

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF ADJUDICATION
941 North Capitol Street, N.E., Suite #9100
Washington, D.C. 20002**

IN THE MATTER OF:

**CALVARY BAPTIST CHURCH
Lots 18, 19, 803, 835 in Square 429
711-724 Eighth Street, N.W.
Washington, D.C.**

H.P.A. Nos. 00-601, 01-044

DECISION AND ORDER

Jurisdiction

This matter came before Rohulamin Quander, Administrative Law Judge and Mayor's Agent for Historic Preservation (The Mayor's Agent) on March 6, 2001, pursuant to the D.C. Administrative Procedure Act, codified at D.C. Code, Sec. 1-1509 *et seq.*, and the D.C. Historic Landmark and Historic District Protection Act of 1978 (the Act), D.C. Law 2-144, codified at D.C. Code, Sec. 5-1001, *et seq.*, and upon a request for an administrative hearing filed by the Calvary Baptist Church, hereinafter collectively referred to as the "Applicant".

Background

The hearing was conducted pursuant to the provisions of Title 10 of the District of Columbia Municipal Regulations (DCMR), Chapter 25. The record closed on March 30, 2001, upon receipt of a proposed findings of fact and final order, submitted by Norman M. Glasgow, Jr., Esquire, and Dennis R. Hughes, Esquire, Holland and Knight, LLP, the Applicant's co-counsel.

Calvary Baptist Church and Congregation, Inc. and the Calvary Baptist Church Extension Association (the Applicant) own Lots 18, 19, 803 and 835 (the Subject Property) in the western half of Square 429 in downtown Washington, D.C. The Subject Property is located within the Downtown Historic District, a locally designated historic district that is eligible for listing in the National Register of Historic Places. The Subject Property is improved with the Calvary Baptist Church (the Church), 711-725 Eighth Street, NW, at the southeast corner of Eighth and H Streets, NW, which includes the original sanctuary and three expansion buildings – the Woodward Hall, the Greene Memorial Building and the Abernathy Building - extending south along Eighth Street, NW.

Pursuant to the Act, the Applicant seeks approval to subdivide the above-referenced four lots into a single lot of record, and to partially demolish the Church's Greene Memorial Building addition, which was determined by the Historic Preservation Review Board (HPRB, or the Board) at its September 28, 2000, public meeting to contribute to the character of the Downtown Historic District.¹

The partial demolition permit will allow mixed-use new construction adjoining the Church buildings on the Subject Property. The proposed subdivision to create a single lot of record is required in order to obtain a building permit for this project. The Trammell Crow Company (the Developer) will

¹ In addition, the Abernathy Building was deemed a non-contributing building by the Board at its September 28, 2000, meeting and may be demolished as a matter of right without the necessity of a public hearing by the Mayor's Agent.

undertake the new construction, along with efforts to restore the exterior of the Church.

Pursuant to D.C. Code §5-1004(c), Demolitions, and §5-1006(c), Subdivisions, a public hearing was held on March 6, 2001, before the Mayor's Agent for D.C. Law 2-144. Notice of the public hearing was published in the D.C. Register on November 24, 2000, and on January 26, 2001.

In addition to providing a comprehensive pre-hearing written submission, the Applicant presented six witnesses in support of its applications, including: Aldon Nielson, representing Calvary; Jeff Sherman, representing the Developer; Anne H. Adams of Shaw Pittman, expert in architectural history and historic preservation; Michael Winstanley, AIA, of Leo A Daly Architects, as project architect and expert in architecture and preservation architecture; Randy Granzow, PE, of Haynes Whaley Associates, Inc., as an expert in structural engineering; and Steven E. Sher, Director of Zoning and Land Use Services for Holland & Knight LLP, as an expert in planning and land use.

The Mayor's Agent also received testimony from Steven Raiche and David Maloney, both from the D.C. Office of Planning's Historic Preservation Division. The record was left open until March 15, 2001, to receive a written testimony statement from the Office of Planning concerning the applications, and until March 19, 2001, for any response. The record closed on March 30, 2001, upon receipt of the Applicant's proposed final order. There were no parties or persons in opposition to the applications. For the reasons that follow, the applications for a subdivision and for partial demolition are **GRANTED**.

