



United States Department of the Interior

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



May 24, 2019

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

PROPERTY: **National Biscuit Company Bakery, 251-255 North Pearl Street, Albany, NY**
PROJECT NUMBER: **37501**

Dear [REDACTED]:

I have concluded my review of your appeal of the decision of Technical Preservation Services (TPS), National Park Service, denying certification of the rehabilitation of 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 you, [REDACTED], [REDACTED], and [REDACTED], for meeting with me on March 28, 2019, 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, and the full set of construction drawings submitted by [REDACTED] after our appeal meeting, I have determined that the proposed rehabilitation of the National Biscuit Company Bakery is consistent with the historic character of the property, and hereby reverse the denial of certification of the Part 2 – Description of Rehabilitation application issued by TPS on November 19, 2018.

The National Biscuit Company Bakery building was completed in 1888 by E.J. Larrabee and Company, a prominent local baker. The current two-story-and-basement building was originally constructed as a one-story-and-basement building to replace the company's former facility, which was destroyed by fire the previous year. It is red brick on a stone foundation. The second story is believed to have been added in 1909, based on newspaper reports and Sanborn maps. Larrabee eventually became part of the National Biscuit Company, later Nabisco, which made significant interior changes in 1922. Nabisco eventually moved out, taking all of the baking equipment. In recent years the building has been underutilized, mostly functioning as warehouse space.

TPS determined that the proposed rehabilitation does not meet Standards 1, 2, 3, and 5, of the Secretary of the Interior's Standards for Rehabilitation (the Standards). TPS stated in the denial letter that,

The project proposes to turn the former bakery into a theater, which will result in the removal of much of the building's structural system, including more than 50 percent of the first-floor framing, the second-floor framing where the theater auditorium is proposed, the majority of the timber posts and columns in the basement and first floor, the basement ceiling and some of the historic ovens, and more than 4 feet of the historic stone foundation. These features and materials are important character-defining historic features and should be retained and preserved. None of these structural elements appear to be deteriorated beyond repair, but are proposed to be removed to accommodate the new use.

*...
The project does not meet Standards 2, 3, and 5 because the new use requires the removal of a large portion of the structural system on the first and second floors to create a rake for the seating and a column-free span for the auditorium. The proposed changes alter the historic character and appearance of the interior of the building and its ability to convey its historic significance and associations. Because the large-volume, height and open-span space is essential to the proposed new use, and the amount of demolition of the building's structural system, features, and materials this requires, the proposed use does not meet Standard 1.*

In addition, the proposed new screen with illuminated signage on the building's roof does not meet the Standards, as it is too large, out of scale and character with the building, and highly visible.

Standard 1 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." 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."

At the appeal meeting, you presented additional details regarding the proposed work, information that was not available to TPS at the time of its review, and proposed some changes to the project in response to the denial issues identified by TPS. Over a third of your appeal presentation focused on the surrounding community and the impact the investment in the National Biscuit Bakery will provide to the neighborhood. I concur with your assessment that the project will be a successful economic development project, but the fundamental issue in the appeal is whether or not the proposed redevelopment of the building will meet the Secretary of the Interior's Standards for Rehabilitation, the statutory requirement to become a "certified rehabilitation."

With regard to the Standards, you argued that the significance of the property derived from its historic association with the Albany baking industry and its subsequent consolidation into the National Biscuit Company, not for its architectural character. Because of that, you further argued that the proposed removal of structural elements on the interior to accommodate the new theater use does not compromise the overall historic significance of the property even though it does remove historic fabric.

With regard to the large, illuminated sign proposed for the roof of the building, you eliminated the rooftop sign from the project and thus you have resolved TPS' objection to the sign. Consequently, the rooftop sign is not a consideration in this appeal decision.

