



CITY COUNCIL TRANSMITTAL

  
Patrick Leary, Chief of Staff

Date Received: November 14, 2017  
Date sent to Council: November 20, 2017

TO: Salt Lake City Council  
Stan Penfold, Chair

DATE:

FROM: Mike Reberg, Community & Neighborhoods Director 

SUBJECT: Petition PLNPCM2009-00014 – Local Historic District Demolition & Economic Hardship Processes Text Amendment

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DOCUMENT TYPE: Ordinance

RECOMMENDATION: Adopt the amendments as recommended by the Historic Landmark Commission and the Planning Commission.

BUDGET IMPACT: None

BACKGROUND/DISCUSSION: In 2009, a petition was initiated to review the City's regulations for demolition of landmark sites and contributing buildings in local historic districts, and the associated economic hardship process. The proposed modifications to the zoning ordinance were in response to a 1999 petition for amendments requested by the Planning Commission, a 2004 legislative action, the 2008 Citygate study of planning processes, and issues identified in the Community Preservation Plan. Primary issues identified at that time regarding the demolition and economic hardship provisions of the ordinance were:

- Comments received during the development of the Community Preservation Plan suggested that the demolition provisions in the ordinance (including the economic hardship process) were too complex.
- The standards for determination of economic hardship did not contribute to a clear and consistent process for landowners and applicants.

- Difficulty in balancing the goals of historic preservation with other goals of the City.
- The economic hardship review panel's makeup of three people was/is difficult to achieve. The three person panel is supposed to consist of a representative of the HLC, a representative of the applicant and a third party neutral expert. It is difficult to find a third party that meets the qualifications and is also willing to volunteer their time to review large amounts of complicated documentation.
- The three person economic review panel was/is not a fair representation of either the applicant or the HLC, is a cumbersome process for everyone, and confusing to both the applicant and the public.

The petition was actively worked on by Planning Staff at that time and subsequently heard by the Historic Landmark Commission and the Planning Commission with positive recommendations given by both Commissions for City Council action. The petition was never transmitted to the City Council. The petition has remained in the Planning Division primarily due to the necessity to allocate time to other petitions and projects that were of greater priority.

In 2016, Mayor Biskupski initiated a petition to make recommendations for changes to the City's zoning ordinance regarding development standards and decision making processes within the H – Historic District Overlay. The proposed text changes are in direct response to the Mayor's petition initiation and have taken on priority status. At this time, due to recent intense interest in the overall historic landmark processes by the State legislature and recent requests for demolition of contributing structures in a couple of the City's local historic districts, it has become evident that the overall demolition and economic hardship processes remain confusing and need to be revised. Planning Staff has revised the ordinance to address concerns in order to render the demolition and economic hardship processes more transparent and user friendly.

**PUBLIC PROCESS:** The proposed ordinance has been developed through a collaborative effort involving a variety of groups. Public participation in the planning process to date includes the following:

- The Planning Division held an Open House on May 22, 2017. Three members of the public attended the Open House.
- The topic was placed on Open City Hall in early May 2017. Four written comments were received. These comments are included in the Historic Landmark Commission staff report dated July 6, 2017 (Exhibit 3B of the transmittal packet).
- The Historic Landmark Commission held a public hearing on July 6, 2017, and then again on August 3, 2017. Minutes from these hearings are included in the transmittal packet – Exhibits 3C & 3E.
- The Planning Commission held a public hearing on August 23, 2017. Minutes from this hearing are included in the transmittal packet – Exhibit 4B.

**Additional Ordinance Clarifications:**

This ordinance was prepared by merging amendments for the Demolition & Economic Hardship and new construction processes ( PLNPCM2016-00905) in the H Historic Preservation Overlay. These items should be heard by the City Council together.

The attorney's office prepared the ordinance in this manner to ensure prevention of text collisions between the two amendments which ran in parallel and involved substantial amendments to the same section.

After final review of the ordinance prior to transmittal to the City Council, Planning Staff identified additional changes necessary which are not substantive but that include errors or revisions that are suggested to City Council and reflected in the proposed Ordinance B. Ordinance B reflects the suggested changes and they are discussed below:

**1. No reuse plan needed****21A.34.020 F.2.d. Materials Submitted with Application**

**Issue:** The proposed changes to the demolition process no longer requires a "reuse plan" for the property as part of the evaluation of standards for the demolition of a contributing building (proposed ordinance 21A.34.020 K.1.e.). If demolition is approved through the demolition or economic hardship process, prior to the issuance of a certificate of appropriateness, the applicant will need to go through the "new construction process" and submit a new list of submittal requirements at that time.

**Ordinance A (incorrect) :**

Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

**Ordinance B (suggested change)**

~~Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.~~

**2. Deletion of superfluous language****21A.34.020 L.3.e Appeal**

**Issue:** The language should be simplified to refer to 21A.16 which describes appeal authorities in more detail.

**Ordinance A:**

- e. Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for

demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of Chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

**Ordinance B** (proposed change):

- e. Any owner adversely affected by a final decision of the historic landmark commission may appeal the decision in accordance with the provisions of Chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

**EXHIBITS:** Project Chronology  
Notice of Council Hearing  
Historic Landmark Commission  
    Newspaper Notice – June 24, 2017  
    Staff Report – July 6, 2017  
    Agenda & Minutes – July 6, 2017  
    Staff Report – August 3, 2017  
Planning Commission  
    Staff Report – August 23, 2017  
    Agenda & Minutes



SALT LAKE CITY ORDINANCE

No. \_\_\_\_ of 2017

(An ordinance amending Section 21A.34.020 of the *Salt Lake City Code* pertaining to demolition and new construction in the H Historic Preservation Overlay District)

An ordinance amending Section 21A.34.020 of the *Salt Lake City Code* pertaining to demolition of landmark sites and contributing buildings and structures in the H Historic Preservation Overlay District pursuant to Petition No. PLNPCM2009-00014 and standards for new construction in the H Historic Preservation Overlay District pursuant to Petition No. PLNPCM2016-00905.

WHEREAS, the Salt Lake City Historic Landmark Commission held a work session on June 1, 2017 and a public hearing on August 3, 2017 to consider petitions to amend various provisions of Section 21A.34.020 (Zoning: Overlay Districts: H Historic Preservation Overlay District) of the *Salt Lake City Code* to modify regulations pertaining to demolition of landmark sites and contributing building and structures in the H Historic Preservation Overlay District (Petition No. PLNPCM2009-00014) and regulations pertaining to new construction in the H Historic Preservation Overlay District (Petition No. PLNPCM2016-00905); and

WHEREAS, at its August 3, 2017 meeting, the historic landmark commission voted in favor of transmitting a positive recommendation to the Salt Lake City Planning Commission and Salt Lake City Council on said petitions; and

WHEREAS, the Salt Lake City Planning Commission held public hearings on July 12, 2017 and August 23, 2017 on said petitions; and

WHEREAS, at its August 23, 2017 meeting, the planning commission voted in favor of transmitting a positive recommendation to the city council on said petitions; and

WHEREAS, after a public hearing on this matter the city council has determined that adopting this ordinance is in the city's best interests.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the text of Salt Lake City Code Section 21A.34.020. That Section 21A.34.020 of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District), shall be and hereby is amended to read as follows:

**21A.34.020: H HISTORIC PRESERVATION OVERLAY DISTRICT:**

A. Purpose Statement: In order to contribute to the welfare, prosperity and education of the people of Salt Lake City, the purpose of the H ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District is to:

1. Provide the means to protect and preserve areas of the city and individual structures and sites having historic, architectural or cultural significance;
2. Encourage new development, redevelopment and the subdivision of lots in historic districts that is compatible with the character of existing development of historic districts or individual landmarks;
3. Abate the destruction and demolition of historic structures;
4. Implement adopted plans of the city related to historic preservation;
5. Foster civic pride in the history of Salt Lake City;
6. Protect and enhance the attraction of the city's historic landmarks and districts for tourists and visitors;
7. Foster economic development consistent with historic preservation; and
8. Encourage social, economic and environmental sustainability.

B. Definitions:

CONTRIBUTING STRUCTURE: A structure or site within the H ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District that meets the criteria outlined in subsection C<sub>15</sub> of this section and is of moderate importance to the city, state, region or nation because it imparts artistic, historic or cultural values. A contributing structure has its major character defining features intact and although minor alterations may have occurred they are generally reversible. Historic materials may have been covered but evidence indicates they are intact.

DEMOLITION: Any act or process which destroys a structure, object or property within

the H ~~h~~Historic p ~~P~~reservation o ~~O~~verlay d ~~D~~istrict or a landmark site. (See definition of Demolition, Partial.)

**DEMOLITION, PARTIAL:** Partial demolition includes any act which destroys a portion of a structure consisting of not more than twenty five percent (25%) of the floor area of the structure, and where the portion of the structure to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the historic period on any exterior elevation exceeding twenty five percent (25%) when the demolition is part of an act of restoring original historic elements of a structure and/or restoring a structure to its historical mass and size.

**DESIGN GUIDELINES:** The design guidelines provide guidance in determining the suitability and architectural compatibility of proposed maintenance, repair, alteration or new construction while at the same time, allowing for reasonable changes that meet current needs of properties located within the historic preservation overlay district. For architects, designers, contractors and property owners, they provide guidance in planning and designing future projects. For city staff and the historic landmark commission, they provide guidance for the interpretation of the zoning ordinance standards. Design guidelines are officially adopted by city council.

**ECONOMIC HARDSHIP:** Denial of a property owner of all reasonable beneficial or economically viable use of a property without just compensation.

**HISTORIC RESOURCE SURVEY:** A systematic resource for identifying and evaluating the quantity and quality of historic resources for land use planning purposes following the guidelines and forms of the Utah state historic preservation office.

1. Reconnaissance level surveys (RLS) ~~is~~ are the most basic approach for systematically documenting and evaluating historic buildings in Utah communities and involves only a visual evaluation of properties.
2. Intensive level surveys (ILS) include in depth research involving research on the property and its owners, documentation of the property's physical appearance and completion of the Utah state historic office's historic site form.

**LANDMARK SITE:** Any site included on the Salt Lake City register of cultural resources that meets the criteria outlined in subsection C<sub>15</sub> of this section. Such sites are of exceptional importance to the city, state, region or nation and impart high artistic, historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site.

**LOCAL HISTORIC DISTRICT:** A geographically or thematically definable area within the H ~~h~~Historic p ~~P~~reservation o ~~O~~verlay d ~~D~~istrict designated by the city council pursuant to the provisions of this section, which contains buildings, structures, sites, objects, landscape features, archaeological sites and works of art, or a combination thereof, that contributes to the historic preservation goals of Salt Lake City.

NEW CONSTRUCTION: The building of a new principal building within the H ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District or on a landmark site.

NONCONTRIBUTING STRUCTURE: A structure within the H ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District that does not meet the criteria listed in subsection C.15 of this section. The major character defining features have been so altered as to make the original and/or historic form, materials and details indistinguishable and alterations are irreversible. Noncontributing structures may also include those which are less than fifty (50) years old.

THEMATIC DESIGNATION: A collection of individual sites, buildings, structures, or features which are contained in two (2) or more geographically separate areas that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.

WILFUL NEGLECT: The intentional absence of routine maintenance and repair of a building over time.

C. Designation ~~O~~of ~~A~~a Landmark Site, Local Historic District ~~O~~or Thematic Designation; H Historic Preservation Overlay District:

1. Intent: Salt Lake City will consider the designation of a landmark site, or thematic designation in order to protect the best examples of historic resources which represent significant elements of the city's prehistory, history, development patterns or architecture. Designation of a local historic district must be in the best interest of the city and achieve a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage. The city council shall determine that designation of a landmark site, local historic district or thematic designation is the best method of preserving a unique element of history important to understanding the prehistory or history of the area encompassed by the current Salt Lake City corporate boundaries.
2. City Council May Designate ~~O~~or Amend Landmark Sites, Local Historic Districts ~~O~~or Thematic Designations: Pursuant to the procedures in this section and the standards for general amendments in sSection 21A.50.050 of this title the city council may by ordinance apply the H ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District and:
  - a. Designate as a landmark site an individual building, structure or feature or an integrated group of buildings, structures or features on a single lot or site having exceptional importance to the city, state, region or nation and impart high artistic, historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site;

- b. Designate as a local historic district a contiguous area with a minimum district size of one “block face”, as defined in sSection 21A.62.040 of this title, containing a number of sites, buildings, structures or features that contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;
  - c. Designate as a thematic designation a collection of sites, buildings, structures, or features which are contained in two (2) or more geographically separate areas that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value; and
  - d. Amend designations to add or remove features or property to or from a landmark site, local historic district or thematic designation.
3. Preapplication Conference: Prior to the submittal of an application for the designation or amendment to a landmark site(s), local historic district(s) or thematic designation(s), and prior to gathering any signatures in support of such an application, a potential applicant shall attend a preapplication conference with the planning director or designee. The purpose of this meeting is to discuss the merits of the proposed designation and the amendment processes as outlined in this section.
4. Notification ~~Of~~ Affected Property Owners: Following the preapplication conference outlined in subsection C.3 of this section and prior to the submittal of an application for the designation or amendment to a local historic district(s) or thematic designation(s), the city shall send by first class mail a neutral informational pamphlet to owners of record for each property potentially affected by a forthcoming application. The informational pamphlet shall contain, at a minimum, a description of the process to create a local historic district and will also list the pros and cons of a local historic district. The informational pamphlet shall be mailed after a potential applicant submits to the city a finalized proposed boundary of an area to be included in the ~~H~~ HHistoric ~~P~~ Preservation ~~O~~ Overlay ~~D~~ District. Once the city sends the informational pamphlet, property owner signature gathering may begin per subsection C.5.b of this section. The informational pamphlet sent shall remain valid for ninety (90) days. If an application is not filed with the city within ninety (90) days after the date that the informational pamphlet was mailed, the city shall close its file on the matter. Any subsequent proposal must begin the application process again.
5. Petition Initiation ~~F~~ For Designation ~~Of~~ A Landmark Site, Local Historic District ~~Or~~ Or Thematic Designation:
  - a. Petition Initiation ~~F~~ For H Historic Preservation Overlay District; Landmark Site: Any owner of property proposed for a landmark site, the mayor or the city council, by majority vote, may initiate a petition to consider the designation of a landmark site.

- b. ~~P~~Petition Initiation ~~F~~For ~~H~~Historic Preservation Overlay District; Local Historic District ~~O~~Or Thematic Designation: A property owner initiating such a petition shall demonstrate, in writing, support of more than thirty three percent (33%) of the property owners of lots or parcels within the proposed boundaries of an area to be included in the ~~H~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District. The mayor or the city council, by a majority vote, may initiate a petition to consider designation of a local historic district or thematic designation.
    - (1) For purposes of this subsection, a lot or parcel of real property may not be included in the calculation of the required percentage unless the application is signed by property owners representing at least fifty percent (50%) of the interest in that lot or parcel.
    - (2) Each lot or parcel of real property may only be counted once toward the thirty three percent (33%), regardless of the number of owner signatures obtained for that lot or parcel.
    - (3) Signatures obtained to demonstrate support of more than thirty three percent (33%) of the property owners within the boundary of the proposed local historic district or thematic designation must be gathered within a period of ninety (90) days as counted between the date that the informational pamphlet was mailed as required per subsection C~~\_~~4 of this section and the date of the last required signature.
  - c. Fees: No application fee will be required for a petition initiated by a property owner for designation of a property to the ~~H~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District.
6. Notice ~~O~~Of Designation Application Letter: Following the receipt by the city of an application for the designation or amendment to a local historic district(s) or thematic designation(s), the city shall send a notice of designation application letter to owner(s) of record for each property affected by said application along with a second copy of the informational pamphlet described in subsection C~~\_~~4 of this section. In the event that no application is received following the ninety (90) day period of property owner signature gathering, the city will send a letter to property owner(s) of record stating that no application has been filed, and that the city has closed its file on the matter.
7. Planning Director Report ~~T~~To ~~T~~The City Council: Following the initiation of a petition to designate a landmark site or a local historic district or thematic designation, the planning director shall submit a report based on the following considerations to the city council:
- a. Whether a current survey meeting the standards prescribed by the state historic preservation office is available for the landmark site or the area proposed for a

local historic district or thematic designation. If a suitable survey is not available, the report shall propose a strategy to gather the needed survey data.

- b. The city administration will determine the priority of the petition and determine whether there is sufficient funding and staff resources available to allow the planning division to complete a community outreach process, historic resource analysis and to provide ongoing administration of the new landmark site, local historic district or thematic designation if the designation is approved by the city council. If sufficient funding is not available, the report shall include a proposed budget.
  - c. Whether the proposed designation is generally consistent with the purposes, goals, objectives and policies of the city as stated through its various adopted planning documents.
  - d. Whether the proposed designation would generally be in the public interest.
  - e. Whether there is probable cause to believe that the proposed landmark site, local historic district or thematic designation may be eligible for designation consistent with the purposes and designation criteria in subsection C.15 of this section and the zoning map amendment criteria in sSection 21A.50.050, “Standards ~~F~~for General Amendments”, of this title.
  - f. Verification that a neutral informational pamphlet was sent per subsection C.4 of this section to all property owners within a proposed local historic district following the presubmittal process outlined in subsection C.3 of this section.
8. Property Owner Meeting: Following the submission of the planning director’s report and acceptance of the report by the city council, the planning division will conduct a community outreach process to inform the owners of property within the proposed boundaries of the proposed landmark site, local historic district or thematic designation about the following:
  - a. The designation process, including determining the level of property owner support, the public hearing process, and final decision making process by the city council; and
  - b. Zoning ordinance requirements affecting properties located within the ~~H~~ ~~h~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District, adopted design guidelines, the design review process for alterations and new construction, the demolition process and the economic hardship process.
9. Open House: Following the property owner meeting, the planning division will conduct an open house for the owners of property within the proposed boundaries of the local historic district or thematic designation to provide the information described in subsections C.8.a and C.8.b of this section.

#### 10. Public Hearing Process:

- a. Historic Landmark Commission Consideration: Following the initiation of a petition to designate a landmark site or a local historic district, the historic landmark commission shall hold a public hearing and review the request by applying subsection C.15, “Standards For The Designation Of A Landmark Site, Local Historic District Or Thematic Designation”, of this section. Following the public hearing, the historic landmark commission shall recommend approval, approval with modifications or denial of the proposed designation and shall then submit its recommendation to the planning commission and the city council.
- b. Planning Commission Consideration: Following action by the historic landmark commission, the planning commission shall hold a public hearing and shall recommend approval, approval with modifications or denial of the proposed designation based on the standards of sSection 21A.50.050 of this title, zoning map amendments and shall then submit its recommendation to the city council.

#### 11. Property Owner Opinion Balloting:

- a. Following the completion of the historic landmark commission and planning commission public hearings, the city will deliver property owner opinion ballots via first class mail to property owners of record within the boundary of the proposed local historic district or thematic designation. The property owner opinion ballot is a nonbinding opinion poll to inform the city council of property owner interest regarding the designation of a local historic district. Each individual property in the proposed designation boundary, regardless of the number of owners having interest in any given property, will receive one property owner opinion ballot.
  - (1) A property owner is eligible to vote regardless of whether or not the property owner is an individual, a private entity, or a public entity;
  - (2) The municipality shall count no more than one property owner opinion ballot for:
    - (A) Each parcel within the boundaries of the proposed local historic district or area; or
    - (B) If the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and
  - (3) If a parcel or unit has more than one owner of record, the municipality shall count a property owner opinion ballot for the parcel or unit only if the property owner opinion ballot reflects the vote of the property owners who own at least fifty percent (50%) interest in the parcel or unit.



- b. Property owners of record will have thirty (30) days from the postmark date of the property owner opinion ballot to submit a response to the city indicating the property owner's support or nonsupport of the proposed designation.
  - c. A letter shall be mailed to all property owners within the proposed local historic district or thematic designation whose property owner opinion ballot has not been received by the city within fifteen (15) days from the original postmark date. This follow up letter will encourage the property owners to submit a property owner opinion ballot prior to the thirty (30) day deadline date set by the mailing of the first property owner opinion ballot.
12. Notification ~~Of~~ Property Owner Opinion Balloting Results: Following the public opinion balloting for the proposed designation, the city will send notice of the results to all property owners within the proposed local historic district, area, or thematic designation.
13. City Council Consideration: Following the transmittal of the historic landmark commission and the planning commission recommendations and the results of the property owner opinion process, the city council shall hold a public hearing to consider the designation of a landmark site, local historic district or thematic designation.
- a. Designation ~~Of~~ A Landmark Site: The city council may, by a majority vote, designate a landmark site.
  - b. Designation ~~Of~~ A Local Historic District ~~Or~~ Thematic Designation:
    - (1) If the property owner opinion ballots returned equals at least two-thirds ( $\frac{2}{3}$ ) of the total number of returned property owner support ballots, and represents more than fifty percent (50%) of the parcels and units (in the case of a condominium project) within the proposed local historic district, area, or thematic designation, the city council may designate a local historic district or a thematic district by a simple majority vote.
    - (2) If the number of property owner opinion ballots received does not meet the threshold identified in subsection C.13.b(1) of this section, the city council may only designate a local historic district, area, or a thematic district by an affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the members of the city council.
    - (3) If the number of property owner opinion ballots received in support and in opposition is equal, the city council may only designate a local historic district or a thematic district by a super majority vote.
  - c. Following Designation: Following city council designation of a landmark site, local historic district or thematic designation, all of the property located within the boundaries of the ~~H~~ HHistoric ~~p~~Preservation ~~o~~Overlay ~~d~~District shall be subject to

the provisions of this section. The zoning regulations will go into effect on the date of the publication of the ordinance unless otherwise noted on the adoption ordinance.

14. Notice Of Designation: Within thirty (30) days following the designation of a landmark site, local historic district or thematic designation, the city shall provide notice of the action to all owners of property within the boundaries of the ~~H~~ H ~~h~~ H ~~Historic~~ Preservation ~~o~~ O ~~Overlay~~ D ~~D istrict. In addition, a notice shall be recorded in the office of the county recorder for all lots or parcels within the area added to the ~~H~~ H ~~h~~ H ~~Historic~~ Preservation ~~o~~ O ~~Overlay~~ D ~~D istrict.~~~~
15. Standards For The Designation Of A Landmark Site, Local Historic District Or Thematic Designation: Each lot or parcel of property proposed as a landmark site, for inclusion in a local historic district, or for thematic designation shall be evaluated according to the following:
  - a. Significance in local, regional, state or national history, architecture, engineering or culture, associated with at least one of the following:
    - (1) Events that have made significant contribution to the important patterns of history, or
    - (2) Lives of persons significant in the history of the city, region, state, or nation, or
    - (3) The distinctive characteristics of a type, period or method of construction; or the work of a notable architect or master craftsman, or
    - (4) Information important in the understanding of the prehistory or history of Salt Lake City; and
  - b. Physical integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the national park service for the national register of historic places;
  - c. The proposed local historic district or thematic designation is listed, or is eligible to be listed on the national register of historic places;
  - d. The proposed local historic district contains notable examples of elements of the city's history, development patterns or architecture not typically found in other local historic districts within Salt Lake City;
  - e. The designation is generally consistent with adopted planning policies; and
  - f. The designation would be in the overall public interest.