ISSUE

The two issues to be decided are: 1) whether the proposed subdivision and partial demolition are necessary in the public interest in order to allow for the construction of a project of special merit; and, 2) whether the proposed subdivision and partial demolition are consistent with the purposes of the preservation law.

FINDINGS OF FACT

Based upon the total record created during the administrative hearing, the Mayor's Agent now makes the following Findings of Fact:

1. The Applicant's proposed project has three recited objectives: a) restoration and expansion of the Church's facilities; b) restoration of important historic building elements to the Church building; and c) construction of an economically viable office building.

2. The subject property is located within the Downtown Historic District, which generally centers along F Street, NW, between 11th and Seventh Streets, N.W, and along Seventh Street, NW, between Pennsylvania Avenue and Mount Vernon Square. The Church stands surrounded by commercial and institutional activity, including PEPCO, the MCI Center, a booming Chinatown precinct, Techworld, the U.S. Mint Headquarters, and various other new office buildings. As well, there are monumental public buildings including the National Portrait Gallery/Museum of American Art located in the Old Patent Office.

3. These public buildings are in a variety of styles, shapes and sizes, and line the various commercial streets within the historic district and reflect the

growth and development of downtown. When nominating the Downtown Historic District to the National Register of Historic Places, the Joint Committee on Landmarks specifically noted that the pressed brick Gothic style of the church building maintains a commanding presence along the Eighth Street vista between the Old Patent Office and Mount Vernon Square.

4. In August 2000, the Applicant filed applications with the Permit Information Branch of the D.C. Department of Consumer and Regulatory Affairs (DCRA) seeking permits to demolish the Abernathy Building and to partially demolish the Greene Memorial Building, located at 711 and 723 Eighth Street, NW, respectively. Pursuant to §5-1004 of the D.C. Code, the applications for demolition permits were referred to and reviewed by the HPRB. At its September 28, 2000, meeting, the HPRB determined that the Abernathy Building did not contribute to the Downtown Historic District, and that the partial demolition of the Greene Memorial Building was not consistent with the purposes of the Act. The partial demolition application, HPA No. 00-601, was then forwarded to the Mayor's Agent for consideration at a public hearing pursuant to §5-1004 of the D.C. Code.

5. In October 2000, the Applicant filed an application for HPRB review of a subdivision to consolidate Lots 18, 19, 803 and 835 in Square 429 into a single lot of record. The HPRB, reviewing the application for subdivision, HPA No. 01-044, at its November 16, 2000, meeting, adopted its Staff Report and Recommendation on the subdivision, including the Staff recommendation that the HPRB defer consideration of the subdivision until such time as conceptual plans

for the proposed new construction were submitted for the Board's review. Pursuant to §5-1006, the subdivision application was forwarded to the Mayor's Agent for consideration at a public hearing.

6. The Applicant subsequently filed application for HPRB conceptual design review of its proposed new construction. The HPRB reviewed the application, HPA No. 01-101, at its December 14, 2000, public meeting and requested that the Applicant further study the massing and height of the proposed new construction. The Board also requested information regarding the Applicant's restoration proposal for the exterior of the Church building.

7. The Applicant returned to the Board at its February 22, 2001, public meeting with revised conceptual design drawings. There, the Board approved the Staff recommendation noting that "... the exterior restoration of Calvary Church to its historic appearance would constitute an unusual and substantial historic preservation accomplishment with clear benefits to the public at large and a direct relation to the public interest in perpetuating, enhancing, and promoting appreciation of the city's prime cultural assets."

