



United States Department of the Interior

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



August 31, 2020

[REDACTED]

PROPERTY: Dorr-Zeller Building, 401-33 DeBaliviere Avenue, St. Louis, MO
PROJECT NUMBER: 36490

Dear [REDACTED]

I have concluded my review of your appeal of the February 3, 2020 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 for meeting with me via videoconference on April 14, 2020, 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, I have determined that the completed rehabilitation of the Dorr-Zeller 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). I hereby affirm the denial of certification of the Part 3 – Request for Certification of Completed Work application issued by TPS on February 3, 2020.

The Dorr and Zeller Catering Company built the two-story Tudor Revival building at the northwest corner of DeBaliviere Avenue and Waterman Boulevard in 1921. The building features a cut stone first floor and brick second floor with tall entrance pavilion at the corner and secondary entrances on each street façade marked by a gabled pediment above. The primary public space on the first floor is an L-shaped space along the full length of the DeBaliviere side and over half of the Waterman side. Its interior featured partial-height oak paneling on the exterior walls and around the exposed columns, with decorative plaster capitals, frieze, and a strapwork ceiling. The bakery, ice cream shop and caterer operated at the site until 1951, following the death of Oliver Dorr. The property was later used as a restaurant and most recently as a bank. TPS determined that the Dorr-Zeller building contributes to the significance of the City of St. Louis designated Skinker DeBaliviere-Catlin Tract Parkview Historic District on August 3, 2017, and thus is a “certified historic structure” for Federal tax purposes.

Prior to this rehabilitation, a bank owned the building and its public banking operation filled the historic L-shaped open space on the first floor, albeit with sections partitioned off with partial-height walls for offices, conference rooms, and back-of-the-house functions. The primary character-defining feature on the interior was the L-shaped first floor space, unified by a decorative ceiling with elaborate plaster column capitals, wall panels, frieze and strapwork ceiling, oak paneling along the exterior walls and around the freestanding columns, and engaged columns along the west (interior) wall of the space. The oak wall paneling remained intact except for the north end of the space, where it had been damaged in a fire when it was a restaurant. Six of the oak-paneled columns remained freestanding, the engaged columns along the interior wall remained exposed, and the decorative plaster ceiling was intact. And, because of the partial-height partitions, the broad expanse of the decorative ceiling remained visible throughout the space, reinforcing the spatial qualities of the original space.

The rehabilitation proposed to convert the second floor and part of the first floor for residential use and to partition the first-floor open space into two commercial spaces, one to be leased to the bank that previously owned the building. TPS had reviewed and approved the Part 2 – Description of Rehabilitation application on August 14, 2017, which stated in part that the first-floor retail space would have ". . . *all original elements, paneling & trim retained.*" An amendment approved on August 23, 2017, stated that "*All plumbing will be in interstitial spaces above current ceiling finishes.*" And, the amendment dated May 24, 2018, included architectural drawing A101 with the entire original L-shaped commercial space labeled as "NO WORK."

In reviewing the Part 3 – Request for Certification of Completed Work application, TPS determined that completed work was not consistent with what had been proposed and approved. The Decision stated, "*The issue that prevents the project from meeting the Standards is the damage to and covering of distinctive and character-defining features and finishes in the primary commercial space of the building, originally part of a bakery and catering business.*" The Part 3 photographs showed that the freestanding oak-paneled columns had been encased in drywall and that the ornamental plaster column capitals, frieze and ceilings had been covered by a dropped ceiling in both the bank-leased and the unleased areas of the primary commercial space. Prior to the appeal meeting you undertook remedial work in the unleased commercial space, removing the dropped ceiling that hid the plumbing pipes from the second floor apartments, re-routed the plumbing lines close to the ceiling and alongside the beams to make them less visually obtrusive, removed the cladding around the columns in that space, and painted the vertical plumbing pipes to match the color of the oak paneling which had been uncovered.

At the appeal meeting, you presented photographs of the completed remedial work in the unleased first-floor commercial space for my review. You explained that the building is reinforced concrete and that the decorative plaster is applied directly to the underside of the floor slab, beams and columns and consequently, despite what the amendment dated August 23, 2017, stated, there is no interstitial space in which plumbing for the second floor residential units could be located. That is why the plumbing, although relocated in the remedial work, remains visible. In reviewing the completed remedial work, although removing the dropped ceiling is a significant improvement over the conditions shown in the original Part 3 photographs, the exposed plumbing is not a recommended treatment, especially below a character-defining decorative ceiling.

You also argued at the appeal meeting that the remodeling work in the bank-leased space was completed before the sale of the building went to settlement and you became the owner on February 16, 2018, and thus was not your responsibility as part of the rehabilitation. The basis for that argument is found in 36 C.F.R. 67.6(b)(1), which states in part that, "*In general, an owner undertaking a rehabilitation project will not be held responsible for prior rehabilitation work not part of the current project, or rehabilitation work that was undertaken by previous owners or third parties.*"

However, I note that 415 DB LLC is listed as the Applicant Entity on the Part 1 application and the Part 2 application, both dated May 26, 2017, and four subsequent amendments, all dated in 2017, all prior to your settlement date of February 16, 2018. There is also a letter in the project file dated June 22, 2017, from Mr. Ross Rotherham of Busey Bank (the then owner) to the Missouri SHPO stating the Busey was aware of and did not object to tax credit applications submitted “*by the potential buyer of the building, Milton D. Rothschild II for 415 DB, LLC.*” Further, the project contact update amendment, dated December 29, 2017, lists 415 DB LLC as the Applicant Entity and you as the sole owner (although you told me verbally that was a mistake, it remains as a document of record). And, the amendment dated May 24, 2018, which included new architectural drawings dated May 2018 that shows the entirety of the original L-shaped commercial space as “NO WORK,” lists 415 DB LLC as the Applicant Entity.