16. Factors To Consider: The following factors may be considered by the historic landmark commission and the city council to help determine whether the proposed designation of a landmark site, local historic district or thematic designation meets the criteria listed above:
- a. Sites should be of such an age which would allow insight into whether a property is sufficiently important in the overall history of the community. Typically this is at least fifty (50) years but could be less if the property has exceptional importance.
  - b. Whether the proposed local historic district contains examples of elements of the city's history, development patterns and/or architecture that may not already be protected by other local historic districts within the city.
  - c. Whether designation of the proposed local historic district would add important knowledge that advances the understanding of the city's history, development patterns and/or architecture.
  - d. Whether approximately seventy five percent (75%) of the structures within the proposed boundaries are rated as contributing structures by the most recent applicable historic survey.
17. Boundaries Of A Proposed Landmark Site: When applying the evaluation criteria in subsection C.15 of this section, the boundaries of a landmark site shall be drawn to ensure that historical associations, and/or those which best enhance the integrity of the site comprise the boundaries.
18. Boundaries Of A Proposed Local Historic District: When applying the evaluation criteria in subsection C.15 of this section, the boundaries shall be drawn to ensure the local historic district:
- a. Contains a significant density of documented sites, buildings, structures or features rated as contributing structures in a recent historic survey;
  - b. Coincides with documented historic boundaries such as early roadways, canals, subdivision plats or property lines;
  - c. Coincides with logical physical or manmade features and reflect recognized neighborhood boundaries; and
  - d. Contains nonhistoric resources or vacant land only where necessary to create appropriate boundaries to meet the criteria of subsection C.15 of this section.
19. Boundaries Of A Proposed Thematic Designation: When applying the evaluation criteria of this section, the boundaries shall be drawn to ensure the thematic designation contains a collection of sites, buildings, structures, or features that are

united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.

D. The Adjustment ~~Or~~ Expansion ~~Of~~ Boundaries ~~Of~~ An H Historic Preservation Overlay District ~~And~~ ~~The~~ Revocation ~~Of~~ ~~The~~ Designation ~~Of~~ Landmark Site:

1. Procedure: The procedure for the adjustment of boundaries of an H ~~h~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District and the revocation of the designation of a landmark site shall be the same as that outlined in subsection C of this section.
2. Criteria ~~F~~for Adjusting ~~T~~the Boundaries ~~Of~~ An H Historic Preservation Overlay District: Criteria for adjusting the boundaries of an H ~~h~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District are as follows:
  - a. The properties have ceased to meet the criteria for inclusion within an H ~~h~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District because the qualities which caused them to be originally included have been lost or destroyed, or such qualities were lost subsequent to the historic landmark commission recommendation and adoption of the district;
  - b. Additional information indicates that the properties do not comply with the criteria for selection of the H ~~h~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District as outlined in subsection C.15 of this section; or
  - c. Additional information indicates that the inclusion of additional properties would better convey the historical and architectural integrity of the H ~~h~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District, provided they meet the standards outlined in subsection C.15 of this section.
3. Criteria ~~F~~for ~~T~~the Expansion ~~Of~~ An Existing Landmark Site, Local Historic District ~~Or~~ Thematic Designation: A proposed expansion of an existing landmark site, local historic district or thematic designation shall be considered utilizing the provisions of subsections C.15 through C.19 of this section.
4. Criteria ~~F~~for ~~T~~the Revocation ~~Of~~ ~~The~~ Designation ~~Of~~ Aa Landmark Site: Criteria are as follows:
  - a. The property has ceased to meet the criteria for designation as a landmark site because the qualities that caused it to be originally designated have been lost or destroyed or the structure has been demolished; or
  - b. Additional information indicates that the landmark site does not comply with the criteria for selection of a landmark site as outlined in subsection C.15 of this section; or

- c. Additional information indicates that the landmark site is not of exceptional importance to the city, state, region or nation.
- E. Certificate of Appropriateness Required: After the establishment of an Historic Preservation Overlay District, or the designation of a landmark site, no alteration in the exterior appearance of a structure, site, object or work of art affecting the landmark site or a property within the Historic Preservation Overlay District shall be made or permitted to be made unless or until the application for a certificate of appropriateness has been submitted to, and approved by, the historic landmark commission, or administratively by the planning director, as applicable, pursuant to subsection F of this section. Certificates of appropriateness shall be required for:
1. Any construction needing a building permit;
  2. Removal and replacement or alteration of architectural detailing, such as porch columns, railing, window moldings, cornices and siding;
  3. Relocation of a structure or object on the same site or to another site;
  4. Construction of additions or decks;
  5. Alteration or construction of accessory structures, such as garages, etc.;
  6. Alterations to windows and doors, including replacement or changes in fenestration patterns;
  7. Construction or alteration of porches;
  8. Masonry work including, but not limited to, tuckpointing, sandblasting and chemical cleaning;
  9. The construction or alterations of site features including, but not limited to, fencing, walls, paving and grading;
  10. Installation or alteration of any exterior sign;
  11. Any demolition;
  12. New construction; and
  13. Installation of an awning over a window or door.
- F. Procedure for Issuance of Certificate of Appropriateness:
1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

- a. ~~Types Of Construction:~~ The following may be approved by administrative decision:
- (1) Minor alteration of or addition to a landmark site or contributing site, building, and/or structure;
  - (2) Substantial alteration of or addition to a noncontributing site;
  - (3) Partial demolition of either a landmark site or a contributing principal building or structure;
  - (4) Demolition of an accessory building or structure;
  - (5) Demolition of a noncontributing building or structure; and
  - (6) Installation of solar energy collection systems ~~on the front facade of the principal building in a location most compatible with the character defining features of the home~~ pursuant to sSection 21A.40.190 of this title.
- b. ~~Submission Of Application:~~ An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to ~~e~~Chapter 21A.10 of this title, and shall forward the application for review and decision.
- c. ~~Materials Submitted With Application:~~ The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model, window frame sections and samples deemed necessary to consider the application properly and completely.
- d. ~~Fees:~~ No application fee will be required for a certificate of appropriateness that is administratively approved.
- e. ~~Notice For of Application For Demolition Of Aa Noncontributing Building or Structure:~~ An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to ~~e~~Chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by ~~e~~Chapter 21A.10 of this title.
- f. ~~Standards For of Approval:~~ The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.
- g. ~~Review Aand Decision Bby Tthe Planning Director:~~ On the basis of written findings of fact, the planning director or the planning director's designee shall

either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

- h. ~~Referral Of Application By Planning Director To Historic Landmark Commission:~~ The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the ~~H Historic Preservation Overlay District~~, or the need for consultation for expertise regarding architectural, construction or preservation issues; or if the application does not meet the standards of review.
- 2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only ~~be allowed to~~ be approved by the historic landmark commission subject to the following procedures:
  - a. Types ~~Of~~ Construction: The following shall be reviewed by the historic landmark commission:
    - (1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ site, building, and/or structure;
    - (2) New construction of principal building in ~~H Historic Preservation Overlay District~~;
    - (3) Relocation of landmark site or contributing ~~site~~ principal building;
    - (4) Demolition of landmark site or contributing ~~site~~ principal building;
    - (5) Applications for administrative approval referred by the planning director; and
    - (6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to ~~s~~Section 21A.40.190 of this title.
  - b. Submission ~~Of~~ Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F.1.b of this section.
  - c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by ~~e~~Chapter 21A.10 of this title.
  - d. Materials Submitted With Application: ~~The Specific~~ requirements for ~~the materials to be submitted upon application for a certificate of appropriateness~~

shall be the same as specified in subsection F1e of this section, new construction shall include, at least the following information, unless deemed unnecessary by the planning director:

- (1) The applicant's name, address, telephone number, e-mail address and interest in the subject property;
- (2) The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;
- (3) The street address and legal description of the subject property;
- (4) A narrative including a complete description of the project and how it meets review standards with citation of supporting adopted city design guidelines;
- (5) A context plan showing property lines, building footprints, front yard setbacks, adjacent streets and alleys, historic district boundaries, contributing/noncontributing structures and landmark sites;
- (6) A streetscape study which includes height measurements for each primary structure on the block face;
- (7) A site plan or drawing drawn to a scale which includes the following information: property lines, lot dimensions, topography, adjacent streets, alleys and walkways, landscaping and buffers, existing and proposed buildings and structures, lot coverage, grade changes, parking spaces, trash receptacles, drainage features, proposed setbacks and other details required for project evaluation;
- (8) Elevation drawings and details for all facades;
- (9) Illustrative photos and/or samples of all proposed facade materials;
- (10) Building, wall, and window section drawings;
- (11) 3D models that show the new construction in relation to neighboring buildings;
- (12) 3D models that show the new construction from the pedestrian perspective; and
- (13) Such other and further information or documentation as the planning director may deem necessary or appropriate for a full and proper consideration and disposition of the particular application.

Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

- e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to Chapter 21A.10 of this title.
- f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to Chapter 21A.10 of this title.
- g. Standards For Approval: The application shall be reviewed according to the standards set forth in subsections G through K of this section, whichever are applicable.



- h. ~~Review And Decision By The Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, within sixty (60) days following receipt of a completed application, except that a review and decision on an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) days following receipt of a completed application.~~
- (1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection ~~L~~ K of this section, whichever are applicable.
  - (2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness. ~~A decision on an application for a certificate of appropriateness for demolition of a contributing structure may be deferred for up to one year pursuant to subsections L and M of this section.~~
  - (3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing structures principal buildings shall not be issued until the appeal period has expired.
  - (4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.
- i. ~~Appeal Of Historic Landmark Commission Decisions To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized organization pursuant to title 2, chapter 2.60 of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of Chapter 21A.16 of this title.~~

- j. ~~Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~
- k. ~~Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~
- G. ~~Standards For Certificate Of Appropriateness For Alteration Of A Landmark Site Or Contributing Structure Including New Construction Of An Accessory Structure:~~ In considering an application for a certificate of appropriateness for alteration of a landmark site or contributing structure, the historic landmark commission, or the planning director, for administrative decisions, shall find that the project substantially complies with all of the following general standards that pertain to the application and that the decision is in the best interest of the city:
1. A property shall be used for its historic purpose or be used for a purpose that requires minimal change to the defining characteristics of the building and its site and environment;
  2. 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;
  3. All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create a false sense of history or architecture are not allowed;
  4. Alterations or additions that have acquired historic significance in their own right shall be retained and preserved;
  5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;

6. Deteriorated architectural features shall be repaired rather than replaced wherever feasible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects;
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;
8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archaeological material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment;
9. Additions or alterations to structures and objects shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. The new work shall be differentiated from the old and shall be compatible in massing, size, scale and architectural features to protect the historic integrity of the property and its environment;
10. Certain building materials are prohibited including the following:

- a. Aluminum, asbestos, or vinyl cladding when applied directly to an original or historic material.

11. Any new sign and any change in the appearance of any existing sign located on a landmark site or within the Historic Preservation Overlay District, which is visible from any public way or open space shall be consistent with the historic character of the landmark site or Historic Preservation Overlay District and shall comply with the standards outlined in Chapter 21A.46 of this title.

H. Standards for Certificate of Appropriateness Involving New Construction or Alteration of a Noncontributing Structure: In considering an application for a certificate of appropriateness involving new construction, or alterations of noncontributing structures, the historic landmark commission, or planning director when the application involves the alteration of a noncontributing structure, shall, using the adopted design guidelines as a key basis for evaluation, determine whether the project substantially complies with each of the following standards that pertain to the application, is visually compatible with surrounding structures and streetscape and is in the best interest of the city to ensure that the proposed project fits into the established

context in ways that respect and contribute to the evolution of Salt Lake City's architectural and cultural traditions:

~~1. Scale And Form:~~

- ~~a. Height And Width: The proposed height and width shall be visually compatible with surrounding structures and streetscape;~~
- ~~b. Proportion Of Principal Facades: The relationship of the width to the height of the principal elevations shall be in scale with surrounding structures and streetscape;~~
- ~~c. Roof Shape: The roof shape of a structure shall be visually compatible with the surrounding structures and streetscape; and~~
- ~~d. Scale Of A Structure: The size and mass of the structures shall be visually compatible with the size and mass of surrounding structure and streetscape.~~

~~2. Composition Of Principal Facades:~~

- ~~a. Proportion Of Openings: The relationship of the width to the height of windows and doors of the structure shall be visually compatible with surrounding structures and streetscape;~~
- ~~b. Rhythm Of Solids To Voids In Facades: The relationship of solids to voids in the facade of the structure shall be visually compatible with surrounding structures and streetscape;~~
- ~~c. Rhythm Of Entrance Porch And Other Projections: The relationship of entrances and other projections to sidewalks shall be visually compatible with surrounding structures and streetscape; and~~
- ~~d. Relationship Of Materials: The relationship of the color and texture of materials (other than paint color) of the facade shall be visually compatible with the predominant materials used in surrounding structures and streetscape.~~

~~3. Relationship To Street:~~

- ~~a. Walls Of Continuity: Facades and site structures, such as walls, fences and landscape masses, shall, when it is characteristic of the area, form continuity along a street to ensure visual compatibility with the structures, public ways and places to which such elements are visually related;~~
- ~~b. Rhythm Of Spacing And Structures On Streets: The relationship of a structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the structures, objects, public ways and places to which it is visually related;~~

- ~~e. Directional Expression Of Principal Elevation: A structure shall be visually compatible with the structures, public ways and places to which it is visually related in its orientation toward the street; and~~
- ~~d. Streetscape; Pedestrian Improvements: Streetscape and pedestrian improvements and any change in its appearance shall be compatible to the historic character of the landmark site or H historic preservation overlay district.~~
- ~~4. Subdivision Of Lots: The planning director shall review subdivision plats proposed for property within an H historic preservation overlay district or of a landmark site and may require changes to ensure the proposed subdivision will be compatible with the historic character of the district and/or site(s).~~
- 1. Settlement Patterns and Neighborhood Character:
  - a. Block and Street Patterns. The design of the project preserves and reflects the historic block, street, and alley patterns that give the district its unique character. Changes to the block and street pattern may be considered when advocated by an adopted city plan.
  - b. Lot and Site Patterns. The design of the project preserves the pattern of lot and building site sizes that create the urban character of the historic context and the block face. Changes to the lot and site pattern may be considered when advocated by an adopted city plan.
  - c. The Public Realm. The project relates to adjacent streets and engages with sidewalks in a manner that reflects the character of the historic context and the block face. Projects should maintain the depth of yard and height of principal elevation of those existing on the block face in order to support consistency in the definition of public and semi-public spaces.
  - d. Building Placement. Buildings are placed such that the project maintains and reflects the historic pattern of setbacks and building depth established within the historic context and the block face. Buildings should maintain the setback demonstrated by existing buildings of that type constructed in the district or site's period of significance.
  - e. Building Orientation. The building is designed such that principal entrances and pathways are oriented such that they address the street in the pattern established in the historic context and the block face.
- 2. Site Access, Parking, and Services:

- a. Site Access. The design of the project allows for site access that is similar, in form and function, with patterns common in the historic context and the block face.
    - (1) Pedestrian: Safe pedestrian access is provided through architecturally highlighted entrances and walkways, consistent with patterns common in the historic context and the block face.
    - (2) Vehicular: Vehicular access is located in the least obtrusive manner possible. Where possible, garage doors and parking should be located to the rear or to the side of the building.
  - b. Site and Building Services and Utilities. Utilities and site/building services (such as HVAC systems, venting fans, and dumpsters) are located such that they are to the rear of the building or on the roof and screened from public spaces and public properties.
3. Landscape and Lighting:
- a. Grading of Land. The site's landscape, such as grading and retaining walls, addresses the public way in a manner that reflects the character of the historic context and the block face.
  - b. Landscape Structures. Landscape structures, such as arbors, walls, fences, address the public way in a manner that reflects the character of the historic context and the block face.
  - c. Lighting. Where appropriate lighting is used to enhance significant elements of the design and reflects the character of the historic context and the block face.
4. Building Form and Scale:
- a. Character of the Street Block. The design of the building reflects the historic character of the street facade in terms of scale, composition, and modeling.
    - (1) Height: The height of the project reflects the character of the historic context and the block face. Projects taller than those existing on the block face step back their upper floors to present a base that is in scale with the historic context and the block face.
    - (2) Width: The width of the project reflects the character of the historic context and the block face. Projects wider than those existing on the block face modulate the facade to express a series of volumes in scale with the historic context and the block face.
    - (3) Massing: The shape, form, and proportion of buildings, reflects the character of the historic context and the block face.

- (4) Roof Forms: The building incorporates roof shapes that reflect forms found in the historic context and the block face.

5. Building Character:

- a. Facade Articulation and Proportion: The design of the project reflects patterns of articulation and proportion established in the historic context and the block face. As appropriate, facade articulations reflect those typical of other buildings on the block face. These articulations are of similar dimension to those found elsewhere in the context, but have a depth of not less than 12 inches.
- (1) Rhythm of Openings: The facades are designed to reflect the rhythm of openings (doors, windows, recessed balconies, etc.) established in the historic context and the block face.
- (2) Proportion and Scale of Openings: The facades are designed using openings (doors, windows, recessed balconies, etc.) of similar proportion and scale to that established in the historic context and the block face.
- (3) Ratio of Wall to Openings: Facades are designed to reflect the ratio of wall to openings (doors, windows, recessed balconies, etc.) established in the historic context and the block face.
- (4) Balconies, Porches, and External Stairs: The project, as appropriate, incorporates entrances, balconies, porches, stairways, and other projections that reflect patterns established in the historic context and the block face.

6. Building Materials, Elements and Detailing:

- a. Materials. Building facades, other than windows and doors, incorporate no less than 80% durable material such as, but not limited to, wood, brick, masonry, textured or patterned concrete and/or cut stone. These materials reflect those found elsewhere in the district and/or setting in terms of scale and character.
- b. Materials on Street-facing Facades. The following materials are not considered to be appropriate and are prohibited for use on facades which face a public street: vinyl siding and aluminum siding.
- c. Windows. Windows and other openings are incorporated in a manner that reflects patterns, materials, and detailing established in the district and/or setting.
- d. Architectural Elements and Details. The design of the building features architectural elements and details that reflect those characteristic of the district and/or setting.

7. Signage Location. Locations for signage are provided such that they are an integral part of the site and architectural design and are complimentary to the principal structure.

I. ~~Standards For Certificate Of Appropriateness For Relocation Of Landmark Site Or~~ Contributing Structure: In considering an application for a certificate of appropriateness for relocation of a landmark site or a contributing structure, the historic landmark commission shall find that the project substantially complies with the following standards:

1. The proposed relocation will abate demolition of the structure;
2. The proposed relocation will not diminish the overall physical integrity of the district or diminish the historical associations used to define the boundaries of the district;
3. The proposed relocation will not diminish the historical or architectural significance of the structure;
4. The proposed relocation will not have a detrimental effect on the structural soundness of the building or structure;
5. A professional building mover will move the building and protect it while being stored; and
6. A financial guarantee to ensure the rehabilitation of the structure once the relocation has occurred is provided to the city. The financial guarantee shall be in a form approved by the city attorney, in an amount determined by the planning director sufficient to cover the estimated cost to rehabilitate the structure as approved by the historic landmark commission and restore the grade and landscape the property from which the structure was removed in the event the land is to be left vacant once the relocation of the structure occurs.

J. ~~Standards For Certificate Of Appropriateness For Demolition Of Landmark Site:~~ In considering an application for a certificate of appropriateness for demolition of a landmark site, the historic landmark commission shall only approve the application upon finding that the project fully complies with one of the following standards:

1. The demolition is required to alleviate a threat to public health and safety pursuant to subsection ~~Q~~ Q of this section; or
2. ~~The demolition is required to rectify a condition of "economic hardship", as defined and determined~~ A determination of economic hardship has been granted by the historic landmark commission pursuant to the provisions of subsection ~~K~~ L of this section.

~~K. Definition And Determination Of Economic Hardship: The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.~~



1. ~~Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be submitted to the planning division. The application must include photographs, information pertaining to the historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.~~
2. ~~Standards For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:~~
  - a. ~~The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;~~
  - b. ~~The current level of economic return on the property as considered in relation to the following:~~
    - (1) ~~The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;~~
    - (2) ~~The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;~~
    - (3) ~~Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;~~
    - (4) ~~Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor;~~
    - (5) ~~All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property;~~
    - (6) ~~The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed;~~
    - (7) ~~Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and~~

- ~~(8) Any state or federal income tax returns on or relating to the property for the previous two (2) years;~~
  - ~~c. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
    - ~~(1) Any real estate broker or firm engaged to sell or lease the property;~~
    - ~~(2) Reasonableness of the price or rent sought by the applicant, and~~
    - ~~(3) Any advertisements placed for the sale or rent of the property;~~~~
  - ~~d. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:
    - ~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~
    - ~~(2) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations;~~
    - ~~(3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use, and~~
    - ~~(4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~~~
  - ~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~
- ~~3. Procedure For Determination Of Economic Hardship: The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the~~

initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period.

- a. ~~Review Of Evidence: All of the evidence and documentation presented to the historic landmark commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting complying with the open meetings act to review the evidence of economic hardship in relation to the standards set forth in subsection K2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party; provided, that notice for such public hearing shall be in accordance with chapter 21A.10 of this title.~~
- b. ~~Report Of Economic Review Panel: Within forty five (45) days after the economic review panel is established, the panel shall complete an evaluation of economic hardship, applying the standards set forth in subsection K2 of this section and shall forward a written report with its findings of fact and conclusions to the historic landmark commission.~~
- c. ~~Historic Landmark Commission Determination Of Economic Hardship: At the next regular historic landmark commission meeting following receipt of the report of the economic review panel, the historic landmark commission shall reconvene its public hearing to take final action on the application.~~
  - (1) ~~Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~
  - (2) ~~Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~
  - (3) ~~Consistency With The Economic Review Panel Report: The historic landmark commission decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the historic landmark commission, the historic landmark commission finds by a vote of three fourths ( $\frac{3}{4}$ ) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.~~

~~L.K.~~ Standards For Certificate Of Appropriateness For Demolition Of A  
Contributing Structure Principal Building In An Historic Preservation Overlay  
District: ~~In~~ When considering an application a request for approval of a certificate of

appropriateness for demolition of a contributing ~~structure~~ principal building, the historic landmark commission shall determine whether the ~~project request~~ substantially complies with the following standards:

1. Standards ~~F~~for Approval ~~O~~of A Certificate of Appropriateness ~~F~~for Demolition:

- a. The ~~physical~~ integrity of the site as defined in subsection C.15.b of this section is no longer evident;
- b. The streetscape within the context of the ~~H~~ Historic Preservation Overlay District would not be negatively materially affected if the contributing principal building were to be demolished;
- c. The demolition would not create a material adversely ~~affect on~~ the ~~H~~ historic preservation overlay district due to the surrounding noncontributing structures concentration of historic resources used to define the boundaries or maintain the integrity of the district;
- d. The base zoning of the site ~~is incompatible with~~ does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;
- ~~e. The reuse plan is consistent with the standards outlined in subsection H of this section;~~
- ~~f. The site~~ contributing principal building has not suffered from wilful neglect, as evidenced by the following:
  - (1) ~~Wilful or negligent acts by the owner that have caused significant deteriorates~~ deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,
  - (2) ~~Failure to perform normal~~ routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or
  - (3) ~~Failure to diligently solicit and retain tenants, and~~
  - (4 3) ~~Failure to secure and board the structure contributing principal building, if vacant, per sSection 18.64.045 of this title;~~ and
- ~~g. The denial of a certificate of appropriateness for demolition would cause an "economic hardship" as defined and determined pursuant to the provisions of subsection K of this section.~~

2. Historic Landmark Commission Determination ~~O~~of Compliance With Standards ~~O~~of Approval: ~~The historic landmark commission shall make a decision based upon~~

~~compliance with the requisite number of standards in subsection L.1 of this section as set forth below: If the historic landmark commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K.1 of this section, then the historic landmark commission shall approve the request for a certificate of appropriateness for demolition. If the historic landmark commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K.1 of this section, then the historic landmark commission shall deny the request for a certificate of appropriateness for demolition.~~

- ~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) of the standards are met, the historic landmark commission shall approve the certificate of appropriateness for demolition.~~
- ~~b. Denial Of Certificate Of Appropriateness For Demolition: Upon making findings that two (2) or less of the standards are met, the historic landmark commission shall deny the certificate of appropriateness for demolition.~~
- ~~c. Deferral Of Decision For Up To One Year: Upon making findings that three (3) to five (5) of the standards are met, the historic landmark commission shall defer a decision for up to one year during which the applicant must conduct a bona fide effort to preserve the site pursuant to subsection M of this section.~~

L. Economic Hardship Determination: Upon denial of a certificate of appropriateness for demolition of a contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship. In the case of a landmark site, an application for determination of economic hardship can be submitted at any time as necessary to meet the standard of subsection J.2 of this section.