8. At its February 22, 2001, public meeting, the HPRB also specifically found that the bulk, height, size and massing of the revised concept design were acceptable, and adopted the Staff report, which stated that the revised conceptual plans, with "appropriate further redesign undertaken in consultation with the Board, are compatible with the character of the Downtown Historic District," in the event the Mayor's Agent finds partial demolition of the Greene Memorial Building necessary in the public interest. The Board also

recommended to the Mayor's Agent that the proposed subdivision of the property into a single record lot is appropriate were the Mayor's Agent to approve the requested partial demolition.

9. Calvary Baptist Church was originally constructed between 1864 and 1869 in the Gothic Revival style, under the direction of prominent Washington architect Adolph Kluss. The Church was expanded in 1894, with the construction of Woodward Hall, fronting Eighth Street, N.W., to the south of the original Church, and further expanded in the 1920s, with the construction of the Greene Memorial Building, to the south of Woodward Hall. The Church was once again enlarged in 1960 to the south along Eighth Street, N.W., with the construction of the Abernathy Building. Further south of the Abernathy Building, towards the intersection of Eighth and G Streets, are vacant lots, totaling approximately 7,800 square feet in area, currently used for vehicular parking lot.

10. The Calvary Baptist Church building has generally withstood this encroachment on the historic district, and now provides a unique opportunity for restoration to its original appearance, an important component of the historic district, and thereby to reinforce the historical importance of this area.

11. Calvary has adapted to and taken a leading role in this increasingly developed community in providing outreach, including daily counseling and assistance, and extending its ministry to include those who are the most economically deprived, i.e., the homeless and working poor. Calvary also enriches the lives of young people through a variety of community programs, including on-site day-care, after-school tutoring and enrichment programs, day

and summer camps, and organized recreation. Such activities, funded by the congregation, are specific to this Church and to this building, and are not part of an overall denominational program.

12. The Applicant has developed significant financial needs resulting from its attempts to maintain the Church while at the same time providing its numerous community services. Calvary has utilized the benefits provided for historic churches in the Downtown Development overlay by selling its unutilized development rights in order to generate funds needed to undertake renovation and restoration of its sanctuary. As Calvary's financial burdens have continued to intensify, it has negotiated a sale of land and development rights for a portion of its property along Eighth Street, N.W., which sale allows for development of the proposed project, including the restoration and updating of space for Church use. The development rights require the subdivision to be recorded.

13. The Applicant also seeks to improve and modernize its meeting, office, parking and recreation spaces, which at present are functionally obsolete in terms of its building systems, and do not meet current building or safety codes, due to their cramped configuration and antiquated mechanical systems. Further, the office and meeting spaces currently available in the Greene and Abernathy Buildings are inefficient and programmatically ill configured for Calvary's present and future needs.

14. According to engineering reports and sworn testimony, the Greene Memorial Building has insufficient load capacity to permit additional levels, and it is infeasible to install the necessary life safety, building systems and egress

improvements, reconfigured meeting and office spaces, and assembly space within the existing structure, without significant demolition, structural reinforcement, and extensive reconfiguration of the existing structure.

15. As part of the proposed project, the redeveloped Greene Memorial Building will contain four floors above and below-grade levels for Church use, totaling approximately 78,000-86,000 square feet of modern, code compliant space tailored to the Church's present needs. An auditorium will be located within this space, which will serve as multi-function assembly space and recreation space. Although as currently configured, the Greene and Abernathy Buildings contain approximately 86,000 square feet of space for the Church's use, most of this space is inefficient, and in some cases grossly limited use, inconsistent with the Applicant's long term plans.

16. Important historic preservation goals will be accomplished as a result of this redevelopment project. The Applicant will be undertaking an ambitious scope of work at the Church to restore 11 major items, primarily exterior elements of the original building that have been lost over the course of the Church's history, including its spire, which once towered over the neighborhood, and numerous decorative features. The soaring spire will recapture the verticality of the building's original design, and will reestablish the Church as the primary visual landmark in this neighborhood. Roof cresting, decorative finials and turrets, and signage are other aspects of the Church's restoration effort. Additionally, the facade of the Greene Building will be restored as part of this project.

