



United States Department of the Interior



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

September 29, 2023

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

PROPERTY: Carriage House, 264 & 270 South County Road, Palm Beach, FL
PROJECT NUMBER: 43246 & 43248, Part 2
APPEAL NUMBER: 1666 & 1667
ACTION: Final Administrative Decision

Dear [REDACTED]

I have concluded my review of your appeal of the December 12, 2022 Decision of Technical Preservation Services (TPS), National Park Service, denying certification of the Part 2 – Description of Rehabilitation application 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 and your representatives, [REDACTED]

[REDACTED] for meeting with me via videoconference on April 20, 2023, 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 proposed rehabilitation of the Carriage House, which includes both 264 and 270 South County Road, is not consistent with the historic character of the properties and that the rehabilitation of the 264 and 270 buildings do not meet the Secretary of the Interior's Standards for Rehabilitation (the Standards). I hereby affirm the denial of certification of the Part 2 – Description of Rehabilitation applications and Amendment #1 issued in the TPS Decision of December 12, 2022.

Building 264 (264 South County Road) is primarily a one-story building with a small, two-story portion to the north with one-and-a-half-story wings. It was constructed in 1930 as the office for EF Hutton and designed by noted Florida architect Addison Mizner. Mizner's distinct style can be seen in the materials and finishes that remained throughout the building including such character-defining features as the ashlar Coquina stone walls, architectural tile cornices, carved stone window surrounds, barrel tile hipped roofs, carved stone fireplace mantels, columns with scrollwork brackets, historic windows, a beamed ceiling, a Coquina staircase, and wood paneled walls and doors. Although the building had undergone alterations to accommodate retail spaces and a restaurant, TPS noted in their Denial Decision, that most of these

character-defining features remained intact at the start of the project. Building 270 (270 South County Road) was originally constructed in 1925 as a Federal Savings and Loan bank. It is two-stories in height with a front facing gable along South County Road, built with a stuccoed exterior finish, decorative arched door openings, and prominent dormer windows. Other significant character defining features include barrel tile roofs, stone window and door surrounds, a blind courtyard arcade, an exterior stucco stairway, a screened-in porch, a second-floor gallery/porch with exposed wooden beams and decorative scrolled brackets, historic tile work along the interior arched niches and stairs, historic fireplace mantles, exposed wood-beam ceilings, historic wooden floors, plaster walls, and a built-in fountain in the upstairs porch area. Again, TPS noted in their review and in their Denial Decision that most of these character-defining features remained intact at the start of the project.

Both buildings at 264 and 270 South County Road are contributing resources within the Phipps Plaza locally designated historic district and currently being proposed to be listed on the National Register of Historic Places under Criteria A (Community Planning and Development) and C (distinctive architectural significance) with a period of significance of 1925-1949. As stated, Building 264, constructed in 1930, was designed by master architect Addison Mizner, a nationally recognized architect. Building 270 was constructed in 1925 as a Federal Savings and Loan Bank and received extensive renovation by local Palm Beach architect, John Volk, who expanded the building's Mediterranean Revival design in the 1940's.

The TPS December 12, 2022 Denial Decision describes the status of the project work and confirms the rehabilitation work on the two buildings was complete at the time of their review and that the project had indeed substantially altered and/or removed significant character defining features within the interior of the buildings. TPS states: *"As completed, the remaining interior historic features, finishes, materials, and spaces that characterized the Mediterranean Revival style of these buildings had been permanently destroyed and/or entirely covered over with very modern and contemporary materials throughout Buildings 264 and 270. Additionally, these new interior features and treatments are starkly different and not compatible with the historic character of the properties. Lastly, the historic stone window and door openings on Building 264's south courtyard elevation had been altered and infilled on what is an important elevation of the building."*

My review of the project appeal began with the review of the project files, including the pre-rehabilitation photos, correspondence with and between the SHPO, owner and TPS. I carefully reviewed the appeal presentation itself, which included both pre-rehabilitation and post-rehabilitation photos, the project timeline, the building history, the proposed floor plans as well as my own notes taken during the appeal presentation. It was clear from the appeal presentation that great effort was expended in engagement with the local community as well as city officials to accommodate local concerns, including both programmatic and code issues. It was stated numerous times during the appeal that *"requirements from local code officials required programmatic changes to the entryway and courtyard, which resulted in interior floor plan changes."* Although I respect the opinion and requirements of the local officials and community planners, I note that Part 67 of the federal historic tax credit regulations state that, *"Prior approval of a project by Federal, State, and local agencies and organizations does not ensure certification by the Secretary for Federal tax purposes. 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 CFR § 67.7(e).] Accordingly, for the reasons set forth above, decisions by the local building officials or the local planning commission in regard to their directives for altering the front entry and courtyard areas (and subsequent floor plan changes) did not enter into my decision. I, therefore, concur with TPS that the Standards take precedence over other regulations and code requirements in

regard to these alterations; and thus, the project does not meet 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.”*

