and trim. TPS determined that this treatment does not meet Standards 5 and 6.

Prior to rehabilitation the third-floor fireplace mantle was in place and proposed for retention. However, the completed work photographs show that the mantle was removed and the chimney and adjacent historic closet with wood trim were altered. A non-matching mantle was affixed to the wall in an attempt to replicate the historic mantle. TPS determined that the removal of the historic mantle, chimney, and adjacent wood trim violates Standards 2, 3, 5, and 6.

TPS concluded that the cumulative impact of these changes to the exterior of the building and to historic interior features and finishes alters the historic character and appearance of the property and destroys character-defining exterior and interior features and materials of the building, as described above, causing the project to violate Standards 2, 3, 5, 6, and 9. 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 5 states, "*Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.*" 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.”*

Regarding the four denial issues TPS identified, I have determined that:

- 1) The new third floor addition was described in the Part 2 application, Number 8, to be “*set back 3” from faces of original walls on west & north elevation,*” and in the Amendment, Number 10, that the “*2nd flr. rear parapet wall & cap to remain in place with 3rd flr. addition pushed east the depth of the parapet cap. Roof of addition will be set lower than 3rd flr. roof to show it is an addition.*” TPS had reiterated the need to differentiate between the historic and the new in Condition 8. Instead, the Part 3 photographs show that the third-floor addition was not set back but was constructed in the same plane as the west (Latrobe Street) façade and in the same plane as the reconstructed north façade. The SHPO review of the completed work also noted that the historic cornice on the west façade was not retained but was replaced with a new board cornice. The cladding material of the new addition (and the reconstructed north wall below it) is not differentiated from but instead matches the historic stucco cladding of the west façade. Thus, the completed third-floor addition was not constructed as described in the Part 2 application and Amendment, does not comply with Condition 8, and contravenes the Standard 3 requirement to not create a false sense of historical development and the Standard 9 requirement that new work be differentiated from the old.
- 2) At the appeal meeting, you stated that the historic north façade was discovered to be structurally unsound and that you took careful measurements to assure it could be accurately reconstructed to match the historic configuration. However, you did not submit an amendment describing the structural deficiencies and why it needed to be reconstructed rather than repaired. The Part 3 photographs show that it was rebuilt with a different fenestration configuration. The Regulations state, “*Once a proposed or ongoing project has been approved, substantive changes in the work as described in the application must be brought promptly to the attention of the Secretary by written statement through the SHPO to ensure continued conformance to the Standards; such changes should be made using a Historic Preservation Certification Application Continuation/Amendment Sheet (NPS Form 10–168b).*” [36 C.F.R § 67.6(d)]. Thus, this work does not comply with the requirement in the regulations to submit substantive changes for review and the Standard 6 requirements regarding the repair of deteriorated historic features or their replacement to match the old.
- 3) The Part 2 application, Number 3, described that the “*Front entry opening to remain intact with new 4-panel wood door & original transom restored, original inner foyer frame & transom restored.*” The Part 3 photographs show that the historic transoms were retained, but the historic wooden transom bars and door casing were removed and replaced with non-matching, plain wood transom bars and trim. This work does not follow the Part 2 description of the proposed rehabilitation of these features, Condition 10, and contravenes the Standard 2 requirement that the removal of historic materials or alteration of features shall be avoided and the Standard 6 requirement regarding the repair of deteriorated historic features or their replacement to match the old.
- 4) The Amendment, Number 4, stated that the “*3rd flr. fireplace & original closet . . . to be incorporated into new design.*” The Part 3 photographs show that the closet and trim were removed, the historic mantle was removed and a narrower replacement mantle was installed with a drywall cover across the firebox opening with both an electrical outlet and a baseboard that makes the mantle appear to be decorative feature attached to the wall. During the appeal meeting,

you explained that the mantle was mistakenly removed and discarded and that you had located and installed a similar mantle as a replacement. Thus, this work does not comply with the Standard 6 requirements regarding the repair of deteriorated historic features or the replacement of missing features to match the old.

Regarding the character-defining Lanvale Street façade, the Part 2 application, Number 1, described that the stucco on the south (front) and west (side) elevations would be “*removed on south elevation by the gentlest means possible with brick, molded brick, brownstone watertable restored & re-pointed as required, brick to be painted, repointed joints to match original in joint width, color, texture & color & comply with standards of Preservation Brief 2, before & after photos to be submitted with final certification; stucco to remain intact & repaired & repainted on west elevation.*” Number 6 described that the “*Cornice to remain intact, repaired & repainted, stucco to be removed to expose corbeling.*” Of the ten conditions in the TPS conditional approval of the Part 2 application and Amendment, five dealt with the stucco on these two façades. The pre-rehabilitation photographs and the exploratory photographs show that the stucco on the Lanvale Street façade could be removed without damage to the underlying brick because the metal lath was attached with screws into the mortar joints; underneath the lath and stucco, the brick and joints were sharp-edged and the mortar appeared to be in good condition.

The Part 3 photographs show that many bricks were damaged when the screws attaching the stucco were pulled out rather than unscrewed, in some cases breaking off part of the adjacent bricks, and the mortar joints were ground out with power tools, which made the joints both wider and more irregular. Many of the vertical joints were over-cut into the bricks above and below the actual joint. The damage is evident over the entire façade and does not comply with the described treatments in the Part 2 application, the guidance in Preservation Brief 2, Conditions 2, 3, and 4, the requirements of Standards 2, 5, and 6, quoted above, and Standard 7, which states, “*Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.*” At the cornice, the brick corbels in the entablature below the wooden cornice have been replaced with face brick. No amendment was filed with descriptions or photographs to explain why this is the case, especially when compared to the brick entablatures on the other four row houses, which all remain in good condition.

Although TPS did not cite the inappropriate treatments to the Lanvale Street façade as a denial issue, the regulations state, “*The Chief Appeals Officer may base his decision in whole or part on matters or factors not discussed in the decision appealed from.*” [36 C.F.R. 67.10(c)].

Thus, I agree with TPS that the rehabilitation as completed cannot be approved, and have described specific aspects of the project, noted above, that together cause the project to contravene the Standards. Consequently, I find that overall impact of the already-completed rehabilitation of 310 East Lanvale Street has significantly compromised the historic character of the property and thus fails to meet the Standards. I hereby affirm the September 30, 2019 Decision by TPS.

As part of the appeal, you proposed to cut a reveal in the west and north façades of the third-floor addition where it joins the historic house and to replace the entryway transom bars and casing to match the historic so that those aspects of the project could potentially be brought into conformance with the Standards. Unfortunately, given that this rehabilitation work is complete and significant, character-defining, historic features and materials have been irrevocably changed or destroyed, I see no possible remedial work that could now bring the overall project into conformance with the Standards.

As Department of the Interior regulations state, my decision is the final administrative decision with respect to the September 30, 2019 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: SHPO-MD  
IRS