17. The scope of restoration work is estimated to cost approximately \$1.3 million, which proceeds the Church has agreed to set aside from the funds to be realized by the sale of the remaining development rights, and dedicated to the restoration effort at the Church.

18. The proposed project furthers a number of the District's land planning objectives, as set forth in its Comprehensive Plan, 10 DCMR 1-19, (the Plan), particularly the Downtown, Land Use, and Preservation and Historic Features elements.

19. In the Downtown element of the Plan, specific provision is made that "[s]ocial programs should accompany the increased Downtown growth," and that, "[s]pecial emphasis is needed to address the problems of Downtown homeless and transient people." 10 DCMR §900.22. The Applicant is furthering this District goal, and requires updated and more efficient space in order to accomplish this undertaking, and provide the numerous other community activity programs in which it is regularly involved.

20. The proposed project is consistent with the provisions of the Plan's Preservation and Historic Features element. Section 835.11 of the Plan provides that demolition of contributing structures in historic districts should only be permitted on certain occasions, including those instances where the project has been determined to include the undertaking of a project of special merit. Further, §835.1 states, "[i]f the original use or reasonable intensification of the original use is no longer feasible, appropriate adaptive uses consistent with applicable land

use regulation should be encouraged.” The Applicant demonstrated that its project adheres to these goals of the Plan.

21. The Applicant's restoration efforts further the objectives of §835.15 of the Plan, which states, “[t]he distinguishing original quality or character of historic properties should be protected. The removal or alteration of any historically valuable material or distinctive architectural features should be avoided when possible and kept to a minimum when required for continued use.”

22. In its post hearing submission, the D.C. Office of Planning determined that "the proposed restoration of the landmark Calvary Baptist Church building project is in harmony with the historic preservation element of the Comprehensive Plan, and therefore the land use planning objectives for the city, and merits approval." (OP written testimony, at pg.3). Further, OP "concur[red] with the assessment of the Historic Preservation Review Board on the public benefit of restoring the historic appearance of the Calvary Baptist Church." (OP written testimony, Pg. 1).

23. The Applicant responded to OP's post hearing submission by letter dated March 19, 2001, specifically agreeing with OP's suggestion that the Mayor's Agent approve the applications and, should complications arise over the completion of the scope of work, re-open the proceedings at such time to hear testimony regarding how to resolve those complications. (Applicant's response, Pg. 2).

24. Advisory Neighborhood Commission (ANC) 2C voted unanimously (4-0) to support the project at its December 6, 2000, public meeting and submitted to the record a letter of support dated December 15, 2000.

25. There were no parties or persons in opposition to this application.

DISCUSSION

Jurisdiction

Pursuant to Administrative Issuance Number 2-54A, dated July 18, 1991, the undersigned is delegated the legal authority to conduct hearings as the Mayor's Agent for Historic Preservation under §§5 through 9, 12, and 13 of D.C. Law 2-144.

Pursuant to D.C. Code §5-1004, before the Mayor (or the Mayor's Agent) may issue a permit to demolish a historic landmark or a building or structure in a historic district, the Mayor shall review the permit application in accordance with D.C. Code §5-1004, which provides in pertinent part that the "Mayor shall after a public hearing, make the finding required by subsection (e) of this section ...". D.C. Code §5-1004(c). Section 5-1004(e) states that "[n]o permit shall be issued unless the Mayor finds that issuance of the permit is necessary in the public interest ...".

Pursuant to D.C. Code §5-1006, before the Mayor may admit to record any subdivision (including assemblage of lots) of a historic landmark or of a property in a historic district, the Mayor shall review the application for admission to record in accordance with D.C. Code §5-1006, which provides in pertinent part that the "Mayor shall after a public hearing, make the finding required by

subsection (e) of this section ..." D.C. Code §5-1006(c). Section 5-1006(e) states that "[n]o subdivision subject to this subchapter shall be admitted to record unless the Mayor finds that admission to record is necessary in the public interest ..."