- 1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.
- 2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:
  - a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.
  - b. The current level of economic return on the property as considered in relation to the following:

- (1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased,
  - (2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,
  - (3) Real estate taxes for the previous three (3) years by the Salt Lake County Assessor,
  - (4) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,
  - (5) The fair market value of the property taking into consideration the H Historic Preservation Overlay District;
  - (6) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;
- c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
- (1) Any real estate broker or firm engaged to sell or lease the property,
  - (2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and
  - (3) Any advertisements placed for the sale or rental of the property,
- d. The feasibility of alternative uses for the property as considered in relation to the following:
- (1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,
  - (2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,

- (3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and
    - (4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.
  - e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
  - f. Description of past and current use.
  - g. An itemized report that identifies what is deficient if the building does not meet minimum city building code standards or violations of city code.
  - h. Consideration of map amendment, conditional use, special exception or other land use processes to alleviate hardship
3. Procedure for Determination of Economic Hardship: The planning director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the historic landmark commission concerning the value of the property and whether or not the denial of demolition could result in an economic hardship. The extent of the authority of the planning director's appointed qualified expert is limited to rendering advice and testimony to the historic landmark commission. The planning director's appointed qualified expert has no decision making capacity. The planning director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The historic landmark commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the planning director's appointed qualified expert as necessary.
- a. Review of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the planning director's appointed qualified expert for determination of economic hardship after receipt of a complete application.
  - b. Finding of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the planning director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic

hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

(1) For demolition of non-residential or multifamily property:

(a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

(2) For demolition of a residential property (single or two family):

(a) The contributing principal building cannot be put to any beneficial use in its present condition.

c. Certificate of Appropriateness for Demolition: If the historic landmark commission finds an economic hardship, a certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to Section 21A.10.010.D.

d. Denial of Economic Hardship: If the historic landmark commission does not find an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

(1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.

(2) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of Chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~M. Bona Fide Preservation Effort: Upon the decision of the historic landmark commission to defer the decision of a certificate of appropriateness for demolition for up to one year, the applicant must undertake bona fide efforts to preserve the structure. The one year period shall begin only when the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions:~~

~~1. Marketing the property for sale or lease;~~



- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

M. Requirements for Certificate of Appropriateness for Demolition: No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H Historic Preservation Overlay District standards for new construction.
2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.
3. Submittal of documentation to the planning division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.

a. Photographs. Digital or print photographs. Views should include:

(1) Exterior views;

(2) Close-ups of significant exterior features;

(3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.

b. Site plan showing the location of the building and site features.

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision for the certificate of appropriateness for demolition pursuant to subsection F2 of this section. The historic landmark commission shall approve the certificate of appropriateness for demolition and approve, approve with modifications or deny the certificate of appropriateness for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

N. Revocation of the Designation of a Landmark Site: If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition:~~ Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition:~~ Prior to approval of any certificate of appropriateness for demolition the historic landmark commission shall review the postdemolition plans to assure that the plans comply with the standards of subsection H of this section. If the postdemolition plan is to landscape the site, a bond shall be required to ensure the completion of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.

- ~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and shall be sufficient to cover the estimated cost, to: a) restore the grade as required by title 18 of this code; b) install an automatic sprinkling system; and c) revegetate and landscape as per the approved plan.~~
- ~~2. The bond shall require installation of landscaping and sprinklers within six (6) months, unless the owner has obtained a building permit and commenced construction of a building or structure on the site.~~

QO. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous Structures Buildings: A hazardous structure building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. ~~Hazardous structures demolished under this section shall comply with subsection P of this section.~~ Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision.

RP. Expiration Of Approvals: Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a

longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period.

SECTION 2. Effective Date. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
CHAIRPERSON

ATTEST AND COUNTERSIGN:

\_\_\_\_\_  
CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 2017.  
Published: \_\_\_\_\_.

LEGISLATIVE VERSION

SALT LAKE CITY ORDINANCE

No. \_\_\_\_ of 2017

(An ordinance amending Section 21A.34.020 of the *Salt Lake City Code* pertaining to demolition and new construction in the H Historic Preservation Overlay District)

An ordinance amending Section 21A.34.020 of the *Salt Lake City Code* pertaining to demolition of landmark sites and contributing buildings and structures in the H Historic Preservation Overlay District pursuant to Petition No. PLNPCM2009-00014 and standards for new construction in the H Historic Preservation Overlay District pursuant to Petition No. PLNPCM2016-00905.

WHEREAS, the Salt Lake City Historic Landmark Commission held a work session on June 1, 2017 and a public hearing on August 3, 2017 to consider petitions to amend various provisions of Section 21A.34.020 (Zoning: Overlay Districts: H Historic Preservation Overlay District) of the *Salt Lake City Code* to modify regulations pertaining to demolition of landmark sites and contributing building and structures in the H Historic Preservation Overlay District (Petition No. PLNPCM2009-00014) and regulations pertaining to new construction in the H Historic Preservation Overlay District (Petition No. PLNPCM2016-00905); and

WHEREAS, at its August 3, 2017 meeting, the historic landmark commission voted in favor of transmitting a positive recommendation to the Salt Lake City Planning Commission and Salt Lake City Council on said petitions; and

WHEREAS, the Salt Lake City Planning Commission held public hearings on July 12, 2017 and August 23, 2017 on said petitions; and

WHEREAS, at its August 23, 2017 meeting, the planning commission voted in favor of transmitting a positive recommendation to the city council on said petitions; and

WHEREAS, after a public hearing on this matter the city council has determined that adopting this ordinance is in the city's best interests.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the text of *Salt Lake City Code* Section 21A.34.020. That Section 21A.34.020 of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District), shall be and hereby is amended to read as follows:

**21A.34.020: H HISTORIC PRESERVATION OVERLAY DISTRICT:**

A. Purpose Statement: In order to contribute to the welfare, prosperity and education of the people of Salt Lake City, the purpose of the H Historic Preservation Overlay District is to:

1. Provide the means to protect and preserve areas of the city and individual structures and sites having historic, architectural or cultural significance;
2. Encourage new development, redevelopment and the subdivision of lots in historic districts that is compatible with the character of existing development of historic districts or individual landmarks;
3. Abate the destruction and demolition of historic structures;
4. Implement adopted plans of the city related to historic preservation;
5. Foster civic pride in the history of Salt Lake City;
6. Protect and enhance the attraction of the city's historic landmarks and districts for tourists and visitors;
7. Foster economic development consistent with historic preservation; and
8. Encourage social, economic and environmental sustainability.

B. Definitions:

**CONTRIBUTING STRUCTURE:** A structure or site within the H Historic Preservation Overlay District that meets the criteria outlined in subsection C.15 of this section and is of moderate importance to the city, state, region or nation because it imparts artistic, historic or cultural values. A contributing structure has its major character defining features intact and although minor alterations may have occurred they are generally reversible. Historic materials may have been covered but evidence indicates they are intact.

**DEMOLITION:** Any act or process which destroys a structure, object or property within

the H Historic Preservation Overlay District or a landmark site. (See definition of Demolition, Partial.)

**DEMOLITION, PARTIAL:** Partial demolition includes any act which destroys a portion of a structure consisting of not more than twenty five percent (25%) of the floor area of the structure, and where the portion of the structure to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the historic period on any exterior elevation exceeding twenty five percent (25%) when the demolition is part of an act of restoring original historic elements of a structure and/or restoring a structure to its historical mass and size.

**DESIGN GUIDELINES:** The design guidelines provide guidance in determining the suitability and architectural compatibility of proposed maintenance, repair, alteration or new construction while at the same time, allowing for reasonable changes that meet current needs of properties located within the historic preservation overlay district. For architects, designers, contractors and property owners, they provide guidance in planning and designing future projects. For city staff and the historic landmark commission, they provide guidance for the interpretation of the zoning ordinance standards. Design guidelines are officially adopted by city council.

**ECONOMIC HARDSHIP:** Denial of a property owner of all reasonable beneficial or economically viable use of a property without just compensation.

**HISTORIC RESOURCE SURVEY:** A systematic resource for identifying and evaluating the quantity and quality of historic resources for land use planning purposes following the guidelines and forms of the Utah state historic preservation office.

1. Reconnaissance level surveys (RLS) are the most basic approach for systematically documenting and evaluating historic buildings in Utah communities and involves only a visual evaluation of properties.
2. Intensive level surveys (ILS) include in depth research involving research on the property and its owners, documentation of the property's physical appearance and completion of the Utah state historic office's historic site form.

**LANDMARK SITE:** Any site included on the Salt Lake City register of cultural resources that meets the criteria outlined in subsection C.15 of this section. Such sites are of exceptional importance to the city, state, region or nation and impart high artistic, historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site.

**LOCAL HISTORIC DISTRICT:** A geographically or thematically definable area within the H Historic Preservation Overlay District designated by the city council pursuant to the provisions of this section, which contains buildings, structures, sites, objects, landscape features, archaeological sites and works of art, or a combination thereof, that contributes to the historic preservation goals of Salt Lake City.

**NEW CONSTRUCTION:** The building of a new principal building within the H Historic Preservation Overlay District or on a landmark site.

**NONCONTRIBUTING STRUCTURE:** A structure within the H Historic Preservation Overlay District that does not meet the criteria listed in subsection C.15 of this section. The major character defining features have been so altered as to make the original and/or historic form, materials and details indistinguishable and alterations are irreversible. Noncontributing structures may also include those which are less than fifty (50) years old.

**THEMATIC DESIGNATION:** A collection of individual sites, buildings, structures, or features which are contained in two (2) or more geographically separate areas that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.

**WILFUL NEGLECT:** The intentional absence of routine maintenance and repair of a building over time.

C. Designation of a Landmark Site, Local Historic District or Thematic Designation; H Historic Preservation Overlay District:

1. Intent: Salt Lake City will consider the designation of a landmark site, or thematic designation in order to protect the best examples of historic resources which represent significant elements of the city's prehistory, history, development patterns or architecture. Designation of a local historic district must be in the best interest of the city and achieve a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage. The city council shall determine that designation of a landmark site, local historic district or thematic designation is the best method of preserving a unique element of history important to understanding the prehistory or history of the area encompassed by the current Salt Lake City corporate boundaries.
2. City Council May Designate or Amend Landmark Sites, Local Historic Districts or Thematic Designations: Pursuant to the procedures in this section and the standards for general amendments in Section 21A.50.050 of this title the city council may by ordinance apply the H Historic Preservation Overlay District and:
  - a. Designate as a landmark site an individual building, structure or feature or an integrated group of buildings, structures or features on a single lot or site having exceptional importance to the city, state, region or nation and impart high artistic, historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site;
  - b. Designate as a local historic district a contiguous area with a minimum district size of one "block face", as defined in Section 21A.62.040 of this title, containing



a number of sites, buildings, structures or features that contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;

- c. Designate as a thematic designation a collection of sites, buildings, structures, or features which are contained in two (2) or more geographically separate areas that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value; and
  - d. Amend designations to add or remove features or property to or from a landmark site, local historic district or thematic designation.
3. Preapplication Conference: Prior to the submittal of an application for the designation or amendment to a landmark site(s), local historic district(s) or thematic designation(s), and prior to gathering any signatures in support of such an application, a potential applicant shall attend a preapplication conference with the planning director or designee. The purpose of this meeting is to discuss the merits of the proposed designation and the amendment processes as outlined in this section.
4. Notification of Affected Property Owners: Following the preapplication conference outlined in subsection C.3 of this section and prior to the submittal of an application for the designation or amendment to a local historic district(s) or thematic designation(s), the city shall send by first class mail a neutral informational pamphlet to owners of record for each property potentially affected by a forthcoming application. The informational pamphlet shall contain, at a minimum, a description of the process to create a local historic district and will also list the pros and cons of a local historic district. The informational pamphlet shall be mailed after a potential applicant submits to the city a finalized proposed boundary of an area to be included in the H Historic Preservation Overlay District. Once the city sends the informational pamphlet, property owner signature gathering may begin per subsection C.5.b of this section. The informational pamphlet sent shall remain valid for ninety (90) days. If an application is not filed with the city within ninety (90) days after the date that the informational pamphlet was mailed, the city shall close its file on the matter. Any subsequent proposal must begin the application process again.
5. Petition Initiation for Designation of a Landmark Site, Local Historic District or Thematic Designation:
- a. Petition Initiation for H Historic Preservation Overlay District; Landmark Site: Any owner of property proposed for a landmark site, the mayor or the city council, by majority vote, may initiate a petition to consider the designation of a landmark site.
  - b. Petition Initiation for H Historic Preservation Overlay District; Local Historic District or Thematic Designation: A property owner initiating such a petition shall

demonstrate, in writing, support of more than thirty three percent (33%) of the property owners of lots or parcels within the proposed boundaries of an area to be included in the H Historic Preservation Overlay District. The mayor or the city council, by a majority vote, may initiate a petition to consider designation of a local historic district or thematic designation.

(1) For purposes of this subsection, a lot or parcel of real property may not be included in the calculation of the required percentage unless the application is signed by property owners representing at least fifty percent (50%) of the interest in that lot or parcel.

(2) Each lot or parcel of real property may only be counted once toward the thirty three percent (33%), regardless of the number of owner signatures obtained for that lot or parcel.

(3) Signatures obtained to demonstrate support of more than thirty three percent (33%) of the property owners within the boundary of the proposed local historic district or thematic designation must be gathered within a period of ninety (90) days as counted between the date that the informational pamphlet was mailed as required per subsection C.4 of this section and the date of the last required signature.

- c. Fees: No application fee will be required for a petition initiated by a property owner for designation of a property to the H Historic Preservation Overlay District.
- 6. Notice of Designation Application Letter: Following the receipt by the city of an application for the designation or amendment to a local historic district(s) or thematic designation(s), the city shall send a notice of designation application letter to owner(s) of record for each property affected by said application along with a second copy of the informational pamphlet described in subsection C.4 of this section. In the event that no application is received following the ninety (90) day period of property owner signature gathering, the city will send a letter to property owner(s) of record stating that no application has been filed, and that the city has closed its file on the matter.
- 7. Planning Director Report to the City Council: Following the initiation of a petition to designate a landmark site or a local historic district or thematic designation, the planning director shall submit a report based on the following considerations to the city council:
  - a. Whether a current survey meeting the standards prescribed by the state historic preservation office is available for the landmark site or the area proposed for a local historic district or thematic designation. If a suitable survey is not available, the report shall propose a strategy to gather the needed survey data.

- b. The city administration will determine the priority of the petition and determine whether there is sufficient funding and staff resources available to allow the planning division to complete a community outreach process, historic resource analysis and to provide ongoing administration of the new landmark site, local historic district or thematic designation if the designation is approved by the city council. If sufficient funding is not available, the report shall include a proposed budget.
  - c. Whether the proposed designation is generally consistent with the purposes, goals, objectives and policies of the city as stated through its various adopted planning documents.
  - d. Whether the proposed designation would generally be in the public interest.
  - e. Whether there is probable cause to believe that the proposed landmark site, local historic district or thematic designation may be eligible for designation consistent with the purposes and designation criteria in subsection C.15 of this section and the zoning map amendment criteria in Section 21A.50.050, “Standards for General Amendments”, of this title.
  - f. Verification that a neutral informational pamphlet was sent per subsection C.4 of this section to all property owners within a proposed local historic district following the presubmittal process outlined in subsection C.3 of this section.
8. Property Owner Meeting: Following the submission of the planning director’s report and acceptance of the report by the city council, the planning division will conduct a community outreach process to inform the owners of property within the proposed boundaries of the proposed landmark site, local historic district or thematic designation about the following:
- a. The designation process, including determining the level of property owner support, the public hearing process, and final decision making process by the city council; and
  - b. Zoning ordinance requirements affecting properties located within the H Historic Preservation Overlay District, adopted design guidelines, the design review process for alterations and new construction, the demolition process and the economic hardship process.
9. Open House: Following the property owner meeting, the planning division will conduct an open house for the owners of property within the proposed boundaries of the local historic district or thematic designation to provide the information described in subsections C.8.a and C.8.b of this section.
10. Public Hearing Process:

- a. **Historic Landmark Commission Consideration:** Following the initiation of a petition to designate a landmark site or a local historic district, the historic landmark commission shall hold a public hearing and review the request by applying subsection C.15, “Standards for the Designation of a Landmark Site, Local Historic District or Thematic Designation”, of this section. Following the public hearing, the historic landmark commission shall recommend approval, approval with modifications or denial of the proposed designation and shall then submit its recommendation to the planning commission and the city council.
- b. **Planning Commission Consideration:** Following action by the historic landmark commission, the planning commission shall hold a public hearing and shall recommend approval, approval with modifications or denial of the proposed designation based on the standards of Section 21A.50.050 of this title, zoning map amendments and shall then submit its recommendation to the city council.

#### 11. Property Owner Opinion Balloting:

- a. Following the completion of the historic landmark commission and planning commission public hearings, the city will deliver property owner opinion ballots via first class mail to property owners of record within the boundary of the proposed local historic district or thematic designation. The property owner opinion ballot is a nonbinding opinion poll to inform the city council of property owner interest regarding the designation of a local historic district. Each individual property in the proposed designation boundary, regardless of the number of owners having interest in any given property, will receive one property owner opinion ballot.
  - (1) A property owner is eligible to vote regardless of whether or not the property owner is an individual, a private entity, or a public entity;
  - (2) The municipality shall count no more than one property owner opinion ballot for:
    - (A) Each parcel within the boundaries of the proposed local historic district or area; or
    - (B) If the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and
  - (3) If a parcel or unit has more than one owner of record, the municipality shall count a property owner opinion ballot for the parcel or unit only if the property owner opinion ballot reflects the vote of the property owners who own at least fifty percent (50%) interest in the parcel or unit.

- b. Property owners of record will have thirty (30) days from the postmark date of the property owner opinion ballot to submit a response to the city indicating the property owner's support or nonsupport of the proposed designation.
  - c. A letter shall be mailed to all property owners within the proposed local historic district or thematic designation whose property owner opinion ballot has not been received by the city within fifteen (15) days from the original postmark date. This follow up letter will encourage the property owners to submit a property owner opinion ballot prior to the thirty (30) day deadline date set by the mailing of the first property owner opinion ballot.
- 12. Notification of Property Owner Opinion Balloting Results: Following the public opinion balloting for the proposed designation, the city will send notice of the results to all property owners within the proposed local historic district, area, or thematic designation.
- 13. City Council Consideration: Following the transmittal of the historic landmark commission and the planning commission recommendations and the results of the property owner opinion process, the city council shall hold a public hearing to consider the designation of a landmark site, local historic district or thematic designation.
  - a. Designation of a Landmark Site: The city council may, by a majority vote, designate a landmark site.
  - b. Designation of a Local Historic District or Thematic Designation:
    - (1) If the property owner opinion ballots returned equals at least two-thirds ( $\frac{2}{3}$ ) of the total number of returned property owner support ballots, and represents more than fifty percent (50%) of the parcels and units (in the case of a condominium project) within the proposed local historic district, area, or thematic designation, the city council may designate a local historic district or a thematic district by a simple majority vote.
    - (2) If the number of property owner opinion ballots received does not meet the threshold identified in subsection C.13.b(1) of this section, the city council may only designate a local historic district, area, or a thematic district by an affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the members of the city council.
    - (3) If the number of property owner opinion ballots received in support and in opposition is equal, the city council may only designate a local historic district or a thematic district by a super majority vote.
  - c. Following Designation: Following city council designation of a landmark site, local historic district or thematic designation, all of the property located within the boundaries of the H Historic Preservation Overlay District shall be subject to the

provisions of this section. The zoning regulations will go into effect on the date of the publication of the ordinance unless otherwise noted on the adoption ordinance.

14. Notice of Designation: Within thirty (30) days following the designation of a landmark site, local historic district or thematic designation, the city shall provide notice of the action to all owners of property within the boundaries of the H Historic Preservation Overlay District. In addition, a notice shall be recorded in the office of the county recorder for all lots or parcels within the area added to the H Historic Preservation Overlay District.
15. Standards for the Designation of a Landmark Site, Local Historic District or Thematic Designation: Each lot or parcel of property proposed as a landmark site, for inclusion in a local historic district, or for thematic designation shall be evaluated according to the following:
  - a. Significance in local, regional, state or national history, architecture, engineering or culture, associated with at least one of the following:
    - (1) Events that have made significant contribution to the important patterns of history, or
    - (2) Lives of persons significant in the history of the city, region, state, or nation, or
    - (3) The distinctive characteristics of a type, period or method of construction; or the work of a notable architect or master craftsman, or
    - (4) Information important in the understanding of the prehistory or history of Salt Lake City; and
  - b. Physical integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the national park service for the national register of historic places;
  - c. The proposed local historic district or thematic designation is listed, or is eligible to be listed on the national register of historic places;
  - d. The proposed local historic district contains notable examples of elements of the city's history, development patterns or architecture not typically found in other local historic districts within Salt Lake City;
  - e. The designation is generally consistent with adopted planning policies; and
  - f. The designation would be in the overall public interest.