In addition, I researched building permits on the City of St. Louis website, one of which was for interior demolition filed by Busey Bank on October 26, 2017, but not issued until November 9, 2017, two days after you had attested on the Part 2 amendment that you were the fee simple owner of the property. Thereafter, the building permits for the entire project were filed by and issued to 415 DB LLC. One of those was issued to 415 DB LLC on January 5, 2018, for interior alterations to the bank space, followed by a Certificate of Occupancy permit for the bank space issued to 415 DB LLC on April 3, 2018. Finally, a building permit for the multifamily portion of the project was issued to 415 DB LLC on June 27, 2018, followed by a Certificate of Occupancy permit for the multifamily work issued to 415 DB LLC on July 9, 2019.

Thus, it appears that there is a continuity in the proposed project before and through the ownership change. And, work in the bank space was not completed and a Certificate of Occupancy issued until April 3, 2018, more than two months after settlement on your purchase of the property. The regulations state in 36 C.F.R. § 67.6(b)(2) that, “*if the Secretary considers or has reason to consider that a project submitted for certification does not include the entire rehabilitation project subject to review hereunder, the Secretary may choose to deny a rehabilitation certification Factors to be taken into account by the Secretary . . . in this regard include, but are not limited to, the facts and circumstance of each application and (i) whether previous demolition, construction or rehabilitation work irrespective of ownership or control at the time was in fact undertaken as part of the rehabilitation project for which certification is sought, and (ii) whether property conveyances, reconfigurations, ostensible ownership transfers or other transactions were transactions which purportedly limit the scope of a rehabilitation project for the purpose of review by the Secretary without substantially altering beneficial ownership or control of the property. The fact that a property may still qualify as a certified historic structure after having undergone inappropriate rehabilitation, construction or demolition work does not preclude the Secretary or the Internal Revenue Service from determining that such inappropriate work is part of the rehabilitation project to be reviewed by the Secretary.*” Consequently, all work in the space now leased by the bank falls within the review authority of TPS and I concur with TPS that the completed work is not consistent with the proposed work as described in the approved Part 2 application and subsequent amendments and does not meet the Standards.

In my review, I considered whether the remedial work you completed in the unleased commercial space was sufficient to bring that space into compliance with the Standards. I determined that if the exposed plumbing piping in the unleased commercial space was the only denial issue, that small amount of inappropriate work was not sufficient by itself to cause the overall project to fail to meet the Standards. However, that is not the case because of the more extensive changes made in the bank-leased space. In fact, unlike the unleased commercial space interior shown in the Part 3 photographs, there are no visible historic features remaining anywhere within the bank’s remodeled interior.

Regarding the completed interior of the bank, the dropped ceiling covers all of the decorative plasterwork of the column capitals, frieze, beams, and strapwork ceiling. The plumbing pipes for apartments 211,

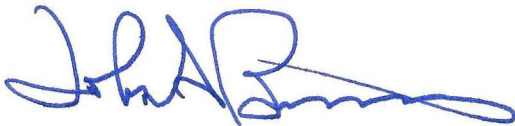
212, 213, and 214 penetrate the ceiling and run below and across the decorative plasterwork. The oak paneling on four freestanding columns is covered by drywall and the engaged columns along the interior wall are covered. In addition, the large glazed openings into the building's rear entrance have been reduced in size. Lastly, the spatial character of the formerly open space was compromised by constructing offices and conference rooms along the exterior wall on DeBaliviere Avenue, cutting off light to the interior of the space, and by floor-to-ceiling partitions, which cut off the historically-open views of the expanse of the decorative ceiling. Collectively, these changes to the primary character-defining interior of the first-floor commercial space violate Standards 2 and 5. 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.*"

Further, although TPS did not specifically object to subdividing the first-floor commercial space, I have determined that the floor-to-ceiling demising wall cuts off the historically open views of the expanse of the decorative ceiling and compromises the spatial character of the space. 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)]. It may have been possible to construct a solid wall the same height as the partition walls existing prior to the rehabilitation, and clear glazing from that height up to the underside of the beam above. That could have preserved views of the open expanse of the ceiling and a sense of its original spatial character from both subdivided spaces. However, as constructed, the solid demising wall violates Standard 2.

Consequently, I find that overall impact of the completed rehabilitation of the Dorr-Zeller Building has severely compromised the historic character of the primary historic character-defining interior feature of the property and thus fails to meet the Standards. I hereby affirm TPS's February 3, 2020 Decision.

As Department of the Interior regulations state, my decision is the final administrative decision with respect to the February 3, 2020 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: MO SHPO
IRS