



United States Department of the Interior



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

August 30, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Property: **222 Lake Avenue, Yonkers, NY**
Project Number: **44576, Part 2 and Part 3**
Appeal Number: **1692**
Action: **Final Administrative Decision**

Dear [REDACTED]

I have concluded my review of your appeal of the March 18, 2024 Decision of Technical Preservation Services (TPS), National Park Service, denying the Part 2 – Description of Rehabilitation and Part 3 – Request for Certification of Completed Work applications 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] for meeting with me via videoconference on May 13, 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 the 222 Lake Avenue 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 the Part 2 – Description of Rehabilitation and Part 3 – Request for Certification of Completed Work applications issued in the TPS Decision of March 18, 2024.

Built in 1901 as part of the Alexander Smith Carpet Mills Building 14, 222 Lake Avenue is the east wing of Building 14, extending west along the south side of Lake Avenue to the Saw Mill

River. After the mill closed, the building was subdivided and sold to different owners and 222 Lake Avenue comprises the eastern-most eighteen bays of Building 14. The subject property is a four-story industrial building with a low-slope gable roof and clerestory, load-bearing brick perimeter walls with battered buttresses, and large multilight double-hung wood windows. The interior is heavy timber frame construction with wood floors and mostly open floor plans and retained the historic stairs and fire doors. The interior faces of the perimeter walls were exposed brick, with some areas whitewashed or painted. The building retained a great deal of integrity prior to a fire in 2017 that damaged the east end of the third and fourth floors and roof and some of the second floor. Many windows were broken out at that time. Nevertheless, a significant amount of the historic fabric remained, sufficient for the NPS to designate the building a “certified historic structure” contributing to the significance of the Alexander Smith Carpet Mills Historic District on May 18, 2022.

The proposed rehabilitation would rebuild the fire-damaged interior structure to match the historic configuration, using salvaged elements such as the cast iron saddles at the top of the structural columns and keeping the historic stairs and fire doors, which had survived the fire substantially intact. Several promotional renderings of the proposed exterior work showed that the intent was to keep the historic, double-hung window configuration.

Although TPS denied certification of the Part 2 – Description of Rehabilitation and Part 3 – Request for Certification of Completed Work applications for the property on March 18, 2024, the basis for the denial had been determined in preliminary review requested by the New York SHPO in the Spring of 2023. Preliminary reviews are generally requested for proposed but potentially problematic work, but in this instance it was for partially-installed replacement windows. TPS determined that the proposed windows were significantly different in design and appearance from the historic windows, thus not a good match and, as installed, would likely result in the denial of the project. TPS advised the SHPO of that determination on May 2, 2023, who in turn notified you and the project team.

TPS received the Part 2 application on August 2, 2023. Photographs in the application showed that remainder of the incompatible replacement windows had been installed. Since the overall work was nearly complete, and after discussions with TPS, you decided in September to ask TPS to place review of the Part 2 application on hold and complete and submit a Part 3 application for review of the entire project. TPS received the Part 3 application on February 20, 2024. Photographs in the application showed that the project had been completed as proposed in the Part 2 application, including the incompatible windows.

The TPS March 18, 2024 Decision included a detailed analysis of the installed windows [incorporated by reference herein], and after considering technical and economic feasibility factors and the fact that much of the rest of the rehabilitation work met the Standards, determined

that the replacement windows were so dramatically different from the historic that they caused the overall project to fail to meet the Standards. TPS concluded:

Windows are some of the most character-defining features of a historic building, both on the exterior and the interior, and this is especially true of mill and industrial buildings such as this property. The replacement windows, which comprise a large part of both the interior and exterior appearance of the building, do not match the historic windows and significantly change the character of the building. Specifically, the replacement windows do not meet Standards 2, 5, and 6.

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 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.*”

My review began with studying the building’s facades, which revealed that the Lake Avenue and Saw Mill River facades are honest expressions of structure and function from the battered buttresses at each structural bay to the narrow floor plate and oversized windows that made it a daylighted workplace. I agree with TPS that windows are “*some of the most character-defining features of a historic building,*” but in this case they are the dominant feature of the facades.

The historic windows were wood double-hung divided-light sash, primarily 15-over-20 lights on the second and third floors and 15-over-15 lights on the first and fourth floors to match the height of their respective masonry openings, with thin muntins, narrow frames, and 3-inch-tall meeting rails. The meeting rails of the historic windows were thus centered on the first and fourth floors and located above center on the second and third floors. Other character-defining features of the historic windows include the shadow line created by the upper sash being offset from the lower sash, all the individual lights were the same size and proportion, and the thin muntins and frames minimized the structural support and maximized the glass area admitting natural light into the building.