16. Factors to Consider: The following factors may be considered by the historic landmark commission and the city council to help determine whether the proposed designation of a landmark site, local historic district or thematic designation meets the criteria listed above:
- a. Sites should be of such an age which would allow insight into whether a property is sufficiently important in the overall history of the community. Typically this is at least fifty (50) years but could be less if the property has exceptional importance.
  - b. Whether the proposed local historic district contains examples of elements of the city's history, development patterns and/or architecture that may not already be protected by other local historic districts within the city.
  - c. Whether designation of the proposed local historic district would add important knowledge that advances the understanding of the city's history, development patterns and/or architecture.
  - d. Whether approximately seventy five percent (75%) of the structures within the proposed boundaries are rated as contributing structures by the most recent applicable historic survey.
17. Boundaries of a Proposed Landmark Site: When applying the evaluation criteria in subsection C.15 of this section, the boundaries of a landmark site shall be drawn to ensure that historical associations, and/or those which best enhance the integrity of the site comprise the boundaries.
18. Boundaries of a Proposed Local Historic District: When applying the evaluation criteria in subsection C.15 of this section, the boundaries shall be drawn to ensure the local historic district:
- a. Contains a significant density of documented sites, buildings, structures or features rated as contributing structures in a recent historic survey;
  - b. Coincides with documented historic boundaries such as early roadways, canals, subdivision plats or property lines;
  - c. Coincides with logical physical or manmade features and reflect recognized neighborhood boundaries; and
  - d. Contains nonhistoric resources or vacant land only where necessary to create appropriate boundaries to meet the criteria of subsection C.15 of this section.
19. Boundaries of a Proposed Thematic Designation: When applying the evaluation criteria of this section, the boundaries shall be drawn to ensure the thematic designation contains a collection of sites, buildings, structures, or features that are

united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.

D. The Adjustment or Expansion of Boundaries of an H Historic Preservation Overlay District and the Revocation of the Designation of Landmark Site:

1. Procedure: The procedure for the adjustment of boundaries of an H Historic Preservation Overlay District and the revocation of the designation of a landmark site shall be the same as that outlined in subsection C of this section.
2. Criteria for Adjusting the Boundaries of an H Historic Preservation Overlay District: Criteria for adjusting the boundaries of an H Historic Preservation Overlay District are as follows:
  - a. The properties have ceased to meet the criteria for inclusion within an H Historic Preservation Overlay District because the qualities which caused them to be originally included have been lost or destroyed, or such qualities were lost subsequent to the historic landmark commission recommendation and adoption of the district;
  - b. Additional information indicates that the properties do not comply with the criteria for selection of the H Historic Preservation Overlay District as outlined in subsection C.15 of this section; or
  - c. Additional information indicates that the inclusion of additional properties would better convey the historical and architectural integrity of the H Historic Preservation Overlay District, provided they meet the standards outlined in subsection C.15 of this section.
3. Criteria for the Expansion of an Existing Landmark Site, Local Historic District or Thematic Designation: A proposed expansion of an existing landmark site, local historic district or thematic designation shall be considered utilizing the provisions of subsections C.15 through C.19 of this section.
4. Criteria for the Revocation of the Designation of a Landmark Site: Criteria are as follows:
  - a. The property has ceased to meet the criteria for designation as a landmark site because the qualities that caused it to be originally designated have been lost or destroyed or the structure has been demolished; or
  - b. Additional information indicates that the landmark site does not comply with the criteria for selection of a landmark site as outlined in subsection C.15 of this section; or



- c. Additional information indicates that the landmark site is not of exceptional importance to the city, state, region or nation.
- E. Certificate of Appropriateness Required: After the establishment of an H Historic Preservation Overlay District, or the designation of a landmark site, no alteration in the exterior appearance of a structure, site, object or work of art affecting the landmark site or a property within the H Historic Preservation Overlay District shall be made or permitted to be made unless or until the application for a certificate of appropriateness has been submitted to, and approved by, the historic landmark commission, or administratively by the planning director, as applicable, pursuant to subsection F of this section. Certificates of appropriateness shall be required for:
  1. Any construction needing a building permit;
  2. Removal and replacement or alteration of architectural detailing, such as porch columns, railing, window moldings, cornices and siding;
  3. Relocation of a structure or object on the same site or to another site;
  4. Construction of additions or decks;
  5. Alteration or construction of accessory structures, such as garages, etc.;
  6. Alterations to windows and doors, including replacement or changes in fenestration patterns;
  7. Construction or alteration of porches;
  8. Masonry work including, but not limited to, tuckpointing, sandblasting and chemical cleaning;
  9. The construction or alterations of site features including, but not limited to, fencing, walls, paving and grading;
  10. Installation or alteration of any exterior sign;
  11. Any demolition;
  12. New construction; and
  13. Installation of an awning over a window or door.
- F. Procedure for Issuance of Certificate of Appropriateness:
  1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

- a. Types of Construction: The following may be approved by administrative decision:
  - (1) Minor alteration of or addition to a landmark site or contributing site, building, and/or structure;
  - (2) Substantial alteration of or addition to a noncontributing site;
  - (3) Partial demolition of either a landmark site or a contributing principal building or structure;
  - (4) Demolition of an accessory building or structure;
  - (5) Demolition of a noncontributing building or structure; and
  - (6) Installation of solar energy collection systems pursuant to Section 21A.40.190 of this title.
- b. Submission of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to Chapter 21A.10 of this title, and shall forward the application for review and decision.
- c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model, window frame sections and samples deemed necessary to consider the application properly and completely.
- d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.
- e. Notice of Application for Demolition of a Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to Chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by Chapter 21A.10 of this title.
- f. Standards of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.
- g. Review and Decision by the Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards

in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

- h. Referral of Application by Planning Director to Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing building in the H Historic Preservation Overlay District, or the need for consultation for expertise regarding architectural, construction or preservation issues, or if the application does not meet the standards of review.
2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only be approved by the historic landmark commission subject to the following procedures:
- a. Types of Construction: The following shall be reviewed by the historic landmark commission:
    - (1) Substantial alteration or addition to a landmark site or contributing site, building, and/or structure;
    - (2) New construction of principal building in H Historic Preservation Overlay District;
    - (3) Relocation of landmark site or contributing principal building;
    - (4) Demolition of landmark site or contributing principal building;
    - (5) Applications for administrative approval referred by the planning director; and
    - (6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to Section 21A.40.190 of this title.
  - b. Submission of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F.1.b of this section.
  - c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by Chapter 21A.10 of this title.
  - d. Materials Submitted With Application: Specific requirements for new construction shall include, at least the following information, unless deemed unnecessary by the planning director:

- (1) The applicant's name, address, telephone number, e-mail address and interest in the subject property;
- (2) The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;
- (3) The street address and legal description of the subject property;
- (4) A narrative including a complete description of the project and how it meets review standards with citation of supporting adopted city design guidelines;
- (5) A context plan showing property lines, building footprints, front yard setbacks, adjacent streets and alleys, historic district boundaries, contributing/noncontributing structures and landmark sites;
- (6) A streetscape study which includes height measurements for each primary structure on the block face;
- (7) A site plan or drawing drawn to a scale which includes the following information: property lines, lot dimensions, topography, adjacent streets, alleys and walkways, landscaping and buffers, existing and proposed buildings and structures, lot coverage, grade changes, parking spaces, trash receptacles, drainage features, proposed setbacks and other details required for project evaluation;
- (8) Elevation drawings and details for all facades;
- (9) Illustrative photos and/or samples of all proposed facade materials;
- (10) Building, wall, and window section drawings;
- (11) 3D models that show the new construction in relation to neighboring buildings;
- (12) 3D models that show the new construction from the pedestrian perspective; and
- (13) Such other and further information or documentation as the planning director may deem necessary or appropriate for a full and proper consideration and disposition of the particular application.

Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

- e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to Chapter 21A.10 of this title.
- f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to Chapter 21A.10 of this title.
- g. Standards for Approval: The application shall be reviewed according to the standards set forth in subsections G through K of this section, whichever are applicable.
- h. Review and Decision by the Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, following receipt of a completed application.

- (1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection K of this section, whichever are applicable.
- (2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness.
- (3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing principal buildings shall not be issued until the appeal period has expired.
- (4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made pursuant to the provisions of Section 21A.10.030 of this title.

- i. Appeal of Historic Landmark Commission Decisions: Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of Chapter 21A.16 of this title.

G. Standards for Certificate of Appropriateness for Alteration of a Landmark Site or Contributing Structure Including New Construction of an Accessory Structure: In considering an application for a certificate of appropriateness for alteration of a landmark site or contributing structure, the historic landmark commission, or the planning director, for administrative decisions, shall find that the project substantially complies with all of the following general standards that pertain to the application and that the decision is in the best interest of the city:

1. A property shall be used for its historic purpose or be used for a purpose that requires minimal change to the defining characteristics of the building and its site and environment;
2. 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;
3. All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create a false sense of history or architecture are not allowed;
4. Alterations or additions that have acquired historic significance in their own right shall be retained and preserved;

5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;
  6. Deteriorated architectural features shall be repaired rather than replaced wherever feasible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects;
  7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;
  8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archaeological material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment;
  9. Additions or alterations to structures and objects shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. The new work shall be differentiated from the old and shall be compatible in massing, size, scale and architectural features to protect the historic integrity of the property and its environment;
  10. Certain building materials are prohibited including the following:
    - a. Aluminum, asbestos, or vinyl cladding when applied directly to an original or historic material.
  11. Any new sign and any change in the appearance of any existing sign located on a landmark site or within the H Historic Preservation Overlay District, which is visible from any public way or open space shall be consistent with the historic character of the landmark site or H Historic Preservation Overlay District and shall comply with the standards outlined in Chapter 21A.46 of this title.
- H. Standards for Certificate of Appropriateness Involving New Construction or Alteration of a Noncontributing Structure: In considering an application for a certificate of appropriateness involving new construction, or alterations of noncontributing structures, the historic landmark commission, or planning director when the application involves the alteration of a noncontributing structure shall, using the adopted design guidelines as a key basis for evaluation, determine whether the project substantially complies with each of the following standards that pertain to the application to ensure that the proposed

project fits into the established context in ways that respect and contribute to the evolution of Salt Lake City's architectural and cultural traditions:

1. Settlement Patterns and Neighborhood Character:

- a. Block and Street Patterns. The design of the project preserves and reflects the historic block, street, and alley patterns that give the district its unique character. Changes to the block and street pattern may be considered when advocated by an adopted city plan.
- b. Lot and Site Patterns. The design of the project preserves the pattern of lot and building site sizes that create the urban character of the historic context and the block face. Changes to the lot and site pattern may be considered when advocated by an adopted city plan.
- c. The Public Realm. The project relates to adjacent streets and engages with sidewalks in a manner that reflects the character of the historic context and the block face. Projects should maintain the depth of yard and height of principal elevation of those existing on the block face in order to support consistency in the definition of public and semi-public spaces.
- d. Building Placement. Buildings are placed such that the project maintains and reflects the historic pattern of setbacks and building depth established within the historic context and the block face. Buildings should maintain the setback demonstrated by existing buildings of that type constructed in the district or site's period of significance.
- e. Building Orientation. The building is designed such that principal entrances and pathways are oriented such that they address the street in the pattern established in the historic context and the block face.

2. Site Access, Parking, and Services:

- a. Site Access. The design of the project allows for site access that is similar, in form and function, with patterns common in the historic context and the block face.
  - (1) Pedestrian: Safe pedestrian access is provided through architecturally highlighted entrances and walkways, consistent with patterns common in the historic context and the block face.
  - (2) Vehicular: Vehicular access is located in the least obtrusive manner possible. Where possible, garage doors and parking should be located to the rear or to the side of the building.

- b. Site and Building Services and Utilities. Utilities and site/building services (such as HVAC systems, venting fans, and dumpsters) are located such that they are to the rear of the building or on the roof and screened from public spaces and public properties.
- 3. Landscape and Lighting:
  - a. Grading of Land. The site's landscape, such as grading and retaining walls, addresses the public way in a manner that reflects the character of the historic context and the block face.
  - b. Landscape Structures. Landscape structures, such as arbors, walls, fences, address the public way in a manner that reflects the character of the historic context and the block face.
  - c. Lighting. Where appropriate lighting is used to enhance significant elements of the design and reflects the character of the historic context and the block face.
- 4. Building Form and Scale:
  - a. Character of the Street Block. The design of the building reflects the historic character of the street facade in terms of scale, composition, and modeling.
    - (1) Height: The height of the project reflects the character of the historic context and the block face. Projects taller than those existing on the block face step back their upper floors to present a base that is in scale with the historic context and the block face.
    - (2) Width: The width of the project reflects the character of the historic context and the block face. Projects wider than those existing on the block face modulate the facade to express a series of volumes in scale with the historic context and the block face.
    - (3) Massing: The shape, form, and proportion of buildings, reflects the character of the historic context and the block face.
    - (4) Roof Forms: The building incorporates roof shapes that reflect forms found in the historic context and the block face.
- 5. Building Character:
  - a. Facade Articulation and Proportion: The design of the project reflects patterns of articulation and proportion established in the historic context and the block face. As appropriate, facade articulations reflect those typical of other buildings on the block face. These articulations are of similar dimension to those found elsewhere in the context, but have a depth of not less than 12 inches.



- (1) Rhythm of Openings: The facades are designed to reflect the rhythm of openings (doors, windows, recessed balconies, etc.) established in the historic context and the block face.
- (2) Proportion and Scale of Openings: The facades are designed using openings (doors, windows, recessed balconies, etc.) of similar proportion and scale to that established in the historic context and the block face.
- (3) Ratio of Wall to Openings: Facades are designed to reflect the ratio of wall to openings (doors, windows, recessed balconies, etc.) established in the historic context and the block face.
- (4) Balconies, Porches, and External Stairs: The project, as appropriate, incorporates entrances, balconies, porches, stairways, and other projections that reflect patterns established in the historic context and the block face.

6. Building Materials, Elements and Detailing:

- a. Materials. Building facades, other than windows and doors, incorporate no less than 80% durable material such as, but not limited to, wood, brick, masonry, textured or patterned concrete and/or cut stone. These materials reflect those found elsewhere in the district and/or setting in terms of scale and character.
  - b. Materials on Street-facing Facades. The following materials are not considered to be appropriate and are prohibited for use on facades which face a public street: vinyl siding and aluminum siding.
  - c. Windows. Windows and other openings are incorporated in a manner that reflects patterns, materials, and detailing established in the district and/or setting.
  - d. Architectural Elements and Details. The design of the building features architectural elements and details that reflect those characteristic of the district and/or setting.
7. Signage Location. Locations for signage are provided such that they are an integral part of the site and architectural design and are complimentary to the principal structure.

I. Standards for Certificate of Appropriateness for Relocation of Landmark Site or Contributing Structure: In considering an application for a certificate of appropriateness for relocation of a landmark site or a contributing structure, the historic landmark commission shall find that the project substantially complies with the following standards:

1. The proposed relocation will abate demolition of the structure;
2. The proposed relocation will not diminish the overall physical integrity of the district or diminish the historical associations used to define the boundaries of the district;

3. The proposed relocation will not diminish the historical or architectural significance of the structure;
  4. The proposed relocation will not have a detrimental effect on the structural soundness of the building or structure;
  5. A professional building mover will move the building and protect it while being stored; and
  6. A financial guarantee to ensure the rehabilitation of the structure once the relocation has occurred is provided to the city. The financial guarantee shall be in a form approved by the city attorney, in an amount determined by the planning director sufficient to cover the estimated cost to rehabilitate the structure as approved by the historic landmark commission and restore the grade and landscape the property from which the structure was removed in the event the land is to be left vacant once the relocation of the structure occurs.
- J. Standards for Certificate of Appropriateness for Demolition of Landmark Site: In considering an application for a certificate of appropriateness for demolition of a landmark site, the historic landmark commission shall only approve the application upon finding that the project fully complies with one of the following standards:
1. The demolition is required to alleviate a threat to public health and safety pursuant to subsection O of this section; or
  2. A determination of economic hardship has been granted by the historic landmark commission pursuant to the provisions of subsection L of this section.
- K. Standards for Certificate of Appropriateness for Demolition of a Contributing Principal Building in an H Historic Preservation Overlay District: When considering a request for approval of a certificate of appropriateness for demolition of a contributing principal building, the historic landmark commission shall determine whether the request substantially complies with the following standards:
1. Standards for Approval of a Certificate of Appropriateness for Demolition:
    - a. The integrity of the site as defined in subsection C.15.b of this section is no longer evident;
    - b. The streetscape within the context of the H Historic Preservation Overlay District would not be negatively materially affected if the contributing principal building were to be demolished;
    - c. The demolition would not create a material adverse effect on the concentration of historic resources used to define the boundaries or maintain the integrity of the district;

- d. The base zoning of the site does not permit land uses that would allow the adaptive reuse of the contributing principal building;
- e. The contributing principal building has not suffered from wilful neglect, as evidenced by the following:
  - (1) Wilful or negligent acts that have caused significant deterioration of the structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,
  - (2) Failure to perform routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or
  - (3) Failure to secure and board the contributing principal building, if vacant, per Section 18.64.045 of this title.
- 2. Historic Landmark Commission Determination of Compliance With Standards of Approval: If the historic landmark commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K.1 of this section, then the historic landmark commission shall approve the request for a certificate of appropriateness for demolition. If the historic landmark commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K.1 of this section, then the historic landmark commission shall deny the request for a certificate of appropriateness for demolition.
- L. Economic Hardship Determination: Upon denial of a certificate of appropriateness for demolition of a contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship. In the case of a landmark site, an application for determination of economic hardship can be submitted at any time as necessary to meet the standard of subsection J.2 of this section.
  - 1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.
  - 2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

- a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.
- b. The current level of economic return on the property as considered in relation to the following:
  - (1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased,
  - (2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,
  - (3) Real estate taxes for the previous three (3) years by the Salt Lake County Assessor,
  - (4) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,
  - (5) The fair market value of the property taking into consideration the H Historic Preservation Overlay District;
  - (6) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;
- c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
  - (1) Any real estate broker or firm engaged to sell or lease the property,
  - (2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and
  - (3) Any advertisements placed for the sale or rental of the property,
- d. The feasibility of alternative uses for the property as considered in relation to the following:

- (1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,
  - (2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,
  - (3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and
  - (4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.
- e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
  - f. Description of past and current use.
  - g. An itemized report that identifies what is deficient if the building does not meet minimum city building code standards or violations of city code.
  - h. Consideration of map amendment, conditional use, special exception or other land use processes to alleviate hardship
3. Procedure for Determination of Economic Hardship: The planning director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the historic landmark commission concerning the value of the property and whether or not the denial of demolition could result in an economic hardship. The extent of the authority of the planning director's appointed qualified expert is limited to rendering advice and testimony to the historic landmark commission. The planning director's appointed qualified expert has no decision making capacity. The planning director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The historic landmark commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the planning director's appointed qualified expert as necessary.
- a. Review of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the planning director's appointed

qualified expert for determination of economic hardship after receipt of a complete application.

- b. Finding of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the planning director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

- (1) For demolition of non-residential or multifamily property:

- (a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

- (2) For demolition of a residential property (single or two family):

- (a) The contributing principal building cannot be put to any beneficial use in its present condition.

- c. Certificate of Appropriateness for Demolition: If the historic landmark commission finds an economic hardship, a certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to Section 21A.10.010.D.

- d. Denial of Economic Hardship: If the historic landmark commission does not find an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

- (1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.

- (2) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of Chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

- M. Requirements for Certificate of Appropriateness for Demolition: No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is replaced with a new building that meets the following criteria:
1. The replacement building satisfies all applicable zoning and H Historic Preservation Overlay District standards for new construction,
  2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.
  3. Submittal of documentation to the planning division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.
    - a. Photographs. Digital or print photographs. Views should include:
      - (1) Exterior views;
      - (2) Close-ups of significant exterior features;
      - (3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.
    - b. Site plan showing the location of the building and site features.
- N. Revocation of the Designation of a Landmark Site: If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).
- O. Exceptions of Certificate of Appropriateness for Demolition of Hazardous Buildings: A hazardous building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision.
- P. Expiration of Approvals: Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time

extension shall be required not less than thirty (30) days prior to the twelve (12) month time period.

SECTION 2. Effective Date. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
CHAIRPERSON

ATTEST AND COUNTERSIGN:

\_\_\_\_\_  
CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 2017.  
Published: \_\_\_\_\_.

**APPROVED AS TO FORM**

Salt Lake City Attorney's Office

Date: January 18, 2017

By: Paul C. Nielsen  
Paul C. Nielsen, Senior City Attorney



SALT LAKE CITY ORDINANCE

No. \_\_\_\_\_ of 201\_\_

(An ordinance amending various sections of the *Salt Lake City Code* pertaining to demolition and new construction in the H Historic Preservation Overlay District)

An ordinance amending various sections of the *Salt Lake City Code* pertaining to demolition of landmark sites and contributing buildings and structures in the H Historic Preservation Overlay District pursuant to Petition No. PLNPCM2009-00014 and standards for new construction in the H Historic Preservation Overlay District pursuant to Petition No. PLNPCM2016-00905.

WHEREAS, the Salt Lake City Historic Landmark Commission held a work session on June 1, 2017 and a public hearing on August 3, 2017 to consider petitions to amend Chapters 2.60 (Administration and Personnel: Recognized Community Organizations); 18.48 (Buildings and Construction: Dangerous Buildings); 18.64 (Buildings and Construction: Demolition); 21A.34 (Zoning: Overlay Districts); and 21A.50 (Zoning: Amendments) of the *Salt Lake City Code* to modify regulations pertaining to demolition of landmark sites and contributing building and structures in the H Historic Preservation Overlay District (Petition No. PLNPCM2009-00014) and regulations pertaining to new construction in the H Historic Preservation Overlay District (Petition No. PLNPCM2016-00905); and

WHEREAS, at its August 3, 2017 meeting, the historic landmark commission voted in favor of transmitting a positive recommendation to the Salt Lake City Planning Commission and Salt Lake City Council on said petitions; and

WHEREAS, the Salt Lake City Planning Commission held public hearings on July 12, 2017 and August 23, 2017 on said petitions; and

WHEREAS, at its August 23, 2017 meeting, the planning commission voted in favor of transmitting a positive recommendation to the city council on said petitions; and

WHEREAS, after a public hearing on this matter the city council has determined that adopting this ordinance is in the city's best interests.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the text of Salt Lake City Code Section 21A.34.020. That Section 21A.34.020 of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District), shall be and hereby is amended to read as follows:

**21A.34.020: H HISTORIC PRESERVATION OVERLAY DISTRICT:**

A. Purpose Statement: In order to contribute to the welfare, prosperity and education of the people of Salt Lake City, the purpose of the H ~~H~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District is to:

1. Provide the means to protect and preserve areas of the city and individual structures and sites having historic, architectural or cultural significance;
2. Encourage new development, redevelopment and the subdivision of lots in historic districts that is compatible with the character of existing development of historic districts or individual landmarks;
3. Abate the destruction and demolition of historic structures;
4. Implement adopted plans of the city related to historic preservation;
5. Foster civic pride in the history of Salt Lake City;
6. Protect and enhance the attraction of the city's historic landmarks and districts for tourists and visitors;
7. Foster economic development consistent with historic preservation; and
8. Encourage social, economic and environmental sustainability.

