

FINDINGS AND RECOMMENDATIONS  
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Recommendation of  
the Landmarks Preservation Board for

FIRST COVENANT CHURCH

FILE NO. LP-81-002

Introduction

The Landmarks Preservation Board (Board) filed its Recommendations on Controls and Incentives with the Hearing Examiner pursuant to Section 25.12.530, Seattle Municipal Code, for the First Covenant Church, located at 1500 Bellevue Avenue.

A hearing was held on this matter June 3, 1981. The property owner was represented by A.T. Wendells, Wendells, Froelich, Power and Lakefish; the Board by Assistant City Attorney James Fearn, Jr.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this recommendation.

Findings of Fact

1. The subject property, the First Covenant Church, is located at 1500 Bellevue Avenue. The legal description is: Twelfth Avenue Replat, Block 7, Lots 6 and 7.

2. The church building, designed by John Creutzer, was erected in 1910-11. Located just above the bend in Pike Street, First Hill, the building features a ribbed dome, crowning cupola, and other distinguishing features.

3. By document of November 19, 1980, amended November 25, 1980, the Landmarks Preservation Board recommended designation of the church as a landmark based on the following code criterion:

It embodies the distinctive visible characteristics of an architectural style, or period, or of a method of construction. Section 25.12.350(D), Seattle Municipal Code.

The supporting analysis characterized the building as an "architecturally distinguished structure which embodies a classical design reminiscent of the northern renaissance." Board's Exhibit 2.

4. In addition, the Staff Recommendation determined that the "readily identifiable structure" contrasted sharply with the prevailing vicinity area flat roof forms; that its prominent siting on the north shoulder of First Hill just above a bend in Pike Street terminated an important visual corridor; and that the building represented "a conspicuous feature of the First Hill skyline when viewed from the Denny Regrade." The following ordinance criterion was deemed satisfied:

Because of its prominence of spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the city and contributes to the distinctive quality or identity of such neighborhood or the city.  
Section 25.12.350 (F), Seattle Municipal Code.

5. The Notice of Report on Designation, issued January 21, 1981, stated that as to the features/characteristics to be preserved, the entire exterior of the church building should be preserved based on the criterion concerning spatial location, siting, scale:

Because of its prominent siting and distinctive form the church contributes positively to the character and identity of the area.

6. The Staff Recommendation on Landmark Controls and Incentives was issued April 21, 1981, "To assure preservation of the specified features and characteristics of the...landmark", the Recommendations required a Landmarks Board Certificate of Approval before "alterations or significant changes to the exterior of the building where the changes would require application for a Building Permit." (Board's Exhibit 2.)

7. The Recommendation included provisos excluding in kind maintenance and repair and excluding liturgically necessary changes, so long as the owner communicates the nature of the proposed change for Board comment, and the Board and owner jointly explore alternative design features as appropriate. And, "if required the Board shall issue a Certificate of Approval."

8. In the Staff Recommendation for Designation, it was noted that the church entrance configuration had been altered in recent years with the closure of the "original entrance portals at the Pike Street facade." In point of fact the church has undergone two major remodelings, one in approximately 1948 and the other in 1970. The latter involved the complete change of the church's entrance way. Three of the prior four heavy wooden door entrances were eliminated in favor of a more open, translucent material.

9. The owner consistently objected to the designation and to the controls, citing concerns with the additional bureaucracy; with constitutionality of the Landmarks Ordinance; with the Board's failure to specify features to be preserved; and with the fact that the present building appearance is much different from the original architecture. Negotiations failed and the issue of controls and incentives was referred to the Hearing Examiner for recommendation to the Seattle City Council.

#### Conclusions

1. The Hearing Examiner may not recommend any control that is not set forth with adequate specificity or that is inconsistent with the Ordinance. Additionally, no control for which the reason or need is not established with respect to the specific features/characteristics of a site may be recommended; neither use restrictions nor restrictions that prevent the owner from realizing a reasonable return on the site. Section 25.12.570, Seattle Municipal Code.