The project file reveals the timeline for the project, for instance the earliest drawings for the structural repair of the fire-damaged fourth floor and roof are dated June 25, 2019, the demolition drawings are dated May 31, 2021, the shop drawings for the replacement windows are dated March 25, 2022, and marked as approved on March 28, 2022, and the 21-sheet construction drawings are dated January 1, 2023. Although the Part 2 application had been

received by the New York SHPO on June 18, 2021, and was under review by the state, the SHPO was not aware that replacement windows that were significantly different from the historic had been ordered and were being installed until early Spring of 2023. That discovery led to an April 28, 2023 email from the SHPO asking TPS for a preliminary review of the windows. TPS responded that the replacement windows would cause the overall project to fail to meet the Standards on May 2, 2023, as noted above.

In your presentation, you cited several factors that led to the selection of these particular windows, including the immediate need to protect the building interior from the weather, energy efficiency stipulations from the investors, safety and energy efficiency requirements from the building code, the desire to match the historic wood frames, and pandemic-related supply chain issues. The energy efficiency requirements led to the specification of triple-glazed glass, which is too heavy and too thick for a traditional wood-framed double-hung window. The weight of the glass led to a fixed, single-plane window design, with larger frame members than the historic. You also noted that the operable part of the replacement windows had to be limited in size to comply with safety requirements, which led to the selection of an operable hopper that required lights of different sizes from the fixed sash.

Consequently, the new replacement windows are dramatically different in appearance and functionality from the historic windows. The new windows have a 25-over-10 light configuration on all four floors despite the fact that the masonry openings on the second and third floors are taller than those on the first and fourth floors. The height difference is made up by making the lights different sizes and proportions than the historic lights. For instance, in the 25-light upper fixed sash, the lights are nearly square in proportion and do not match the proportion of the lights in the historic windows. In the hopper sash, the lights are nearly square on the first and fourth floors but the lights on the second and third floors are a closer match to the proportions of the lights in the historic windows. The taller lights help to fill the taller-height masonry openings on the second and third floors. The upper and lower sash of the replacement windows are in the same plane, thus lack the historic shadow line of the original meeting rails. Plus, the new meeting rail is located lower in the masonry opening than in the historic windows, and its 7¼-inch height is more than twice the height of the historic 3-inch meeting rail. Finally, the new windows do not have divided lights; rather they are single lights with sandwich muntins. Thus, the new replacement windows do not meet the Standard 6 requirement that they “*shall match the old in design, color, texture, and other visual qualities and, where possible, materials,*”

Regarding the technical and economic feasibility of matching the historic windows in wood, the key phrase in Standard 6 is that the replacement “*shall match the old in ... visual qualities and, where possible, materials.*” In other words, visual qualities are the principal requirement, but the materials are a lower priority to match the old. Rather than wood, steel or aluminum could have had the strength to support the triple glazing. Regarding the building code opening size

requirements, 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)]. I also acknowledge that the pandemic had a significant impact, but that impact was not unique to your project. These issues could have benefited from prior consultation with the SHPO and TPS, as the Decision noted.

Further, I note that the regulations state, “*All elements of the rehabilitation project must meet the Secretary’s ten Standards for Rehabilitation (§ 67.7); portions of the rehabilitation project not in conformance with the Standards may not be exempted.*” [36 C.F.R. § 67.6(b)(1)].

Regarding the removal of painted interior finishes, which TPS determined alters the historic character of the building, I agree with TPS that removing historic finishes compromises its historic character. However, you have offered to restore painted and whitewashed areas of the interior. Accordingly, I have not considered the removed painted interior finishes in my decision.

Consequently, I have determined that, although this appears to be a successful economic redevelopment project, it does not meet the requirements to be designated a “certified rehabilitation.” I find that the overall impact of the completed rehabilitation of 222 Lake Avenue has significantly compromised its historic character due to the replacement windows not matching the historic windows they replaced. Accordingly, I affirm the TPS denial of certification of the Part 2 and Part 3 applications issued in its March 18, 2024 Decision.

As the Department of the Interior regulations state, my decision is the final administrative decision with respect to TPS’s March 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 10:41:11 -04'00'

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

cc: NY SHPO
IRS