B. Definitions:

CONTRIBUTING STRUCTURE: A structure or site within the H ~~H~~Historic ~~p~~Preservation ~~e~~Overlay ~~d~~District that meets the criteria outlined in subsection C<sub>15</sub> of this section and is of moderate importance to the city, state, region or nation because it imparts artistic, historic or cultural values. A contributing structure has its major character defining features intact and although minor alterations may have

occurred they are generally reversible. Historic materials may have been covered but evidence indicates they are intact.

**DEMOLITION:** Any act or process which destroys a structure, object or property within the ~~H~~ HHistoric ~~p~~ PPreservation ~~o~~ OOverlay ~~d~~ District or a landmark site. (See definition of Demolition, Partial.)

**DEMOLITION, PARTIAL:** Partial demolition includes any act which destroys a portion of a structure consisting of not more than twenty five percent (25%) of the floor area of the structure, and where the portion of the structure to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the historic period on any exterior elevation exceeding twenty five percent (25%) when the demolition is part of an act of restoring original historic elements of a structure and/or restoring a structure to its historical mass and size.

**DESIGN GUIDELINES:** The design guidelines provide guidance in determining the suitability and architectural compatibility of proposed maintenance, repair, alteration or new construction while at the same time, allowing for reasonable changes that meet current needs of properties located within the historic preservation overlay district. For architects, designers, contractors and property owners, they provide guidance in planning and designing future projects. For city staff and the historic landmark commission, they provide guidance for the interpretation of the zoning ordinance standards. Design guidelines are officially adopted by city council.

**ECONOMIC HARDSHIP:** Denial of a property owner of all reasonable beneficial or economically viable use of a property without just compensation.

**HISTORIC RESOURCE SURVEY:** A systematic resource for identifying and evaluating the quantity and quality of historic resources for land use planning purposes following the guidelines and forms of the Utah state historic preservation office.

1. Reconnaissance level surveys (RLS) ~~is~~ are the most basic approach for systematically documenting and evaluating historic buildings in Utah communities and involves only a visual evaluation of properties.
2. Intensive level surveys (ILS) include in depth research involving research on the property and its owners, documentation of the property's physical appearance and completion of the Utah state historic office's historic site form.

**LANDMARK SITE:** Any site included on the Salt Lake City register of cultural resources that meets the criteria outlined in subsection C\_15 of this section. Such sites are of exceptional importance to the city, state, region or nation and impart high artistic, historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site.

**LOCAL HISTORIC DISTRICT:** A geographically or thematically definable area within the ~~H~~ HHistoric ~~p~~ PPreservation ~~o~~ OOverlay ~~d~~ District designated by the city council pursuant

to the provisions of this section, which contains buildings, structures, sites, objects, landscape features, archaeological sites and works of art, or a combination thereof, that contributes to the historic preservation goals of Salt Lake City.

**NEW CONSTRUCTION:** The building of a new principal building within the H ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District or on a landmark site.

**NONCONTRIBUTING STRUCTURE:** A structure within the H ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District that does not meet the criteria listed in subsection C.15 of this section. The major character defining features have been so altered as to make the original and/or historic form, materials and details indistinguishable and alterations are irreversible. Noncontributing structures may also include those which are less than fifty (50) years old.

**THEMATIC DESIGNATION:** A collection of individual sites, buildings, structures, or features which are contained in two (2) or more geographically separate areas that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.

**WILFUL NEGLECT:** The intentional absence of routine maintenance and repair of a building over time.

C. Designation ~~O~~of ~~A~~a Landmark Site, Local Historic District ~~O~~or Thematic Designation; H Historic Preservation Overlay District:

1. Intent: Salt Lake City will consider the designation of a landmark site, or thematic designation in order to protect the best examples of historic resources which represent significant elements of the city's prehistory, history, development patterns or architecture. Designation of a local historic district must be in the best interest of the city and achieve a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage. The city council shall determine that designation of a landmark site, local historic district or thematic designation is the best method of preserving a unique element of history important to understanding the prehistory or history of the area encompassed by the current Salt Lake City corporate boundaries.
2. City Council May Designate ~~O~~or Amend Landmark Sites, Local Historic Districts ~~O~~or Thematic Designations: Pursuant to the procedures in this section and the standards for general amendments in sSection 21A.50.050 of this title the city council may by ordinance apply the H ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District and:
  - a. Designate as a landmark site an individual building, structure or feature or an integrated group of buildings, structures or features on a single lot or site having exceptional importance to the city, state, region or nation and impart high artistic,

historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site;

- b. Designate as a local historic district a contiguous area with a minimum district size of one “block face”, as defined in ~~s~~Section 21A.62.040 of this title, containing a number of sites, buildings, structures or features that contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;
  - c. Designate as a thematic designation a collection of sites, buildings, structures, or features which are contained in two (2) or more geographically separate areas that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value; and
  - d. Amend designations to add or remove features or property to or from a landmark site, local historic district or thematic designation.
3. Preapplication Conference: Prior to the submittal of an application for the designation or amendment to a landmark site(s), local historic district(s) or thematic designation(s), and prior to gathering any signatures in support of such an application, a potential applicant shall attend a preapplication conference with the planning director or designee. The purpose of this meeting is to discuss the merits of the proposed designation and the amendment processes as outlined in this section.
4. Notification ~~Of~~ Affected Property Owners: Following the preapplication conference outlined in subsection C.3 of this section and prior to the submittal of an application for the designation or amendment to a local historic district(s) or thematic designation(s), the city shall send by first class mail a neutral informational pamphlet to owners of record for each property potentially affected by a forthcoming application. The informational pamphlet shall contain, at a minimum, a description of the process to create a local historic district and will also list the pros and cons of a local historic district. The informational pamphlet shall be mailed after a potential applicant submits to the city a finalized proposed boundary of an area to be included in the ~~H~~ HHistoric ~~p~~ Preservation ~~o~~ Overlay ~~d~~ District. Once the city sends the informational pamphlet, property owner signature gathering may begin per subsection C.5.b of this section. The informational pamphlet sent shall remain valid for ninety (90) days. If an application is not filed with the city within ninety (90) days after the date that the informational pamphlet was mailed, the city shall close its file on the matter. Any subsequent proposal must begin the application process again.
5. Petition Initiation ~~F~~ For Designation ~~Of~~ A Landmark Site, Local Historic District ~~Or~~ Or Thematic Designation:
  - a. Petition Initiation ~~F~~ For ~~H~~ H Historic Preservation Overlay District; Landmark Site: Any owner of property proposed for a landmark site, the mayor or the city

council, by majority vote, may initiate a petition to consider the designation of a landmark site.

- b. ~~Petition Initiation For H Historic Preservation Overlay District; Local Historic District Or Thematic Designation:~~ A property owner initiating such a petition shall demonstrate, in writing, support of more than thirty three percent (33%) of the property owners of lots or parcels within the proposed boundaries of an area to be included in the ~~H hHistoric pPreservation oOverlay dDistrict~~. The mayor or the city council, by a majority vote, may initiate a petition to consider designation of a local historic district or thematic designation.
- (1) For purposes of this subsection, a lot or parcel of real property may not be included in the calculation of the required percentage unless the application is signed by property owners representing at least fifty percent (50%) of the interest in that lot or parcel.
- (2) Each lot or parcel of real property may only be counted once toward the thirty three percent (33%), regardless of the number of owner signatures obtained for that lot or parcel.
- (3) Signatures obtained to demonstrate support of more than thirty three percent (33%) of the property owners within the boundary of the proposed local historic district or thematic designation must be gathered within a period of ninety (90) days as counted between the date that the informational pamphlet was mailed as required per subsection C<sub>4</sub> of this section and the date of the last required signature.
- c. ~~Fees:~~ No application fee will be required for a petition initiated by a property owner for designation of a property to the ~~H hHistoric pPreservation oOverlay dDistrict~~.
6. ~~Notice Of Designation Application Letter:~~ Following the receipt by the city of an application for the designation or amendment to a local historic district(s) or thematic designation(s), the city shall send a notice of designation application letter to owner(s) of record for each property affected by said application along with a second copy of the informational pamphlet described in subsection C<sub>4</sub> of this section. In the event that no application is received following the ninety (90) day period of property owner signature gathering, the city will send a letter to property owner(s) of record stating that no application has been filed, and that the city has closed its file on the matter.
7. ~~Planning Director Report To The City Council:~~ Following the initiation of a petition to designate a landmark site or a local historic district or thematic designation, the planning director shall submit a report based on the following considerations to the city council:

- a. Whether a current survey meeting the standards prescribed by the state historic preservation office is available for the landmark site or the area proposed for a local historic district or thematic designation. If a suitable survey is not available, the report shall propose a strategy to gather the needed survey data.
  - b. The city administration will determine the priority of the petition and determine whether there is sufficient funding and staff resources available to allow the planning division to complete a community outreach process, historic resource analysis and to provide ongoing administration of the new landmark site, local historic district or thematic designation if the designation is approved by the city council. If sufficient funding is not available, the report shall include a proposed budget.
  - c. Whether the proposed designation is generally consistent with the purposes, goals, objectives and policies of the city as stated through its various adopted planning documents.
  - d. Whether the proposed designation would generally be in the public interest.
  - e. Whether there is probable cause to believe that the proposed landmark site, local historic district or thematic designation may be eligible for designation consistent with the purposes and designation criteria in subsection C<sub>15</sub> of this section and the zoning map amendment criteria in sSection 21A.50.050, “Standards Ffor General Amendments”, of this title.
  - f. Verification that a neutral informational pamphlet was sent per subsection C<sub>4</sub> of this section to all property owners within a proposed local historic district following the presubmittal process outlined in subsection C<sub>3</sub> of this section.
8. Property Owner Meeting: Following the submission of the planning director’s report and acceptance of the report by the city council, the planning division will conduct a community outreach process to inform the owners of property within the proposed boundaries of the proposed landmark site, local historic district or thematic designation about the following:
    - a. The designation process, including determining the level of property owner support, the public hearing process, and final decision making process by the city council; and
    - b. Zoning ordinance requirements affecting properties located within the H hHistoric pPreservation oOverlay dDistrict, adopted design guidelines, the design review process for alterations and new construction, the demolition process and the economic hardship process.
  9. Open House: Following the property owner meeting, the planning division will conduct an open house for the owners of property within the proposed boundaries of

the local historic district or thematic designation to provide the information described in subsections C.8.a and C.8.b of this section.

#### 10. Public Hearing Process:

- a. Historic Landmark Commission Consideration: Following the initiation of a petition to designate a landmark site or a local historic district, the historic landmark commission shall hold a public hearing and review the request by applying subsection C.15, “Standards For The Designation Of A Landmark Site, Local Historic District Or Thematic Designation”, of this section. Following the public hearing, the historic landmark commission shall recommend approval, approval with modifications or denial of the proposed designation and shall then submit its recommendation to the planning commission and the city council.
- b. Planning Commission Consideration: Following action by the historic landmark commission, the planning commission shall hold a public hearing and shall recommend approval, approval with modifications or denial of the proposed designation based on the standards of sSection 21A.50.050 of this title, zoning map amendments and shall then submit its recommendation to the city council.

#### 11. Property Owner Opinion Balloting:

- a. Following the completion of the historic landmark commission and planning commission public hearings, the city will deliver property owner opinion ballots via first class mail to property owners of record within the boundary of the proposed local historic district or thematic designation. The property owner opinion ballot is a nonbinding opinion poll to inform the city council of property owner interest regarding the designation of a local historic district. Each individual property in the proposed designation boundary, regardless of the number of owners having interest in any given property, will receive one property owner opinion ballot.
  - (1) A property owner is eligible to vote regardless of whether or not the property owner is an individual, a private entity, or a public entity;
  - (2) The municipality shall count no more than one property owner opinion ballot for:
    - (A) Each parcel within the boundaries of the proposed local historic district or area; or
    - (B) If the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and



- (3) If a parcel or unit has more than one owner of record, the municipality shall count a property owner opinion ballot for the parcel or unit only if the property owner opinion ballot reflects the vote of the property owners who own at least fifty percent (50%) interest in the parcel or unit.
- b. Property owners of record will have thirty (30) days from the postmark date of the property owner opinion ballot to submit a response to the city indicating the property owner's support or nonsupport of the proposed designation.
- c. A letter shall be mailed to all property owners within the proposed local historic district or thematic designation whose property owner opinion ballot has not been received by the city within fifteen (15) days from the original postmark date. This follow up letter will encourage the property owners to submit a property owner opinion ballot prior to the thirty (30) day deadline date set by the mailing of the first property owner opinion ballot.
12. Notification ~~Of~~ Property Owner Opinion Balloting Results: Following the public opinion balloting for the proposed designation, the city will send notice of the results to all property owners within the proposed local historic district, area, or thematic designation.
13. City Council Consideration: Following the transmittal of the historic landmark commission and the planning commission recommendations and the results of the property owner opinion process, the city council shall hold a public hearing to consider the designation of a landmark site, local historic district or thematic designation.
- a. Designation ~~Of~~ A Landmark Site: The city council may, by a majority vote, designate a landmark site.
- b. Designation ~~Of~~ A Local Historic District ~~Or~~ Thematic Designation:
- (1) If the property owner opinion ballots returned equals at least two-thirds ( $\frac{2}{3}$ ) of the total number of returned property owner support ballots, and represents more than fifty percent (50%) of the parcels and units (in the case of a condominium project) within the proposed local historic district, area, or thematic designation, the city council may designate a local historic district or a thematic district by a simple majority vote.
- (2) If the number of property owner opinion ballots received does not meet the threshold identified in subsection C\_13\_b(1) of this section, the city council may only designate a local historic district, area, or a thematic district by an affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the members of the city council.

(3) If the number of property owner opinion ballots received in support and in opposition is equal, the city council may only designate a local historic district or a thematic district by a super majority vote.

- c. Following Designation: Following city council designation of a landmark site, local historic district or thematic designation, all of the property located within the boundaries of the ~~H~~ H ~~Historic~~ Preservation ~~Overlay~~ District shall be subject to the provisions of this section. The zoning regulations will go into effect on the date of the publication of the ordinance unless otherwise noted on the adoption ordinance.

14. Notice ~~Of~~ Designation: Within thirty (30) days following the designation of a landmark site, local historic district or thematic designation, the city shall provide notice of the action to all owners of property within the boundaries of the ~~H~~ H ~~Historic~~ Preservation ~~Overlay~~ District. In addition, a notice shall be recorded in the office of the county recorder for all lots or parcels within the area added to the ~~H~~ H ~~Historic~~ Preservation ~~Overlay~~ District.

15. Standards ~~For~~ The Designation ~~Of~~ A Landmark Site, Local Historic District ~~Or~~ Thematic Designation: Each lot or parcel of property proposed as a landmark site, for inclusion in a local historic district, or for thematic designation shall be evaluated according to the following:

- a. Significance in local, regional, state or national history, architecture, engineering or culture, associated with at least one of the following:

- (1) Events that have made significant contribution to the important patterns of history, or

- (2) Lives of persons significant in the history of the city, region, state, or nation, or

- (3) The distinctive characteristics of a type, period or method of construction; or the work of a notable architect or master craftsman, or

- (4) Information important in the understanding of the prehistory or history of Salt Lake City; and

- b. Physical integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the national park service for the national register of historic places;

- c. The proposed local historic district or thematic designation is listed, or is eligible to be listed on the national register of historic places;

- d. The proposed local historic district contains notable examples of elements of the city's history, development patterns or architecture not typically found in other local historic districts within Salt Lake City;
  - e. The designation is generally consistent with adopted planning policies; and
  - f. The designation would be in the overall public interest.
16. ~~Factors To~~ Consider: The following factors may be considered by the historic landmark commission and the city council to help determine whether the proposed designation of a landmark site, local historic district or thematic designation meets the criteria listed above:
- a. Sites should be of such an age which would allow insight into whether a property is sufficiently important in the overall history of the community. Typically this is at least fifty (50) years but could be less if the property has exceptional importance.
  - b. Whether the proposed local historic district contains examples of elements of the city's history, development patterns and/or architecture that may not already be protected by other local historic districts within the city.
  - c. Whether designation of the proposed local historic district would add important knowledge that advances the understanding of the city's history, development patterns and/or architecture.
  - d. Whether approximately seventy five percent (75%) of the structures within the proposed boundaries are rated as contributing structures by the most recent applicable historic survey.
17. ~~Boundaries Of A~~ Proposed Landmark Site: When applying the evaluation criteria in subsection C.15 of this section, the boundaries of a landmark site shall be drawn to ensure that historical associations, and/or those which best enhance the integrity of the site comprise the boundaries.
18. ~~Boundaries Of A~~ Proposed Local Historic District: When applying the evaluation criteria in subsection C.15 of this section, the boundaries shall be drawn to ensure the local historic district:
- a. Contains a significant density of documented sites, buildings, structures or features rated as contributing structures in a recent historic survey;
  - b. Coincides with documented historic boundaries such as early roadways, canals, subdivision plats or property lines;

- c. Coincides with logical physical or manmade features and reflect recognized neighborhood boundaries; and
  - d. Contains nonhistoric resources or vacant land only where necessary to create appropriate boundaries to meet the criteria of subsection C.15 of this section.
19. **Boundaries of A Proposed Thematic Designation:** When applying the evaluation criteria of this section, the boundaries shall be drawn to ensure the thematic designation contains a collection of sites, buildings, structures, or features that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.
- D. **The Adjustment or Expansion of Boundaries of A Historic Preservation Overlay District and The Revocation of The Designation of Landmark Site:**
- 1. **Procedure:** The procedure for the adjustment of boundaries of an Historic Preservation Overlay District and the revocation of the designation of a landmark site shall be the same as that outlined in subsection C of this section.
  - 2. **Criteria for Adjusting The Boundaries of A Historic Preservation Overlay District:** Criteria for adjusting the boundaries of an Historic Preservation Overlay District are as follows:
    - a. The properties have ceased to meet the criteria for inclusion within an Historic Preservation Overlay District because the qualities which caused them to be originally included have been lost or destroyed, or such qualities were lost subsequent to the historic landmark commission recommendation and adoption of the district;
    - b. Additional information indicates that the properties do not comply with the criteria for selection of the Historic Preservation Overlay District as outlined in subsection C.15 of this section; or
    - c. Additional information indicates that the inclusion of additional properties would better convey the historical and architectural integrity of the Historic Preservation Overlay District, provided they meet the standards outlined in subsection C.15 of this section.
  - 3. **Criteria for The Expansion of A Existing Landmark Site, Local Historic District or Thematic Designation:** A proposed expansion of an existing landmark site, local historic district or thematic designation shall be considered utilizing the provisions of subsections C.15 through C.19 of this section.
  - 4. **Criteria for The Revocation of The Designation of A Landmark Site:** Criteria are as follows:



12. New construction; and

13. Installation of an awning over a window or door.

F. Procedure ~~F~~for Issuance ~~O~~f Certificate ~~O~~f Appropriateness:

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

a. Types ~~O~~f Construction: The following may be approved by administrative decision:

(1) Minor alteration of or addition to a landmark site or contributing site, building, and/or structure;

(2) Substantial alteration of or addition to a noncontributing site;

(3) Partial demolition of either a landmark site or a contributing principal building or structure;

(4) Demolition of an accessory building or structure;

(5) Demolition of a noncontributing building or structure; and

(6) Installation of solar energy collection systems ~~on the front facade of the principal building in a location most compatible with the character defining features of the home~~ pursuant to sSection 21A.40.190 of this title.

b. Submission ~~O~~f Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to ~~e~~Chapter 21A.10 of this title, and shall forward the application for review and decision.

c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model, window frame sections and samples deemed necessary to consider the application properly and completely.

d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.

e. Notice ~~F~~or of Application ~~F~~for Demolition ~~O~~f A Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to ~~e~~Chapter 21A.10 of this title. The applicant shall be responsible for payment of

all fees established for providing the public notice required by ~~e~~Chapter 21A.10 of this title.

- f. ~~Standards For~~ of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.
  - g. ~~Review And Decision By~~ The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.
  - h. ~~Referral Of Application By~~ Planning Director To Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the ~~H h~~Historic pPreservation oOverlay dDistrict, or the need for consultation for expertise regarding architectural, construction or preservation issues; or if the application does not meet the standards of review.
2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only ~~be allowed to~~ be approved by the historic landmark commission subject to the following procedures:
- a. ~~Types Of~~ Construction: The following shall be reviewed by the historic landmark commission:
    - (1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ site, building, and/or structure;
    - (2) New construction of principal building in ~~H h~~Historic pPreservation oOverlay dDistrict;
    - (3) Relocation of landmark site or contributing ~~site~~ principal building;
    - (4) Demolition of landmark site or contributing ~~site~~ principal building;
    - (5) Applications for administrative approval referred by the planning director; and
    - (6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to ~~s~~Section 21A.40.190 of this title.
  - b. ~~Submission Of~~ Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection ~~F~~1.b of this section.

c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by ~~Chapter 21A.10~~ of this title.

d. Materials Submitted With Application: ~~The requirements for the materials to be submitted upon application for a certificate of appropriateness shall be the same as specified in subsection F.1.c of this section.~~ An application shall be made on a form provided by the planning director and shall be submitted to the planning division in accordance with subsection F.1.c of this section, however specific requirements for new construction shall include the following information unless deemed unnecessary by the zoning administrator:

- (1) The applicant's name, address, telephone number, e-mail address and interest in the subject property;
- (2) The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;
- (3) The street address and legal description of the subject property;
- (4) A narrative including a complete description of the project and how it meets review standards with citation of supporting adopted city design guidelines;
- (5) A context plan showing property lines, building footprints, front yard setbacks, adjacent streets and alleys, historic district boundaries, contributing/noncontributing structures and landmark sites;
- (6) A streetscape study which includes height measurements for each primary structure on the block face;
- (7) A site plan or drawing drawn to a scale which includes the following information: property lines, lot dimensions, topography, adjacent streets, alleys and walkways, landscaping and buffers, existing and proposed buildings and structures, lot coverage, grade changes, parking spaces, trash receptacles, drainage features, proposed setbacks and other details required for project evaluation;
- (8) Elevation drawings and details for all facades;
- (9) Illustrative photos and/or samples of all proposed facade materials;
- (10) Building, wall, and window section drawings;
- (11) 3D models that show the new construction in relation to neighboring buildings;
- (12) 3D models that show the new construction from the pedestrian perspective; and
- (13) Any further information or documentation as the zoning administrator deems necessary in order to fully consider and analyze the application.