2. Neither the Ordinance constitutionality (separation of church and state; equal protection; unjust deprivation of property by the government) nor the designation is a proper subject of the Examiner's decision.

On the basis of all the evidence presented, the Hearing Examiner shall determine whether to recommend all or any of the proposed controls and incentives, and/or whether to recommend a modified version of any of the proposed controls or incentives (emphasis added). Section 25.12.570, Seattle Municipal Code.

3. The control on the entire exterior of the building is adequately specific. It is reasonably clear that no exterior changes may be effected without Board approval, provisos excluded.

4. The effect of the controls is not to require a particular use. Although the building design was for a church, no provision restricts buildings erected as churches to church use. Preservation of the edifice does not require preservation of its existing use.

5. Nor do the additional administrative requirements for certain exterior alterations so hamper the structure that the building is limited to church use.

6. The remaining issue is whether the reason and need for the controls with respect to certain features of the site is established. While it could be urged that since the ultimate Designation criterion was spatial siting - and not architectural style, as originally recommended - controls on the exterior should be of a diminished concern. This suggestion, however, ignores the practical considerations and thrust of the ordinance. The exterior of the building contributes to its serving as "an easily identifiable visual feature of its neighborhood." Therefore, although the architectural criterion was not final, the one selected generally supports the need for controls on the building exterior.

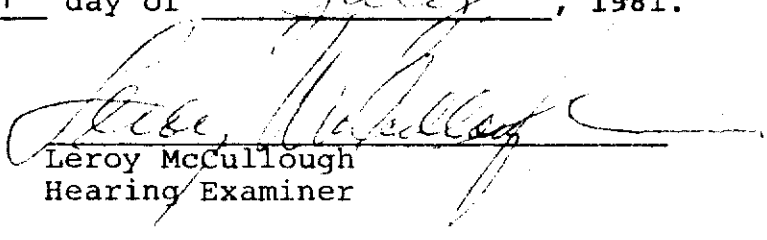
7. The entire building exterior, the "specific feature(s)" to be preserved, is prominently sited. Without controls, the specific feature could be destroyed or significantly altered such that the building-community nexus would be nonexistent.

8. However, the ordinance policy is to prevent the "unnecessary destruction or defacement of (such) cultural assets." Section 25.12.020, Seattle Municipal Code. We question whether the exterior changes necessitated by liturgy are tantamount to Ordinance envisioned "unnecessary destruction or defacement". Accordingly, the recommendation of the Hearing Examiner to the City Council is as follows:

#### Recommendation

To assure preservation of the specified features and characteristics of the above designated Seattle Landmark, a Certificate of Approval issued by the Landmarks Board must be obtained, or the time for denying a Certificate of Approval must have expired, before the owner may make alterations or significant changes to the exterior of the building where those changes would require application for a Building Permit, provided that all in kind maintenance and repair and changes necessitated by changes in liturgy of the above features and characteristics shall be excluded from the Certificate of Approval requirements.

Entered this 2nd day of July, 1981.

  
Leroy McCullough  
Hearing Examiner

NOTICE OF RIGHT TO PETITION  
FOR FURTHER CONSIDERATION

Pursuant to 24.72.090, Seattle Municipal Code, Section 27.51 of the Zoning Ordinance 86300, as amended, any party affected by a recommendation of the Hearing Examiner may submit a petition in writing to the City Council requesting further consideration. The petition must be submitted within fourteen days after the date of mailing the recommendation of the Hearing Examiner and must be addressed to: City Council, Urban Development and Housing Committee, Municipal Building, Seattle, Washington 98104.

The petition should state clearly and concisely the reason(s) why further consideration is necessary, and should refer specifically to any errors alleged to exist in the Hearing Examiner's Findings and Conclusions. The City Council's consideration of the petition will be based upon the record of the Hearing Examiner's hearing, and new exhibits or other evidence in support of the petition should not be submitted. The Council, in its discretion, may allow oral or written arguments based on the record when it considers the petition.