In my review, I determined that, although this is an appeal of a Part 2 denial, some of the denial issues TPS identified derived from the Preliminary Determination of Individual Listing (PDIL) approval of December 15, 2017, under National Register of Historic Places Criterion A, for its association with the Albany baking industry and the consolidation of local bakeries into what became the National Biscuit Company. The historic character of the property is conveyed by some architectural features on the exterior, such as its massing, the intact brick walls and original openings, two bays of the original three-bay retail storefront, the canopy along the Pearl Street facade, the signboard frieze band between the first and second floors, and a modest corbelled brick cornice. What exists on the interior reflects many changes over time, and its most recent decades of use as a warehouse. There is little evidence of the bakery use remaining on the interior: no ovens, no boilers, no baking equipment, no flour bins and chutes, no packaging equipment, and no offices or retail space. There are traces of the bakery use in the former oven openings and oven vents in a thick basement wall (all that is left of the original ovens), and the brick-vaulted first floor ceiling above the original ovens and boiler. There are remaining structural elements in close-to-original condition, principally the perimeter walls, the underside of the wooden floor framing, and the roof. There are original wooden posts, but also cast iron, riveted composite steel, and pipe columns. The current floor finishes and partitions are mostly recent. I have determined that the architectural features that define the historic character of the bakery remaining on the interior are: the mostly-open volume of the tall first and second floors, and to a lesser extent, the basement; the former oven openings and vents in the basement; and the visible fireproofing features on the first floor, including the brick-vaulted ceiling. This is context in which I examined TPS' determinations of character-defining features and the impact of the proposed work on those features.

With regard to the first floor, the floor itself will be modified to create a raked seating area down to the new stage along the north wall. That work will require the removal of approximately fifty percent of the floor, along with the columns in that area supporting the second floor. The removed columns will be replaced with new columns to avoid sight line conflicts, with beams spanning across the stage and seating area to support the second floor. The structure of the underside of the second floor will remain unchanged and visible in the completed rehabilitation, wood beams with X-bracing over the seating area and the brick vaults over the stage. The overall impact to the first floor will be minimal in the lobby and café area along the west and south walls, with the full height of the first floor remaining. In the theater space, the plane of the original second floor will define the upper half of the space, as it did historically, but the bottom half will now be defined by a floor that will slope down to the new stage. Thus, although the volume within the theater will be larger, I have determined that the spatial quality of the first floor theater space will remain a mostly-open volume, not significantly different from its historic configuration. And, I note that the design is careful to leave intact the second floor structure that forms the ceiling of the theater space, keeping visible the brick-vaulted ceiling along the north wall and the underside of all the wooden floor framing supporting the second floor. Consequently, I find that the alterations to the first floor to create the theater space do not significantly compromise its historic character, and are compliant with the Standards.

With regard to the historic ovens, there were originally four bake ovens located in the basement. You presented a 1921 drawing showing that the ovens were demolished at that time, leaving only their front wall as a basement partition, with the original oven openings bricked-in and some remaining cast-iron oven vents. TPS cited the removal of "*some of the historic ovens, and more than 4 feet of the historic stone foundation.*" In my review, I determined that no ovens are being removed; the only remaining feature from the original bake ovens was their front wall, the top four feet of which would be truncated to accommodate the raked seating area of the new theater above. The bricked-in oven openings and vents are below the truncation height and thus would remain visible. I have determined that lowering the wall height does not significantly compromise the remaining wall fragment of the original ovens and thus is compliant with the Standards.

With regard to the only other remaining evidence of the original 1888 bakery, the incombustible brick-vaulted ceilings along the north wall in the basement and on the first floor, some at the east end of the vaulting will be removed to insert a new egress stair. However, the majority of the first floor vaults supporting the second floor will be retained and be visible in the completed rehabilitation as the ceiling over the new stage. The basement level brick vaults only remained at the east end of the building. Those will be removed to accommodate the egress stair and the new stage. Although some of the brick vaults will be removed, I have determined that the remaining area of brick vaults is adequate to convey the incombustible character of the north end of the first floor, and thus complies with the Standards.

Finally, with regard to the overall impact of the proposed rehabilitation on the historic character of the property, TPS determined that the new theater use causes the rehabilitation to contravene Standards 1, 2, 3, and 5. As described above, I find that the changes required to create the theater comply with the Standards because they (1) are sufficiently minimal in relation to the entire building, (2) leave intact large areas of the building to convey its historic character, (3) do not introduce changes that create a false sense of historical development, and (4) preserve sufficient distinctive features, finishes, or examples of craftsmanship that characterize the historic property. Accordingly, I find that the proposed work does not significantly compromise the overall historic character of the property, and hereby reverse the previous decision.

Although I am reversing the Part 2 denial of certification issued by TPS on November 19, 2018, please note that the scope of this appeal decision is limited to the issues of the denial described above. Subsequent amendments to the project must be submitted for review through the normal process. In addition, the project will not become a certified rehabilitation eligible for the tax incentives until it is completed and so designated by TPS after submitting a Part 3 application through the normal process.

As the Department of the Interior regulations state, my decision is the final administrative decision with respect to the November 19, 2018, denial 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: NY SHPO
IRS

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