~~Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.~~



- e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to ~~e~~Chapter 21A.10 of this title.
- f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to ~~e~~Chapter 21A.10 of this title.
- g. Standards ~~F~~for Approval: The application shall be reviewed according to the standards set forth in subsections G through ~~L~~ K of this section, whichever are applicable.
- h. Review ~~A~~and Decision ~~B~~by ~~F~~the Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, ~~within sixty (60) days following receipt of a completed application, except that a review and decision on an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) days following receipt of a completed application.~~
  - (1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection ~~L~~ K of this section, whichever are applicable.
  - (2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness. ~~A decision on an application for a certificate of appropriateness for demolition of a contributing structure may be deferred for up to one year pursuant to subsections L and M of this section.~~
  - (3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing structures principal buildings shall not be issued until the appeal period has expired.
  - (4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.
- i. Appeal ~~O~~f Historic Landmark Commission Decisions To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located ~~within the same H historic preservation overlay district, any recognized organization pursuant to title 2, chapter 2.60 of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark~~

commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of Chapter 21A.16 of this title.

j. ~~Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~

k. ~~Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~

G. ~~Standards For Certificate Of Appropriateness For Alteration Of A Landmark Site Or Contributing Structure Including New Construction Of An Accessory Structure:~~ In considering an application for a certificate of appropriateness for alteration of a landmark site or contributing structure, the historic landmark commission, or the planning director, for administrative decisions, shall find that the project substantially complies with all of the following general standards that pertain to the application and that the decision is in the best interest of the city:

1. A property shall be used for its historic purpose or be used for a purpose that requires minimal change to the defining characteristics of the building and its site and environment;
2. 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;

3. All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create a false sense of history or architecture are not allowed;
4. Alterations or additions that have acquired historic significance in their own right shall be retained and preserved;
5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;
6. Deteriorated architectural features shall be repaired rather than replaced wherever feasible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects;
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;
8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archaeological material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment;
9. Additions or alterations to structures and objects shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. The new work shall be differentiated from the old and shall be compatible in massing, size, scale and architectural features to protect the historic integrity of the property and its environment;
10. Certain building materials are prohibited including the following:
  - a. Aluminum, asbestos, or vinyl cladding when applied directly to an original or historic material.
11. Any new sign and any change in the appearance of any existing sign located on a landmark site or within the Historic Preservation Overlay District, which is visible from any public way or open space shall be consistent with the historic character of the landmark site or Historic Preservation Overlay District and shall comply with the standards outlined in Chapter 21A.46 of this title.

H. Standards For Certificate Of Appropriateness Involving New Construction Or Alteration Of A Noncontributing Structure: In considering an application for a certificate of appropriateness involving new construction, or alterations of noncontributing structures, the historic landmark commission, or planning director when the application involves the alteration of a noncontributing structure; shall, using the adopted design guidelines as a key basis for evaluation, determine whether the project substantially complies with ~~at least~~ each of the following standards that pertain to the application; ~~is visually compatible with surrounding structures and streetscape and is in the best interest of the city to ensure that the proposed project fits into the established context in ways that respect and contribute to the evolution of Salt Lake City's architectural and cultural traditions:~~

1. ~~Scale And Form:~~

- a. ~~Height And Width: The proposed height and width shall be visually compatible with surrounding structures and streetscape;~~
- b. ~~Proportion Of Principal Facades: The relationship of the width to the height of the principal elevations shall be in scale with surrounding structures and streetscape;~~
- c. ~~Roof Shape: The roof shape of a structure shall be visually compatible with the surrounding structures and streetscape; and~~
- d. ~~Scale Of A Structure: The size and mass of the structures shall be visually compatible with the size and mass of surrounding structure and streetscape.~~

2. ~~Composition Of Principal Facades:~~

- a. ~~Proportion Of Openings: The relationship of the width to the height of windows and doors of the structure shall be visually compatible with surrounding structures and streetscape;~~
- b. ~~Rhythm Of Solids To Voids In Facades: The relationship of solids to voids in the facade of the structure shall be visually compatible with surrounding structures and streetscape;~~
- c. ~~Rhythm Of Entrance Porch And Other Projections: The relationship of entrances and other projections to sidewalks shall be visually compatible with surrounding structures and streetscape; and~~
- d. ~~Relationship Of Materials: The relationship of the color and texture of materials (other than paint color) of the facade shall be visually compatible with the predominant materials used in surrounding structures and streetscape.~~

3. ~~Relationship To Street:~~

- ~~a. Walls Of Continuity: Facades and site structures, such as walls, fences and landscape masses, shall, when it is characteristic of the area, form continuity along a street to ensure visual compatibility with the structures, public ways and places to which such elements are visually related;~~
  - ~~b. Rhythm Of Spacing And Structures On Streets: The relationship of a structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the structures, objects, public ways and places to which it is visually related;~~
  - ~~c. Directional Expression Of Principal Elevation: A structure shall be visually compatible with the structures, public ways and places to which it is visually related in its orientation toward the street; and~~
  - ~~d. Streetscape; Pedestrian Improvements: Streetscape and pedestrian improvements and any change in its appearance shall be compatible to the historic character of the landmark site or H historic preservation overlay district.~~
- ~~4. Subdivision Of Lots: The planning director shall review subdivision plats proposed for property within an H historic preservation overlay district or of a landmark site and may require changes to ensure the proposed subdivision will be compatible with the historic character of the district and/or site(s).~~

1. Settlement Patterns and Neighborhood Character:

- a. Block and Street Patterns. The design of the project preserves and reflects the historic block, street, and alley patterns that give the district its unique character. Changes to the block and street pattern may be considered when advocated by an adopted city plan.
- b. Lot and Site Patterns. The design of the project preserves the pattern of lot and building site sizes that create the urban character of the historic context and the block face. Changes to the lot and site pattern may be considered when advocated by an adopted city plan.
- c. The Public Realm. The project relates to adjacent streets and engages with sidewalks in a manner that reflects the character of the historic context and the block face. Projects should maintain the depth of yard and height of principal elevation of those existing on the block face in order to support consistency in the definition of public and semi-public spaces.
- d. Building Placement. Buildings are placed such that the project maintains and reflects the historic pattern of setbacks and building depth established within the historic context and the block face. Buildings should maintain the setback

demonstrated by existing buildings of that type constructed in the district or site's period of significance.

- e. Building Orientation. The building is designed such that principal entrances and pathways are oriented such that they address the street in the pattern established in the historic context and the block face.
2. Site Access, Parking, and Services:
- a. Site Access. The design of the project allows for site access that is similar, in form and function, with patterns common in the historic context and the block face.
    - (1) Pedestrian: Safe pedestrian access is provided through architecturally highlighted entrances and walkways, consistent with patterns common in the historic context and the block face.
    - (2) Vehicular: Vehicular access is located in the least obtrusive manner possible. Where possible, garage doors and parking should be located to the rear or to the side of the building.
  - b. Site and Building Services and Utilities. Utilities and site/building services (such as HVAC systems, venting fans, and dumpsters) are located such that they are to the rear of the building or on the roof and screened from public spaces and public properties.
3. Landscape and Lighting:
- a. Grading of Land. The site's landscape, such as grading and retaining walls, addresses the public way in a manner that reflects the character of the historic context and the block face.
  - b. Landscape Structures. Landscape structures, such as arbors, walls, fences, address the public way in a manner that reflects the character of the historic context and the block face.
  - c. Lighting. Where appropriate lighting is used to enhance significant elements of the design and reflects the character of the historic context and the block face.
4. Building Form and Scale:
- a. Character of the Street Block. The design of the building reflects the historic character of the street facade in terms of scale, composition, and modeling.
    - (1) Height: The height of the project reflects the character of the historic context and the block face. Projects taller than those existing on the block face step

back their upper floors to present a base that is in scale with the historic context and the block face.

- (2) Width: The width of the project reflects the character of the historic context and the block face. Projects wider than those existing on the block face modulate the facade to express a series of volumes in scale with the historic context and the block face.
- (3) Massing: The shape, form, and proportion of buildings, reflects the character of the historic context and the block face.
- (4) Roof Forms: The building incorporates roof shapes that reflect forms found in the historic context and the block face.

#### 5. Building Character:

- a. Facade Articulation and Proportion: The design of the project reflects patterns of articulation and proportion established in the historic context and the block face. As appropriate, facade articulations reflect those typical of other buildings on the block face. These articulations are of similar dimension to those found elsewhere in the context, but have a depth of not less than 12 inches.
- (1) Rhythm of Openings: The facades are designed to reflect the rhythm of openings (doors, windows, recessed balconies, etc.) established in the historic context and the block face.
- (2) Proportion and Scale of Openings: The facades are designed using openings (doors, windows, recessed balconies, etc.) of similar proportion and scale to that established in the historic context and the block face.
- (3) Ratio of Wall to Openings: Facades are designed to reflect the ratio of wall to openings (doors, windows, recessed balconies, etc.) established in the historic context and the block face.
- (4) Balconies, Porches, and External Stairs: The project, as appropriate, incorporates entrances, balconies, porches, stairways, and other projections that reflect patterns established in the historic context and the block face.

#### 6. Building Materials, Elements and Detailing:

- a. Materials. Building facades, other than windows and doors, incorporate no less than 80% durable material such as, but not limited to, wood, brick, masonry, textured or patterned concrete and/or cut stone. These materials reflect those found elsewhere in the district and/or setting in terms of scale and character.
- b. Materials on Street-facing Facades. The following materials are not considered to be appropriate and are prohibited for use on facades which face a public street: vinyl siding and aluminum siding.
- c. Windows. Windows and other openings are incorporated in a manner that reflects patterns, materials, and detailing established in the district and/or setting.

- d. Architectural Elements and Details. The design of the building features architectural elements and details that reflect those characteristic of the district and/or setting.
7. Signage Location. Locations for signage are provided such that they are an integral part of the site and architectural design and are complimentary to the principal structure.
- I. Standards For Certificate Of Appropriateness For Relocation Of Landmark Site Or Contributing Structure: In considering an application for a certificate of appropriateness for relocation of a landmark site or a contributing structure, the historic landmark commission shall find that the project substantially complies with the following standards:
1. The proposed relocation will abate demolition of the structure;
  2. The proposed relocation will not diminish the overall physical integrity of the district or diminish the historical associations used to define the boundaries of the district;
  3. The proposed relocation will not diminish the historical or architectural significance of the structure;
  4. The proposed relocation will not have a detrimental effect on the structural soundness of the building or structure;
  5. A professional building mover will move the building and protect it while being stored; and
  6. A financial guarantee to ensure the rehabilitation of the structure once the relocation has occurred is provided to the city. The financial guarantee shall be in a form approved by the city attorney, in an amount determined by the planning director sufficient to cover the estimated cost to rehabilitate the structure as approved by the historic landmark commission and restore the grade and landscape the property from which the structure was removed in the event the land is to be left vacant once the relocation of the structure occurs.
- J. Standards For Certificate Of Appropriateness For Demolition Of Landmark Site: In considering an application for a certificate of appropriateness for demolition of a landmark site, the historic landmark commission shall only approve the application upon finding that the project fully complies with one of the following standards:
1. The demolition is required to alleviate a threat to public health and safety pursuant to subsection Q Q of this section; or
  2. ~~The demolition is required to rectify a condition of "economic hardship", as defined and determined~~ A determination of economic hardship has been granted by the



historic landmark commission pursuant to the provisions of subsection ~~K~~ L of this section.

~~K. Definition And Determination Of Economic Hardship: The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.~~

~~1. Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be submitted to the planning division. The application must include photographs, information pertaining to the historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.~~

~~2. Standards For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:~~

~~a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;~~

~~b. The current level of economic return on the property as considered in relation to the following:~~

~~(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased,~~

~~(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,~~

~~(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years,~~

~~(4) Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor,~~

~~(5) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property,~~

- ~~(6) The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed;~~
- ~~(7) Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and~~
- ~~(8) Any state or federal income tax returns on or relating to the property for the previous two (2) years;~~
- ~~c. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:~~
  - ~~(1) Any real estate broker or firm engaged to sell or lease the property;~~
  - ~~(2) Reasonableness of the price or rent sought by the applicant, and~~
  - ~~(3) Any advertisements placed for the sale or rent of the property;~~
- ~~d. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:~~
  - ~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~
  - ~~(2) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations;~~
  - ~~(3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use, and~~
  - ~~(4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~
- ~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~

3. ~~Procedure For Determination Of Economic Hardship: The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period.~~
- a. ~~Review Of Evidence: All of the evidence and documentation presented to the historic landmark commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting complying with the open meetings act to review the evidence of economic hardship in relation to the standards set forth in subsection K2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party; provided, that notice for such public hearing shall be in accordance with chapter 21A.10 of this title.~~
- b. ~~Report Of Economic Review Panel: Within forty five (45) days after the economic review panel is established, the panel shall complete an evaluation of economic hardship, applying the standards set forth in subsection K2 of this section and shall forward a written report with its findings of fact and conclusions to the historic landmark commission.~~
- c. ~~Historic Landmark Commission Determination Of Economic Hardship: At the next regular historic landmark commission meeting following receipt of the report of the economic review panel, the historic landmark commission shall reconvene its public hearing to take final action on the application.~~
- (1) ~~Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~
- (2) ~~Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~
- (3) ~~Consistency With The Economic Review Panel Report: The historic landmark commission decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the historic landmark commission, the historic~~

~~landmark commission finds by a vote of three-fourths ( $\frac{3}{4}$ ) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.~~

~~L.K.~~ Standards For Certificate Of Appropriateness For Demolition Of A

~~Contributing Structure Principal Building In A~~ Historic Preservation Overlay District: ~~In~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing ~~structure~~ principal building, the historic landmark commission shall determine whether the project request substantially complies with the following standards:

1. Standards For Approval Of A Certificate Of Appropriateness For Demolition:

- a. The ~~physical~~ integrity of the site as defined in subsection C.15.b of this section is no longer evident;
- b. The streetscape within the context of the ~~H~~ Historic Preservation Overlay District would not be negatively materially affected if the contributing principal building were to be demolished;
- c. The demolition would not create a material adversely effect on the ~~H~~ historic preservation overlay district due to the surrounding ~~noncontributing structures~~ concentration of historic resources used to define the boundaries or maintain the integrity of the district;
- d. The base zoning of the site ~~is incompatible with~~ does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;
- e. ~~The reuse plan is consistent with the standards outlined in subsection H of this section;~~
- f.e. The site contributing principal building has not suffered from wilful neglect, as evidenced by the following:
  - (1) Wilful or negligent acts ~~by the owner that have caused significant deteriorates~~ deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,
  - (2) Failure to perform ~~normal~~ routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or
  - (3) ~~Failure to diligently solicit and retain tenants, and~~

(4 3) Failure to secure and board the structure contributing principal building, if vacant, per sSection 18.64.045 of this title; and

~~g. The denial of a certificate of appropriateness for demolition would cause an "economic hardship" as defined and determined pursuant to the provisions of subsection K of this section.~~

2. ~~Historic Landmark Commission Determination Of Compliance With Standards Of Approval: The historic landmark commission shall make a decision based upon compliance with the requisite number of standards in subsection L1 of this section as set forth below: If the historic landmark commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K.1 of this section, then the historic landmark commission shall approve the request for a certificate of appropriateness for demolition. If the historic landmark commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K.1 of this section, then the historic landmark commission shall deny the request for a certificate of appropriateness for demolition.~~

~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) of the standards are met, the historic landmark commission shall approve the certificate of appropriateness for demolition.~~

~~b. Denial Of Certificate Of Appropriateness For Demolition: Upon making findings that two (2) or less of the standards are met, the historic landmark commission shall deny the certificate of appropriateness for demolition.~~

~~c. Deferral Of Decision For Up To One Year: Upon making findings that three (3) to five (5) of the standards are met, the historic landmark commission shall defer a decision for up to one year during which the applicant must conduct a bona fide effort to preserve the site pursuant to subsection M of this section.~~

L. Economic Hardship Determination: Upon denial of a certificate of appropriateness for demolition of a contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship. In the case of a landmark site, an application for determination of economic hardship can be submitted at any time as necessary to meet the standard of subsection J.2 of this section.

1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.

2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an

economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

- a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.
- b. The current level of economic return on the property as considered in relation to the following:
  - (1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased,
  - (2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,
  - (3) Real estate taxes for the previous three (3) years by the Salt Lake County Assessor,
  - (4) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,
  - (5) The fair market value of the property taking into consideration the H Historic Preservation Overlay District;
  - (6) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;
- c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
  - (1) Any real estate broker or firm engaged to sell or lease the property,
  - (2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and
  - (3) Any advertisements placed for the sale or rental of the property,

- d. The feasibility of alternative uses for the property as considered in relation to the following:
  - (1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property.
  - (2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials.
  - (3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and
  - (4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.
- e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- f. Description of past and current use.
- g. An itemized report that identifies what is deficient if the building does not meet minimum city building code standards or violations of city code.
- h. Consideration of map amendment, conditional use, special exception or other land use processes to alleviate hardship
- 3. Procedure for Determination of Economic Hardship: The planning director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the historic landmark commission concerning the value of the property and whether or not the denial of demolition could result in an economic hardship. The extent of the authority of the planning director's appointed qualified expert is limited to rendering advice and testimony to the historic landmark commission. The planning director's appointed qualified expert has no decision making capacity. The planning director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The historic landmark commission may also consider other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the planning director's appointed qualified expert as necessary.

- a. Review of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the planning director's appointed qualified expert for determination of economic hardship after receipt of a complete application.
- b. Finding of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the planning director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:
- (1) For demolition of non-residential or multifamily property:
    - (a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.
  - (2) For demolition of a residential property (single or two family):
    - (a) The contributing principal building cannot be put to any beneficial use in its present condition.
- c. Certificate of Appropriateness for Demolition: If the historic landmark commission finds an economic hardship, a certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to Section 21A.10.010.D.
- d. Denial of Economic Hardship: If the historic landmark commission does not find an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied. No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.
- e. Any owner adversely affected by a final decision of the historic landmark commission may appeal the decision in accordance with the provisions of Chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.



~~M. Bona Fide Preservation Effort: Upon the decision of the historic landmark commission to defer the decision of a certificate of appropriateness for demolition for up to one year, the applicant must undertake bona fide efforts to preserve the structure. The one year period shall begin only when the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions:~~

- ~~1. Marketing the property for sale or lease;~~
- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

M. Requirements for Certificate of Appropriateness for Demolition: No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H Historic Preservation Overlay District standards for new construction.
2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.
3. Submittal of documentation to the planning division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.
  - a. Photographs. Digital or print photographs. Views should include:
    - (1) Exterior views;
    - (2) Close-ups of significant exterior features;
    - (3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.
  - b. Site plan showing the location of the building and site features.

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision for the certificate of appropriateness for demolition pursuant to subsection F2 of this section. The historic landmark commission shall approve the certificate of appropriateness for demolition and approve, approve with modifications or deny the certificate of appropriateness for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

N. Revocation of the Designation of a Landmark Site: If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.~~

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition: Prior to approval of any certificate of appropriateness for demolition the historic landmark commission shall review the postdemolition plans to assure that the plans comply with the standards of subsection H of this section. If the postdemolition plan is to landscape the site, a bond shall be required to ensure the completion of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.~~

- ~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and shall be sufficient to cover the estimated cost, to: a) restore the grade as required by title 18 of this code; b) install an automatic sprinkling system; and c) revegetate and landscape as per the approved plan.~~
- ~~2. The bond shall require installation of landscaping and sprinklers within six (6) months, unless the owner has obtained a building permit and commenced construction of a building or structure on the site.~~

~~Q. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous Structures Buildings: A hazardous structure building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. Hazardous structures demolished under this section shall comply with subsection P of this section. Prior to the~~

issuance of a demolition permit, the building official shall notify the planning director of the decision.

~~RP.~~ Expiration Of Approvals: Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, by the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a longer time is requested and granted by the historic landmark commission or in the case of an administrative approval by the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period.

SECTION 2. Amending the text of Salt Lake City Code Subsection 21A.50.060.B. That Subsection 21A.50.060.B of the *Salt Lake City Code* (Zoning: Amendments: Limitation on Amendments), shall be and hereby is amended to read as follows:

B. In the case of a proposed local historic district or thematic designation per subsection 21A.34.020.C of this title, if a local historic district or area proposal fails in accordance with the voting procedures set forth in subsection 21A.34.020.C.13 of this title, a resident may not initiate the creation of a local historic district, area, or thematic designation that includes more than fifty percent (50%) of the same property as the failed local historic district, area, or thematic designation proposal for four (4) years after the day on which the property owner ~~support~~ opinion ballots for the vote were due.

SECTION 3. Amending the text of Salt Lake City Code Subsection 2.60.050.C. That Subsection 2.60.050.C of the *Salt Lake City Code* (Administration and Personnel: Recognized Community Organizations: Responsibilities of City), shall be and hereby is amended to read as follows:

C. Recognized Community Organization Notification And Response: The city will send a notice to the applicable recognized community organization chair(s) for the following types of projects:

Alley vacation

City code amendments

Conditional use

Demolition of contributing structures principal buildings located within a local historic district or landmark sites

Major changes to street capacity or travel modes

Major upgrades to public facilities and structures

Master plan amendment or policy amendments to be adopted by the city council

Master plan or policies to be adopted by the city council

New construction of major public facilities and structures

Planned development

Zoning map amendment

The recognized community organization chair(s) have forty five (45) days to provide comments, from the date the notice was sent. A public hearing will not be held, nor will a final decision be made about the project within the forty five (45) day period. Where a project is within six hundred feet (600') of the boundaries of another recognized community organization's district, when more than one recognized organization has requested a presentation of the matter, when the subject property is located west of 2200 West, or when the project is a text amendment to the city code, the city will schedule the item for an open house and notify the public, including those recognized community organizations who may be affected by the project or who have specifically requested notification of the public open house.

SECTION 4. Amending the text of Salt Lake City Code Subsection 18.48.200.D. That Subsection 18.48.200.D of the *Salt Lake City Code* (Buildings and Construction: Dangerous Buildings: Temporary Securing of Buildings: Stays: Stay Process), shall be and hereby is amended to read as follows:

- D. If the director of housing and neighborhood development denies a stay request, the building owner shall obtain a boarding or demolition permit within seven (7) days or the city may proceed to board the property pursuant to ~~s~~Section 18.48.110 of this chapter, or its successor. In addition to the provisions of this section, the issuance of demolition permits in historic districts and landmark sites are subject to the provisions of subsection 21A.34.020, ~~LK~~ of this code. In the event of a conflict between the provisions of this subsection and subsection 21A.34.020, ~~LK~~ of this code, the latter shall control.

SECTION 5. Amending the text of Salt Lake City Code Subsection 18.64.040.C. That Subsection 18.64.040.C of the *Salt Lake City Code* (Buildings and Construction: Demolition: Issuance of Demolition Permit), shall be and hereby is amended to read as follows:

- C. 1. Except as otherwise provided in ~~s~~Section 18.64.050 of this chapter, if one or more dwelling units located in a residential zone, whether or not occupied, will be removed under a demolition permit, a housing mitigation plan shall be prepared as required in ~~e~~Chapter 18.97 of this title prior to issuance of the permit.
2. If proposed demolition involves a landmark site, a contributing structure principal building, or a structure located in a historic preservation overlay district, as provided in ~~s~~Section 21A.34.020 of this code, or its successor, a demolition permit shall be issued only upon compliance with applicable provisions of that section or its successor.

SECTION 6. Effective Date. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
CHAIRPERSON

ATTEST AND COUNTERSIGN:

\_\_\_\_\_  
CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_Approved. \_\_\_\_\_Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 201\_.

Published: \_\_\_\_\_.