You noted in your appeal presentation that the Florida State Historic Preservation Office supported the rehabilitation work (with stipulations) regarding Building 264. The National Park Service does consult with State Historic Preservation Offices, which provide initial review of proposed projects, but NPS is not bound by SHPO recommendations. Regulations state that, *“Recommendations of States with approved State programs are generally followed, but by law, all certification decisions are made by the Secretary, based upon professional review of the application and related information. The decision of the Secretary may differ from the recommendation of the SHPO.”* [36 C.F.R. § 67.1].

In my review, I considered Standard 2, which 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.”* Demolishing most interior features of both Building 264 and Building 270 clearly violates this requirement. 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)]. While certain aspects of the exterior of the buildings received treatments more in keeping with the Standards, the wholesale removal of historic character-defining features on the interior cannot be overlooked.

I also considered Standard 5, which states, *“Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.”* The removal of such features within Building 264 such as the first-floor wooden columns, brackets, the pecky cypress ceiling beams, wood paneling, and the subsequent relocation of the decorative stone fireplace and alteration of the front entry and courtyard windows are not in accordance with Standards 2 and 5. Furthermore, the removal of significant character features within Building 270 such as the wooden beams/ceilings, decorative scrolled brackets, historic floor tile, decorative ceramic tilework along interior niches, exposed rafters, wood flooring, plasterwork, and the decorative tiled fountain within the screened-in porch likewise are not in keeping with Standards 2 and 5.

In the appeal presentation, you indicated that the interior demolition for the project did not destroy historic features or finishes, because many of those features were non-historic, such as columns, brackets, moldings, pecky cypress beams and ceilings. However, TPS indicated that on several occasions during the project review process, additional documentation had been requested regarding the question of whether numerous architectural features and finishes were indeed historic. TPS stated in their Denial Decision letter that *“additional documentation concerning whether some of these interior features are indeed outside the period of significance and not historic, as you contend, was not provided.”* TPS goes on to state, *“based on the submitted photographs, these features all appear to be historic and are consistent with the property type, style, and period of the building. Features such as the fountain on the second-floor gallery/porch of Building 270 appear to have been original or added during the period of significance and are distinctive historic features that contribute to the historic character of the property.... The wood paneling on the first floor of Building 264, without additional information to the contrary, could very well be from the period, and the columns and beamed ceiling are consistent with the period of significance.”* The regulations state, *“In all cases, documentation, including photographs adequate to document the appearance of the structure(s), both on the exterior and on the interior, and its site and environment prior to rehabilitation must accompany the application.... Where necessary documentation is not provided, review and evaluation may not be completed, and a denial of certification*

will be issued on the basis of lack of information.” [36 C.F.R. 67.6(a)(1)]. Based upon the project file, the photographs, as well as the information presented at the appeal meeting; I agree with TPS to deny the project based upon lack of information relating to the removal of historically significant character defining features, finishes, and materials. The wholesale removal of these interior character-defining features from both buildings, rather than preserving and/or repairing them violates Standards 2 and 5.

Additionally, with regard to the demolition of the interiors, I considered the preamble to the Standards in the regulations which states that, *“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)]. Thus, the treatments of interior and exterior features are given equal weight in assessing compliance with the Standards. Demolishing nearly all interior features clearly contravenes this requirement.

Lastly, 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.”* I concur with TPS in their assessment that no documentation was provided to demonstrate interior features being removed (or altered) were deteriorated or beyond repair. I also agree that the contemporary finishes and materials installed as part of the rehabilitation project are incompatible with the historic character that defined each building prior to the rehabilitation and thus contravenes Standard 6.

In summary, I find that the proposed rehabilitation does not meet Standards 1, 2, 5, and 6 of the Secretary of the Interior's Standards for Rehabilitation due to the demolition of character-defining interior spaces, features, and materials throughout the two buildings. Accordingly, I affirm the Part 2 denial of certification issued by TPS in its December 12, 2022 Decision.

As Department of the Interior regulations state, my decision is the final administrative decision with respect to the December 12, 2022 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,

**Michael W
Miller**

Digitally signed by
Michael W Miller
Date: 2023.09.29
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Michael W. Miller, AIA
Bureau Historical Architect & Chief Appeals Officer
Cultural Resources

cc: SHPO-FL
IRS