Necessary in the Public Interest

The standard for review of a permit for demolition in a historic district is D.C. Code §5-1004(e), which requires that no permit shall be issued unless the Mayor finds that issuance of the permit is necessary in the public interest, or that failure to issue a permit will result in unreasonable economic hardship to the owner. As well, the standard for granting enrollment on the record as a subdivision under the Act is identical to the standard for the demolition permit.

In §5-1002(10) of the D.C. Code, "necessary in the public interest" is defined as either consistent with the purposes of the preservation law or "necessary to allow the construction of a project of special merit." For purposes of the Act, "special merit" is defined as "a plan or building having significant benefits to the District of Columbia or to the community by virtue of exemplary architecture, specific features of land planning, or social or other benefits having a high priority for community services." D.C. Code §5-1002(11).

The proposed project is consistent with the purposes of the Act, as it involves significant exterior restoration of the Calvary Church building to its historic appearance, which the HPRB specifically determined on February 22, 2001, when it stated that the project would " . . . constitute an unusual and substantial historic preservation accomplishment with clear benefits to the public

at large and a direct relation to the public interest in perpetuating, enhancing, and promoting appreciation of the city's prime cultural assets." The positive impact of this restoration effort would be exceptional and beyond what would otherwise be required or attainable.

The proposed project will provide significant benefits to the District of Columbia and to the community by virtue of social and other benefits having a high priority for community services enumerated in the above-referred Findings of Fact, and specific features of land planning. These features of the project establish the special merit necessary for the issuance of the required permit for partial demolition and the approval of the recordation of the required subdivision.

In those instances in which the Mayor's Agent finds that demolition is necessary to allow the construction of a project of special merit, no demolition or subdivision permit shall be issued unless a permit for new construction is issued simultaneously under D.C. Code §5-1007 and the owner demonstrates the ability to complete the project. D.C. Code §§5-1004(h), 5-1006(g). Based upon the information presented, the Mayor's Agent is of the opinion that there is reasonable expectation that the Applicant possesses sufficient financial ability and other expertise to complete the project.

CONCLUSIONS OF LAW

Based upon the record as established and taken as a whole, including the foregoing Findings of Fact, the following Conclusions of Law are made:

1. The Mayor's Agent concludes that the Applicant in the instant case has sustained its burden of proof. The partial demolition of the Greene Building

(HPA No. 00-601) and the subdivision (HPA No. 01-044) are necessary to allow for the construction of a project of special merit, which is, with respect to the bulk, height, size, massing and general concept of the new construction and the restoration of the Church and the Greene Building facade, reflected in HPA No. 01-101, as presented to the HPRB at its February 22, 2001, meeting, and thus necessary in the public interest.

2. The Mayor's Agent further concludes that the Applicant in the instant case has sustained its burden of proof, in that the preservation benefit resulting from the restoration of the Calvary Church as presented to the Mayor's Agent would be exceptional and beyond what would otherwise be required or attainable, and that the approval of the partial demolition (HPA No. 00-601) and subdivision (HPA No. 01-044) is consistent with the purposes of the Act and, thus necessary in the public interest.

ORDER

ACCORDINGLY, it is this **20th day of April, 2001**,

ORDERED that HPA No. 01-044, for Subdivision of Lots 18, 19, 803 and 835 in Square 429, and HPA No. 00-601, for partial demolition of the Greene Memorial Building, be and same are hereby, **GRANTED**; and, it is

FURTHER ORDERED that, pursuant to D.C. Code §§5-1004(h) and 5-1006(g), no subdivision or demolition permits shall be issued unless a permit for new construction, including Church restoration, is issued simultaneously, and such permits should now be issued; and, it is

FURTHER ORDERED that, pursuant to D.C. Code §5-1012(a), this Decision and Order shall not become effective until fifteen (15) days after issuance.

**ROHULAMIN QUANDER,
ADMINISTRATIVE LAW JUDGE, AND
MAYOR'S AGENT FOR
HISTORIC PRESERVATION**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Decision & Order was served this 20th day of April, 2001, by mailing a copy of the same via U.S. Mail, postage prepaid, to the following persons:

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