HB\_ATTYY-#63935-v3-Ordinance\_demolition\_and\_new\_construction\_in\_historic\_districts.docx

LEGISLATIVE VERSION

SALT LAKE CITY ORDINANCE

No. \_\_\_\_\_ of 201\_\_

(An ordinance amending various sections of the *Salt Lake City Code* pertaining to demolition and new construction in the H Historic Preservation Overlay District)

An ordinance amending various sections of the *Salt Lake City Code* pertaining to demolition of landmark sites and contributing buildings and structures in the H Historic Preservation Overlay District pursuant to Petition No. PLNPCM2009-00014 and standards for new construction in the H Historic Preservation Overlay District pursuant to Petition No. PLNPCM2016-00905.

WHEREAS, the Salt Lake City Historic Landmark Commission held a work session on June 1, 2017 and a public hearing on August 3, 2017 to consider petitions to amend Chapters 2.60 (Administration and Personnel: Recognized Community Organizations); 18.48 (Buildings and Construction: Dangerous Buildings); 18.64 (Buildings and Construction: Demolition); 21A.34 (Zoning: Overlay Districts); and 21A.50 (Zoning: Amendments) of the *Salt Lake City Code* to modify regulations pertaining to demolition of landmark sites and contributing building and structures in the H Historic Preservation Overlay District (Petition No. PLNPCM2009-00014) and regulations pertaining to new construction in the H Historic Preservation Overlay District (Petition No. PLNPCM2016-00905); and

WHEREAS, at its August 3, 2017 meeting, the historic landmark commission voted in favor of transmitting a positive recommendation to the Salt Lake City Planning Commission and Salt Lake City Council on said petitions; and

WHEREAS, the Salt Lake City Planning Commission held public hearings on July 12, 2017 and August 23, 2017 on said petitions; and

WHEREAS, at its August 23, 2017 meeting, the planning commission voted in favor of transmitting a positive recommendation to the city council on said petitions; and

WHEREAS, after a public hearing on this matter the city council has determined that adopting this ordinance is in the city's best interests.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the text of Salt Lake City Code Section 21A.34.020. That Section 21A.34.020 of the *Salt Lake City Code* (Zoning: Overlay Districts: H Historic Preservation Overlay District), shall be and hereby is amended to read as follows:

**21A.34.020: H HISTORIC PRESERVATION OVERLAY DISTRICT:**

A. Purpose Statement: In order to contribute to the welfare, prosperity and education of the people of Salt Lake City, the purpose of the H Historic Preservation Overlay District is to:

1. Provide the means to protect and preserve areas of the city and individual structures and sites having historic, architectural or cultural significance;
2. Encourage new development, redevelopment and the subdivision of lots in historic districts that is compatible with the character of existing development of historic districts or individual landmarks;
3. Abate the destruction and demolition of historic structures;
4. Implement adopted plans of the city related to historic preservation;
5. Foster civic pride in the history of Salt Lake City;
6. Protect and enhance the attraction of the city's historic landmarks and districts for tourists and visitors;
7. Foster economic development consistent with historic preservation; and
8. Encourage social, economic and environmental sustainability.

B. Definitions:

CONTRIBUTING STRUCTURE: A structure or site within the H Historic Preservation Overlay District that meets the criteria outlined in subsection C.15 of this section and is of moderate importance to the city, state, region or nation because it imparts artistic, historic or cultural values. A contributing structure has its major character defining features intact and although minor alterations may have occurred they are generally



reversible. Historic materials may have been covered but evidence indicates they are intact.

**DEMOLITION:** Any act or process which destroys a structure, object or property within the H Historic Preservation Overlay District or a landmark site. (See definition of Demolition, Partial.)

**DEMOLITION, PARTIAL:** Partial demolition includes any act which destroys a portion of a structure consisting of not more than twenty five percent (25%) of the floor area of the structure, and where the portion of the structure to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the historic period on any exterior elevation exceeding twenty five percent (25%) when the demolition is part of an act of restoring original historic elements of a structure and/or restoring a structure to its historical mass and size.

**DESIGN GUIDELINES:** The design guidelines provide guidance in determining the suitability and architectural compatibility of proposed maintenance, repair, alteration or new construction while at the same time, allowing for reasonable changes that meet current needs of properties located within the historic preservation overlay district. For architects, designers, contractors and property owners, they provide guidance in planning and designing future projects. For city staff and the historic landmark commission, they provide guidance for the interpretation of the zoning ordinance standards. Design guidelines are officially adopted by city council.

**ECONOMIC HARDSHIP:** Denial of a property owner of all reasonable beneficial or economically viable use of a property without just compensation.

**HISTORIC RESOURCE SURVEY:** A systematic resource for identifying and evaluating the quantity and quality of historic resources for land use planning purposes following the guidelines and forms of the Utah state historic preservation office.

1. Reconnaissance level surveys (RLS) are the most basic approach for systematically documenting and evaluating historic buildings in Utah communities and involves only a visual evaluation of properties.
2. Intensive level surveys (ILS) include in depth research involving research on the property and its owners, documentation of the property's physical appearance and completion of the Utah state historic office's historic site form.

**LANDMARK SITE:** Any site included on the Salt Lake City register of cultural resources that meets the criteria outlined in subsection C.15 of this section. Such sites are of exceptional importance to the city, state, region or nation and impart high artistic, historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site.

**LOCAL HISTORIC DISTRICT:** A geographically or thematically definable area within the H Historic Preservation Overlay District designated by the city council pursuant to

the provisions of this section, which contains buildings, structures, sites, objects, landscape features, archaeological sites and works of art, or a combination thereof, that contributes to the historic preservation goals of Salt Lake City.

**NEW CONSTRUCTION:** The building of a new principal building within the H Historic Preservation Overlay District or on a landmark site.

**NONCONTRIBUTING STRUCTURE:** A structure within the H Historic Preservation Overlay District that does not meet the criteria listed in subsection C.15 of this section. The major character defining features have been so altered as to make the original and/or historic form, materials and details indistinguishable and alterations are irreversible. Noncontributing structures may also include those which are less than fifty (50) years old.

**THEMATIC DESIGNATION:** A collection of individual sites, buildings, structures, or features which are contained in two (2) or more geographically separate areas that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.

**WILFUL NEGLECT:** The intentional absence of routine maintenance and repair of a building over time.

C. Designation of a Landmark Site, Local Historic District or Thematic Designation; H Historic Preservation Overlay District:

1. Intent: Salt Lake City will consider the designation of a landmark site, or thematic designation in order to protect the best examples of historic resources which represent significant elements of the city's prehistory, history, development patterns or architecture. Designation of a local historic district must be in the best interest of the city and achieve a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage. The city council shall determine that designation of a landmark site, local historic district or thematic designation is the best method of preserving a unique element of history important to understanding the prehistory or history of the area encompassed by the current Salt Lake City corporate boundaries.
2. City Council May Designate or Amend Landmark Sites, Local Historic Districts or Thematic Designations: Pursuant to the procedures in this section and the standards for general amendments in Section 21A.50.050 of this title the city council may by ordinance apply the H Historic Preservation Overlay District and:
  - a. Designate as a landmark site an individual building, structure or feature or an integrated group of buildings, structures or features on a single lot or site having exceptional importance to the city, state, region or nation and impart high artistic,

historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site;

- b. Designate as a local historic district a contiguous area with a minimum district size of one “block face”, as defined in Section 21A.62.040 of this title, containing a number of sites, buildings, structures or features that contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;
  - c. Designate as a thematic designation a collection of sites, buildings, structures, or features which are contained in two (2) or more geographically separate areas that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value; and
  - d. Amend designations to add or remove features or property to or from a landmark site, local historic district or thematic designation.
3. Preapplication Conference: Prior to the submittal of an application for the designation or amendment to a landmark site(s), local historic district(s) or thematic designation(s), and prior to gathering any signatures in support of such an application, a potential applicant shall attend a preapplication conference with the planning director or designee. The purpose of this meeting is to discuss the merits of the proposed designation and the amendment processes as outlined in this section.
4. Notification of Affected Property Owners: Following the preapplication conference outlined in subsection C.3 of this section and prior to the submittal of an application for the designation or amendment to a local historic district(s) or thematic designation(s), the city shall send by first class mail a neutral informational pamphlet to owners of record for each property potentially affected by a forthcoming application. The informational pamphlet shall contain, at a minimum, a description of the process to create a local historic district and will also list the pros and cons of a local historic district. The informational pamphlet shall be mailed after a potential applicant submits to the city a finalized proposed boundary of an area to be included in the H Historic Preservation Overlay District. Once the city sends the informational pamphlet, property owner signature gathering may begin per subsection C.5.b of this section. The informational pamphlet sent shall remain valid for ninety (90) days. If an application is not filed with the city within ninety (90) days after the date that the informational pamphlet was mailed, the city shall close its file on the matter. Any subsequent proposal must begin the application process again.
5. Petition Initiation for Designation of a Landmark Site, Local Historic District or Thematic Designation:
  - a. Petition Initiation for H Historic Preservation Overlay District; Landmark Site:  
Any owner of property proposed for a landmark site, the mayor or the city

council, by majority vote, may initiate a petition to consider the designation of a landmark site.

- b. Petition Initiation for H Historic Preservation Overlay District; Local Historic District or Thematic Designation: A property owner initiating such a petition shall demonstrate, in writing, support of more than thirty three percent (33%) of the property owners of lots or parcels within the proposed boundaries of an area to be included in the H Historic Preservation Overlay District. The mayor or the city council, by a majority vote, may initiate a petition to consider designation of a local historic district or thematic designation.
    - (1) For purposes of this subsection, a lot or parcel of real property may not be included in the calculation of the required percentage unless the application is signed by property owners representing at least fifty percent (50%) of the interest in that lot or parcel.
    - (2) Each lot or parcel of real property may only be counted once toward the thirty three percent (33%), regardless of the number of owner signatures obtained for that lot or parcel.
    - (3) Signatures obtained to demonstrate support of more than thirty three percent (33%) of the property owners within the boundary of the proposed local historic district or thematic designation must be gathered within a period of ninety (90) days as counted between the date that the informational pamphlet was mailed as required per subsection C.4 of this section and the date of the last required signature.
  - c. Fees: No application fee will be required for a petition initiated by a property owner for designation of a property to the H Historic Preservation Overlay District.
- 6. Notice of Designation Application Letter: Following the receipt by the city of an application for the designation or amendment to a local historic district(s) or thematic designation(s), the city shall send a notice of designation application letter to owner(s) of record for each property affected by said application along with a second copy of the informational pamphlet described in subsection C.4 of this section. In the event that no application is received following the ninety (90) day period of property owner signature gathering, the city will send a letter to property owner(s) of record stating that no application has been filed, and that the city has closed its file on the matter.
  - 7. Planning Director Report to the City Council: Following the initiation of a petition to designate a landmark site or a local historic district or thematic designation, the planning director shall submit a report based on the following considerations to the city council:

- a. Whether a current survey meeting the standards prescribed by the state historic preservation office is available for the landmark site or the area proposed for a local historic district or thematic designation. If a suitable survey is not available, the report shall propose a strategy to gather the needed survey data.
  - b. The city administration will determine the priority of the petition and determine whether there is sufficient funding and staff resources available to allow the planning division to complete a community outreach process, historic resource analysis and to provide ongoing administration of the new landmark site, local historic district or thematic designation if the designation is approved by the city council. If sufficient funding is not available, the report shall include a proposed budget.
  - c. Whether the proposed designation is generally consistent with the purposes, goals, objectives and policies of the city as stated through its various adopted planning documents.
  - d. Whether the proposed designation would generally be in the public interest.
  - e. Whether there is probable cause to believe that the proposed landmark site, local historic district or thematic designation may be eligible for designation consistent with the purposes and designation criteria in subsection C.15 of this section and the zoning map amendment criteria in Section 21A.50.050, "Standards for General Amendments", of this title.
  - f. Verification that a neutral informational pamphlet was sent per subsection C.4 of this section to all property owners within a proposed local historic district following the presubmittal process outlined in subsection C.3 of this section.
8. Property Owner Meeting: Following the submission of the planning director's report and acceptance of the report by the city council, the planning division will conduct a community outreach process to inform the owners of property within the proposed boundaries of the proposed landmark site, local historic district or thematic designation about the following:
    - a. The designation process, including determining the level of property owner support, the public hearing process, and final decision making process by the city council; and
    - b. Zoning ordinance requirements affecting properties located within the H Historic Preservation Overlay District, adopted design guidelines, the design review process for alterations and new construction, the demolition process and the economic hardship process.
  9. Open House: Following the property owner meeting, the planning division will conduct an open house for the owners of property within the proposed boundaries of

the local historic district or thematic designation to provide the information described in subsections C.8.a and C.8.b of this section.

10. Public Hearing Process:

- a. Historic Landmark Commission Consideration: Following the initiation of a petition to designate a landmark site or a local historic district, the historic landmark commission shall hold a public hearing and review the request by applying subsection C.15, “Standards for the Designation of a Landmark Site, Local Historic District or Thematic Designation”, of this section. Following the public hearing, the historic landmark commission shall recommend approval, approval with modifications or denial of the proposed designation and shall then submit its recommendation to the planning commission and the city council.
- b. Planning Commission Consideration: Following action by the historic landmark commission, the planning commission shall hold a public hearing and shall recommend approval, approval with modifications or denial of the proposed designation based on the standards of Section 21A.50.050 of this title, zoning map amendments and shall then submit its recommendation to the city council.

11. Property Owner Opinion Balloting:

- a. Following the completion of the historic landmark commission and planning commission public hearings, the city will deliver property owner opinion ballots via first class mail to property owners of record within the boundary of the proposed local historic district or thematic designation. The property owner opinion ballot is a nonbinding opinion poll to inform the city council of property owner interest regarding the designation of a local historic district. Each individual property in the proposed designation boundary, regardless of the number of owners having interest in any given property, will receive one property owner opinion ballot.
  - (1) A property owner is eligible to vote regardless of whether or not the property owner is an individual, a private entity, or a public entity;
  - (2) The municipality shall count no more than one property owner opinion ballot for:
    - (A) Each parcel within the boundaries of the proposed local historic district or area; or
    - (B) If the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and
  - (3) If a parcel or unit has more than one owner of record, the municipality shall count a property owner opinion ballot for the parcel or unit only if the

property owner opinion ballot reflects the vote of the property owners who own at least fifty percent (50%) interest in the parcel or unit.

- b. Property owners of record will have thirty (30) days from the postmark date of the property owner opinion ballot to submit a response to the city indicating the property owner's support or nonsupport of the proposed designation.
  - c. A letter shall be mailed to all property owners within the proposed local historic district or thematic designation whose property owner opinion ballot has not been received by the city within fifteen (15) days from the original postmark date. This follow up letter will encourage the property owners to submit a property owner opinion ballot prior to the thirty (30) day deadline date set by the mailing of the first property owner opinion ballot.
12. Notification of Property Owner Opinion Balloting Results: Following the public opinion balloting for the proposed designation, the city will send notice of the results to all property owners within the proposed local historic district, area, or thematic designation.
13. City Council Consideration: Following the transmittal of the historic landmark commission and the planning commission recommendations and the results of the property owner opinion process, the city council shall hold a public hearing to consider the designation of a landmark site, local historic district or thematic designation.
- a. Designation of a Landmark Site: The city council may, by a majority vote, designate a landmark site.
  - b. Designation of a Local Historic District or Thematic Designation:
    - (1) If the property owner opinion ballots returned equals at least two-thirds ( $\frac{2}{3}$ ) of the total number of returned property owner support ballots, and represents more than fifty percent (50%) of the parcels and units (in the case of a condominium project) within the proposed local historic district, area, or thematic designation, the city council may designate a local historic district or a thematic district by a simple majority vote.
    - (2) If the number of property owner opinion ballots received does not meet the threshold identified in subsection C.13.b(1) of this section, the city council may only designate a local historic district, area, or a thematic district by an affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the members of the city council.
    - (3) If the number of property owner opinion ballots received in support and in opposition is equal, the city council may only designate a local historic district or a thematic district by a super majority vote.

- c. Following Designation: Following city council designation of a landmark site, local historic district or thematic designation, all of the property located within the boundaries of the H Historic Preservation Overlay District shall be subject to the provisions of this section. The zoning regulations will go into effect on the date of the publication of the ordinance unless otherwise noted on the adoption ordinance.
14. Notice of Designation: Within thirty (30) days following the designation of a landmark site, local historic district or thematic designation, the city shall provide notice of the action to all owners of property within the boundaries of the H Historic Preservation Overlay District. In addition, a notice shall be recorded in the office of the county recorder for all lots or parcels within the area added to the H Historic Preservation Overlay District.
15. Standards for the Designation of a Landmark Site, Local Historic District or Thematic Designation: Each lot or parcel of property proposed as a landmark site, for inclusion in a local historic district, or for thematic designation shall be evaluated according to the following:
- a. Significance in local, regional, state or national history, architecture, engineering or culture, associated with at least one of the following:
    - (1) Events that have made significant contribution to the important patterns of history, or
    - (2) Lives of persons significant in the history of the city, region, state, or nation, or
    - (3) The distinctive characteristics of a type, period or method of construction; or the work of a notable architect or master craftsman, or
    - (4) Information important in the understanding of the prehistory or history of Salt Lake City; and
  - b. Physical integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the national park service for the national register of historic places;
  - c. The proposed local historic district or thematic designation is listed, or is eligible to be listed on the national register of historic places;
  - d. The proposed local historic district contains notable examples of elements of the city's history, development patterns or architecture not typically found in other local historic districts within Salt Lake City;
  - e. The designation is generally consistent with adopted planning policies; and



- f. The designation would be in the overall public interest.
16. Factors to Consider: The following factors may be considered by the historic landmark commission and the city council to help determine whether the proposed designation of a landmark site, local historic district or thematic designation meets the criteria listed above:
- a. Sites should be of such an age which would allow insight into whether a property is sufficiently important in the overall history of the community. Typically this is at least fifty (50) years but could be less if the property has exceptional importance.
  - b. Whether the proposed local historic district contains examples of elements of the city's history, development patterns and/or architecture that may not already be protected by other local historic districts within the city.
  - c. Whether designation of the proposed local historic district would add important knowledge that advances the understanding of the city's history, development patterns and/or architecture.
  - d. Whether approximately seventy five percent (75%) of the structures within the proposed boundaries are rated as contributing structures by the most recent applicable historic survey.
17. Boundaries of a Proposed Landmark Site: When applying the evaluation criteria in subsection C.15 of this section, the boundaries of a landmark site shall be drawn to ensure that historical associations, and/or those which best enhance the integrity of the site comprise the boundaries.
18. Boundaries of a Proposed Local Historic District: When applying the evaluation criteria in subsection C.15 of this section, the boundaries shall be drawn to ensure the local historic district:
- a. Contains a significant density of documented sites, buildings, structures or features rated as contributing structures in a recent historic survey;
  - b. Coincides with documented historic boundaries such as early roadways, canals, subdivision plats or property lines;
  - c. Coincides with logical physical or manmade features and reflect recognized neighborhood boundaries; and
  - d. Contains nonhistoric resources or vacant land only where necessary to create appropriate boundaries to meet the criteria of subsection C.15 of this section.

19. Boundaries of a Proposed Thematic Designation: When applying the evaluation criteria of this section, the boundaries shall be drawn to ensure the thematic designation contains a collection of sites, buildings, structures, or features that are united together by historical, architectural, or aesthetic characteristics and contribute to the historic preservation goals of Salt Lake City by protecting historical, architectural, or aesthetic interest or value.

D. The Adjustment or Expansion of Boundaries of an H Historic Preservation Overlay District and the Revocation of the Designation of Landmark Site:

1. Procedure: The procedure for the adjustment of boundaries of an H Historic Preservation Overlay District and the revocation of the designation of a landmark site shall be the same as that outlined in subsection C of this section.
2. Criteria for Adjusting the Boundaries of an H Historic Preservation Overlay District: Criteria for adjusting the boundaries of an H Historic Preservation Overlay District are as follows:
  - a. The properties have ceased to meet the criteria for inclusion within an H Historic Preservation Overlay District because the qualities which caused them to be originally included have been lost or destroyed, or such qualities were lost subsequent to the historic landmark commission recommendation and adoption of the district;
  - b. Additional information indicates that the properties do not comply with the criteria for selection of the H Historic Preservation Overlay District as outlined in subsection C.15 of this section; or
  - c. Additional information indicates that the inclusion of additional properties would better convey the historical and architectural integrity of the H Historic Preservation Overlay District, provided they meet the standards outlined in subsection C.15 of this section.
3. Criteria for the Expansion of an Existing Landmark Site, Local Historic District or Thematic Designation: A proposed expansion of an existing landmark site, local historic district or thematic designation shall be considered utilizing the provisions of subsections C.15 through C.19 of this section.
4. Criteria for the Revocation of the Designation of a Landmark Site: Criteria are as follows:
  - a. The property has ceased to meet the criteria for designation as a landmark site because the qualities that caused it to be originally designated have been lost or destroyed or the structure has been demolished; or

- b. Additional information indicates that the landmark site does not comply with the criteria for selection of a landmark site as outlined in subsection C.15 of this section; or
  - c. Additional information indicates that the landmark site is not of exceptional importance to the city, state, region or nation.
- E. Certificate of Appropriateness Required: After the establishment of an H Historic Preservation Overlay District, or the designation of a landmark site, no alteration in the exterior appearance of a structure, site, object or work of art affecting the landmark site or a property within the H Historic Preservation Overlay District shall be made or permitted to be made unless or until the application for a certificate of appropriateness has been submitted to, and approved by, the historic landmark commission, or administratively by the planning director, as applicable, pursuant to subsection F of this section. Certificates of appropriateness shall be required for:
- 1. Any construction needing a building permit;
  - 2. Removal and replacement or alteration of architectural detailing, such as porch columns, railing, window moldings, cornices and siding;
  - 3. Relocation of a structure or object on the same site or to another site;
  - 4. Construction of additions or decks;
  - 5. Alteration or construction of accessory structures, such as garages, etc.;
  - 6. Alterations to windows and doors, including replacement or changes in fenestration patterns;
  - 7. Construction or alteration of porches;
  - 8. Masonry work including, but not limited to, tuckpointing, sandblasting and chemical cleaning;
  - 9. The construction or alterations of site features including, but not limited to, fencing, walls, paving and grading;
  - 10. Installation or alteration of any exterior sign;
  - 11. Any demolition;
  - 12. New construction; and
  - 13. Installation of an awning over a window or door.

F. Procedure for Issuance of Certificate of Appropriateness:

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:
  - a. Types of Construction: The following may be approved by administrative decision:
    - (1) Minor alteration of or addition to a landmark site or contributing site, building, and/or structure;
    - (2) Substantial alteration of or addition to a noncontributing site;
    - (3) Partial demolition of either a landmark site or a contributing principal building or structure;
    - (4) Demolition of an accessory building or structure;
    - (5) Demolition of a noncontributing building or structure; and
    - (6) Installation of solar energy collection systems pursuant to Section 21A.40.190 of this title.
  - b. Submission of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to Chapter 21A.10 of this title, and shall forward the application for review and decision.
  - c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model, window frame sections and samples deemed necessary to consider the application properly and completely.
  - d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.
  - e. Notice of Application for Demolition of a Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to Chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by Chapter 21A.10 of this title.
  - f. Standards of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.

- g. Review and Decision by the Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.
  - h. Referral of Application by Planning Director to Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing building in the H Historic Preservation Overlay District, or the need for consultation for expertise regarding architectural, construction or preservation issues, or if the application does not meet the standards of review.
2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only be approved by the historic landmark commission subject to the following procedures:
- a. Types of Construction: The following shall be reviewed by the historic landmark commission:
    - (1) Substantial alteration or addition to a landmark site or contributing site, building, and/or structure;
    - (2) New construction of principal building in H Historic Preservation Overlay District;
    - (3) Relocation of landmark site or contributing principal building;
    - (4) Demolition of landmark site or contributing principal building;
    - (5) Applications for administrative approval referred by the planning director; and
    - (6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to Section 21A.40.190 of this title.
  - b. Submission of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F.1.b of this section.
  - c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by Chapter 21A.10 of this title.

- d. **Materials Submitted With Application:** An application shall be made on a form provided by the planning director and shall be submitted to the planning division in accordance with subsection F.1.c of this section, however specific requirements for new construction shall include the following information unless deemed unnecessary by the zoning administrator:
- (1) The applicant's name, address, telephone number, e-mail address and interest in the subject property;
  - (2) The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;
  - (3) The street address and legal description of the subject property;
  - (4) A narrative including a complete description of the project and how it meets review standards with citation of supporting adopted city design guidelines;
  - (5) A context plan showing property lines, building footprints, front yard setbacks, adjacent streets and alleys, historic district boundaries, contributing/noncontributing structures and landmark sites;
  - (6) A streetscape study which includes height measurements for each primary structure on the block face;
  - (7) A site plan or drawing drawn to a scale which includes the following information: property lines, lot dimensions, topography, adjacent streets, alleys and walkways, landscaping and buffers, existing and proposed buildings and structures, lot coverage, grade changes, parking spaces, trash receptacles, drainage features, proposed setbacks and other details required for project evaluation;
  - (8) Elevation drawings and details for all facades;
  - (9) Illustrative photos and/or samples of all proposed facade materials;
  - (10) Building, wall, and window section drawings;
  - (11) 3D models that show the new construction in relation to neighboring buildings;
  - (12) 3D models that show the new construction from the pedestrian perspective; and
  - (13) Any further information or documentation as the zoning administrator deems necessary in order to fully consider and analyze the application.
- e. **Notice:** Applications for a certificate of appropriateness shall require notice pursuant to Chapter 21A.10 of this title.
- f. **Public Hearing:** Applications for a certificate of appropriateness shall require a public hearing pursuant to Chapter 21A.10 of this title.
- g. **Standards for Approval:** The application shall be reviewed according to the standards set forth in subsections G through K of this section, whichever are applicable.

- h. Review and Decision by the Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, following receipt of a completed application.
    - (1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection K of this section, whichever are applicable.
    - (2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness.
    - (3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing principal buildings shall not be issued until the appeal period has expired.
    - (4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made pursuant to the provisions of Section 21A.10.030 of this title.
  - i. Appeal of Historic Landmark Commission Decisions: Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of Chapter 21A.16 of this title.
- G. Standards for Certificate of Appropriateness for Alteration of a Landmark Site or Contributing Structure Including New Construction of an Accessory Structure: In considering an application for a certificate of appropriateness for alteration of a landmark site or contributing structure, the historic landmark commission, or the planning director, for administrative decisions, shall find that the project substantially complies with all of the following general standards that pertain to the application and that the decision is in the best interest of the city:
- 1. A property shall be used for its historic purpose or be used for a purpose that requires minimal change to the defining characteristics of the building and its site and environment;
  - 2. 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;
  - 3. All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create a false sense of history or architecture are not allowed;

4. Alterations or additions that have acquired historic significance in their own right shall be retained and preserved;
  5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;
  6. Deteriorated architectural features shall be repaired rather than replaced wherever feasible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects;
  7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;
  8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archaeological material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment;
  9. Additions or alterations to structures and objects shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. The new work shall be differentiated from the old and shall be compatible in massing, size, scale and architectural features to protect the historic integrity of the property and its environment;
  10. Certain building materials are prohibited including the following:
    - a. Aluminum, asbestos, or vinyl cladding when applied directly to an original or historic material.
  11. Any new sign and any change in the appearance of any existing sign located on a landmark site or within the H Historic Preservation Overlay District, which is visible from any public way or open space shall be consistent with the historic character of the landmark site or H Historic Preservation Overlay District and shall comply with the standards outlined in Chapter 21A.46 of this title.
- H. Standards for Certificate of Appropriateness Involving New Construction or Alteration of a Noncontributing Structure: In considering an application for a certificate of appropriateness involving new construction, or alterations of noncontributing structures, the historic landmark commission, or planning director when the application involves the



alteration of a noncontributing structure shall, using the adopted design guidelines as a key basis for evaluation, determine whether the project substantially complies with each of the following standards that pertain to the application to ensure that the proposed project fits into the established context in ways that respect and contribute to the evolution of Salt Lake City's architectural and cultural traditions:

1. Settlement Patterns and Neighborhood Character:

- a. Block and Street Patterns. The design of the project preserves and reflects the historic block, street, and alley patterns that give the district its unique character. Changes to the block and street pattern may be considered when advocated by an adopted city plan.
- b. Lot and Site Patterns. The design of the project preserves the pattern of lot and building site sizes that create the urban character of the historic context and the block face. Changes to the lot and site pattern may be considered when advocated by an adopted city plan.
- c. The Public Realm. The project relates to adjacent streets and engages with sidewalks in a manner that reflects the character of the historic context and the block face. Projects should maintain the depth of yard and height of principal elevation of those existing on the block face in order to support consistency in the definition of public and semi-public spaces.
- d. Building Placement. Buildings are placed such that the project maintains and reflects the historic pattern of setbacks and building depth established within the historic context and the block face. Buildings should maintain the setback demonstrated by existing buildings of that type constructed in the district or site's period of significance.
- e. Building Orientation. The building is designed such that principal entrances and pathways are oriented such that they address the street in the pattern established in the historic context and the block face.

2. Site Access, Parking, and Services:

- a. Site Access. The design of the project allows for site access that is similar, in form and function, with patterns common in the historic context and the block face.
- (1) Pedestrian: Safe pedestrian access is provided through architecturally highlighted entrances and walkways, consistent with patterns common in the historic context and the block face.

- (2) Vehicular: Vehicular access is located in the least obtrusive manner possible. Where possible, garage doors and parking should be located to the rear or to the side of the building.
  - b. Site and Building Services and Utilities. Utilities and site/building services (such as HVAC systems, venting fans, and dumpsters) are located such that they are to the rear of the building or on the roof and screened from public spaces and public properties.
3. Landscape and Lighting:
- a. Grading of Land. The site's landscape, such as grading and retaining walls, addresses the public way in a manner that reflects the character of the historic context and the block face.
  - b. Landscape Structures. Landscape structures, such as arbors, walls, fences, address the public way in a manner that reflects the character of the historic context and the block face.
  - c. Lighting. Where appropriate lighting is used to enhance significant elements of the design and reflects the character of the historic context and the block face.
4. Building Form and Scale:
- a. Character of the Street Block. The design of the building reflects the historic character of the street facade in terms of scale, composition, and modeling.
    - (1) Height: The height of the project reflects the character of the historic context and the block face. Projects taller than those existing on the block face step back their upper floors to present a base that is in scale with the historic context and the block face.
    - (2) Width: The width of the project reflects the character of the historic context and the block face. Projects wider than those existing on the block face modulate the facade to express a series of volumes in scale with the historic context and the block face.
    - (3) Massing: The shape, form, and proportion of buildings, reflects the character of the historic context and the block face.
    - (4) Roof Forms: The building incorporates roof shapes that reflect forms found in the historic context and the block face.
5. Building Character:
- a. Facade Articulation and Proportion: The design of the project reflects patterns of articulation and proportion established in the historic context and the block face. As appropriate, facade articulations reflect those typical of other buildings on the

block face. These articulations are of similar dimension to those found elsewhere in the context, but have a depth of not less than 12 inches.

- (1) Rhythm of Openings: The facades are designed to reflect the rhythm of openings (doors, windows, recessed balconies, etc.) established in the historic context and the block face.
- (2) Proportion and Scale of Openings: The facades are designed using openings (doors, windows, recessed balconies, etc.) of similar proportion and scale to that established in the historic context and the block face.
- (3) Ratio of Wall to Openings: Facades are designed to reflect the ratio of wall to openings (doors, windows, recessed balconies, etc.) established in the historic context and the block face.
- (4) Balconies, Porches, and External Stairs: The project, as appropriate, incorporates entrances, balconies, porches, stairways, and other projections that reflect patterns established in the historic context and the block face.

6. Building Materials, Elements and Detailing:

- a. Materials. Building facades, other than windows and doors, incorporate no less than 80% durable material such as, but not limited to, wood, brick, masonry, textured or patterned concrete and/or cut stone. These materials reflect those found elsewhere in the district and/or setting in terms of scale and character.
- b. Materials on Street-facing Facades. The following materials are not considered to be appropriate and are prohibited for use on facades which face a public street: vinyl siding and aluminum siding.
- c. Windows. Windows and other openings are incorporated in a manner that reflects patterns, materials, and detailing established in the district and/or setting.
- d. Architectural Elements and Details. The design of the building features architectural elements and details that reflect those characteristic of the district and/or setting.

7. Signage Location. Locations for signage are provided such that they are an integral part of the site and architectural design and are complimentary to the principal structure.

I. Standards for Certificate of Appropriateness for Relocation of Landmark Site or Contributing Structure: In considering an application for a certificate of appropriateness for relocation of a landmark site or a contributing structure, the historic landmark commission shall find that the project substantially complies with the following standards:

1. The proposed relocation will abate demolition of the structure;

2. The proposed relocation will not diminish the overall physical integrity of the district or diminish the historical associations used to define the boundaries of the district;
  3. The proposed relocation will not diminish the historical or architectural significance of the structure;
  4. The proposed relocation will not have a detrimental effect on the structural soundness of the building or structure;
  5. A professional building mover will move the building and protect it while being stored; and
  6. A financial guarantee to ensure the rehabilitation of the structure once the relocation has occurred is provided to the city. The financial guarantee shall be in a form approved by the city attorney, in an amount determined by the planning director sufficient to cover the estimated cost to rehabilitate the structure as approved by the historic landmark commission and restore the grade and landscape the property from which the structure was removed in the event the land is to be left vacant once the relocation of the structure occurs.
- J. Standards for Certificate of Appropriateness for Demolition of Landmark Site: In considering an application for a certificate of appropriateness for demolition of a landmark site, the historic landmark commission shall only approve the application upon finding that the project fully complies with one of the following standards:
1. The demolition is required to alleviate a threat to public health and safety pursuant to subsection O of this section; or
  2. A determination of economic hardship has been granted by the historic landmark commission pursuant to the provisions of subsection L of this section.
- K. Standards for Certificate of Appropriateness for Demolition of a Contributing Principal Building in an H Historic Preservation Overlay District: When considering a request for approval of a certificate of appropriateness for demolition of a contributing principal building, the historic landmark commission shall determine whether the request substantially complies with the following standards:
1. Standards for Approval of a Certificate of Appropriateness for Demolition:
    - a. The integrity of the site as defined in subsection C.15.b of this section is no longer evident;
    - b. The streetscape within the context of the H Historic Preservation Overlay District would not be negatively materially affected if the contributing principal building were to be demolished;

- c. The demolition would not create a material adverse effect on the concentration of historic resources used to define the boundaries or maintain the integrity of the district;
  - d. The base zoning of the site does not permit land uses that would allow the adaptive reuse of the contributing principal building;
  - e. The contributing principal building has not suffered from wilful neglect, as evidenced by the following:
    - (1) Wilful or negligent acts that have caused significant deterioration of the structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,
    - (2) Failure to perform routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or
    - (3) Failure to secure and board the contributing principal building, if vacant, per Section 18.64.045 of this title.
2. Historic Landmark Commission Determination of Compliance With Standards of Approval: If the historic landmark commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K.1 of this section, then the historic landmark commission shall approve the request for a certificate of appropriateness for demolition. If the historic landmark commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K.1 of this section, then the historic landmark commission shall deny the request for a certificate of appropriateness for demolition.
- L. Economic Hardship Determination: Upon denial of a certificate of appropriateness for demolition of a contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship. In the case of a landmark site, an application for determination of economic hardship can be submitted at any time as necessary to meet the standard of subsection J.2 of this section.
- 1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.
  - 2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an

economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

- a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.
- b. The current level of economic return on the property as considered in relation to the following:
  - (1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased,
  - (2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,
  - (3) Real estate taxes for the previous three (3) years by the Salt Lake County Assessor,
  - (4) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,
  - (5) The fair market value of the property taking into consideration the H Historic Preservation Overlay District;
  - (6) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;
- c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
  - (1) Any real estate broker or firm engaged to sell or lease the property,
  - (2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and
  - (3) Any advertisements placed for the sale or rental of the property,

- d. The feasibility of alternative uses for the property as considered in relation to the following:
    - (1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,
    - (2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,
    - (3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and
    - (4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.
  - e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
  - f. Description of past and current use.
  - g. An itemized report that identifies what is deficient if the building does not meet minimum city building code standards or violations of city code.
  - h. Consideration of map amendment, conditional use, special exception or other land use processes to alleviate hardship
3. Procedure for Determination of Economic Hardship: The planning director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the historic landmark commission concerning the value of the property and whether or not the denial of demolition could result in an economic hardship. The extent of the authority of the planning director's appointed qualified expert is limited to rendering advice and testimony to the historic landmark commission. The planning director's appointed qualified expert has no decision making capacity. The planning director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The historic landmark commission may also consider other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the planning director's appointed qualified expert as necessary.

- a. Review of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the planning director's appointed qualified expert for determination of economic hardship after receipt of a complete application.
- b. Finding of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the planning director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:
  - (1) For demolition of non-residential or multifamily property:
    - (a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.
  - (2) For demolition of a residential property (single or two family):
    - (a) The contributing principal building cannot be put to any beneficial use in its present condition.
- c. Certificate of Appropriateness for Demolition: If the historic landmark commission finds an economic hardship, a certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to Section 21A.10.010.D.
- d. Denial of Economic Hardship: If the historic landmark commission does not find an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied. No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.
- e. Any owner adversely affected by a final decision of the historic landmark commission may appeal the decision in accordance with the provisions of Chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.



- M. Requirements for Certificate of Appropriateness for Demolition: No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is to be replaced with a new building that meets the following criteria:
1. The replacement building satisfies all applicable zoning and H Historic Preservation Overlay District standards for new construction,
  2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.
  3. Submittal of documentation to the planning division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.
    - a. Photographs. Digital or print photographs. Views should include:
      - (1) Exterior views;
      - (2) Close-ups of significant exterior features;
      - (3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.
    - b. Site plan showing the location of the building and site features.
- N. Revocation of the Designation of a Landmark Site: If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).
- O. Exceptions of Certificate of Appropriateness for Demolition of Hazardous Buildings: A hazardous building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision.
- P. Expiration of Approvals: Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, by the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a longer time is requested and granted by the historic landmark commission or in the case of an administrative approval by the planning director or designee. Any request for a time

extension shall be required not less than thirty (30) days prior to the twelve (12) month time period.

SECTION 2. Amending the text of *Salt Lake City Code* Subsection 21A.50.060.B. That Subsection 21A.50.060.B of the *Salt Lake City Code* (Zoning: Amendments: Limitation on Amendments), shall be and hereby is amended to read as follows:

- B. In the case of a proposed local historic district or thematic designation per subsection 21A.34.020.C of this title, if a local historic district or area proposal fails in accordance with the voting procedures set forth in subsection 21A.34.020.C.13 of this title, a resident may not initiate the creation of a local historic district, area, or thematic designation that includes more than fifty percent (50%) of the same property as the failed local historic district, area, or thematic designation proposal for four (4) years after the day on which the property owner opinion ballots for the vote were due.

SECTION 3. Amending the text of *Salt Lake City Code* Subsection 2.60.050.C. That Subsection 2.60.050.C of the *Salt Lake City Code* (Administration and Personnel: Recognized Community Organizations: Responsibilities of City), shall be and hereby is amended to read as follows:

- C. Recognized Community Organization Notification And Response: The city will send a notice to the applicable recognized community organization chair(s) for the following types of projects:

Alley vacation

City code amendments

Conditional use

Demolition of contributing principal buildings located within a local historic district or landmark sites

Major changes to street capacity or travel modes

Major upgrades to public facilities and structures

Master plan amendment or policy amendments to be adopted by the city council

Master plan or policies to be adopted by the city council

New construction of major public facilities and structures

Planned development

Zoning map amendment

The recognized community organization chair(s) have forty five (45) days to provide comments, from the date the notice was sent. A public hearing will not be held, nor will a final decision be made about the project within the forty five (45) day period. Where a project is within six hundred feet (600') of the boundaries of another recognized community organization's district, when more than one recognized organization has requested a presentation of the matter, when the subject property is located west of 2200 West, or when the project is a text amendment to the city code, the city will schedule the item for an open house and notify the public, including those recognized community organizations who may be affected by the project or who have specifically requested notification of the public open house.

SECTION 4. Amending the text of Salt Lake City Code Subsection 18.48.200.D. That Subsection 18.48.200.D of the *Salt Lake City Code* (Buildings and Construction: Dangerous Buildings: Temporary Securing of Buildings: Stays: Stay Process), shall be and hereby is amended to read as follows:

- D. If the director of housing and neighborhood development denies a stay request, the building owner shall obtain a boarding or demolition permit within seven (7) days or the city may proceed to board the property pursuant to Section 18.48.110 of this chapter, or its successor. In addition to the provisions of this section, the issuance of demolition permits in historic districts and landmark sites are subject to the provisions of subsection 21A.34.020.K of this code. In the event of a conflict between the provisions of this subsection and subsection 21A.34.020.K of this code, the latter shall control.

SECTION 5. Amending the text of Salt Lake City Code Subsection 18.64.040.C. That Subsection 18.64.040.C of the *Salt Lake City Code* (Buildings and Construction: Demolition: Issuance of Demolition Permit), shall be and hereby is amended to read as follows:

- C. 1. Except as otherwise provided in Section 18.64.050 of this chapter, if one or more dwelling units located in a residential zone, whether or not occupied, will be removed under a demolition permit, a housing mitigation plan shall be prepared as required in Chapter 18.97 of this title prior to issuance of the permit.

2. If proposed demolition involves a landmark site, a contributing principal building, or a structure located in a historic preservation overlay district, as provided in Section 21A.34.020 of this code, or its successor, a demolition permit shall be issued only upon compliance with applicable provisions of that section or its successor.

SECTION 6. Effective Date. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
CHAIRPERSON

ATTEST AND COUNTERSIGN:

\_\_\_\_\_  
CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 201\_.  
Published: \_\_\_\_\_.

<b>APPROVED AS TO FORM</b>	
Salt Lake City Attorney's Office	
Date:	<u>October 31, 2017</u>
By:	<u>Paul C. Nielson</u>
Paul C. Nielson, Senior City Attorney	

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## **1. PROJECT CHRONOLOGY**

## PROJECT CHRONOLOGY

### PETITION PLNPCM2009-00014 – LOCAL HISTORIC DISTRICT DEMOLITION & ECONOMIC HARDSHIP PROCESSES TEXT AMENDMENT

2009	Petition initiated by former Mayor Ralph Becker.
April 2, 2017	Petition assigned to Lex Traugher.
May 4, 2017	Notice of the Historic Landmark Commission's May 18, 2017 meeting posted on the Utah Public Meeting Notice website.
May 18, 2017	Work session scheduled with the HLC was cancelled due to a lack of a quorum.
May 18, 2017	Notice of the Historic Landmark Commission's June 1, 2017 meeting posted on the Utah Public Meeting Notice website.
May 22, 2017	Open house held at the City & County Building. Draft ordinance was available for public review.
June 1, 2017	Work session held with the Historic Landmark Commission.
June 22, 2017	Notice of the Historic Landmark Commission's July 6, 2017 meeting posted on the Utah Public Meeting Notice website.
June 24, 2017	Notice of the Historic Landmark Commission's July 6, 2017 Public Hearing published in the newspaper.
June 29, 2017	Notice of the Planning Commission's July 12, 2017 meeting posted on the Utah Public Meeting Notice website.
July 6 2017	Historic Landmark Commission Public Hearing. The HLC entertained the item and took public comment but tabled the item for action at a later date.
July 12, 2017	Work session held with the Planning Commission.
July 20, 2017	Notice of the Historic Landmark Commission's August 3, 2017 meeting posted on the Utah Public Meeting Notice website.
August 3, 2017	Historic Landmark Commission Public Hearing. The HLC entertained the item and took public comment. The HLC voted to forward a positive recommendation to the City Council to adopt the proposed ordinance.
August 16, 2017	Requested that the City Attorney's Office draft an ordinance.
August 23, 2017	Planning Commission Public Hearing. The Planning Commission voted unanimously to forward a positive recommendation to the City Council to adopt the proposed ordinance.
August 28, 2017	Transmittal submitted to the CAN Office.

## **2. NOTICE OF CITY COUNCIL HEARING**



## NOTICE OF PUBLIC HEARING

The Salt Lake City Council is considering Petition **PLNPCM2009-00014– Local Historic District Demolition & Economic Hardship Processes Text Amendment** – A request by former Mayor Ralph Becker to amend certain sections of Title 21A (Zoning) of the Salt Lake City Code to amend and clarify regulations concerning the demolition of historic resources and the Economic Hardship process in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition and economic hardship processes more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide.

As part of their study, the City Council is holding an advertised public hearing to receive comments regarding the petition. During this hearing, anyone desiring to address the City Council concerning this issue will be given an opportunity to speak. The hearing will be held:

**DATE:**

**TIME:** 7:00 p.m.

**PLACE:** Room 315  
City & County Building  
451 South State Street  
Salt Lake City, Utah

If you have any questions relating to this proposal or would like to review the file, please call Lex Traughber at (801) 535-6184 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday or via e-mail at [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com)

The City & County Building is an accessible facility. People with disabilities may make requests for reasonable accommodation, which may include alternate formats, interpreters, and other auxiliary aids and services. Please make requests at least two business days in advance. To make a request, please contact the City Council Office at [council.comments@slcgov.com](mailto:council.comments@slcgov.com), 801-535-7600, or relay service 711.

### **3. HISTORIC LANDMARK COMMISSION**

#### **A. Newspaper Notice**

**June 24, 2017**

4770 S. 5600 W.  
WEST VALLEY CITY, UTAH 84118  
FED.TAX I.D.# 87-0217663  
801-204-6910

Deseret News

Utah  
Media  
Group

The Salt Lake Tribune

PROOF OF PUBLICATION CUSTOMER'S COPY

CUSTOMER NAME AND ADDRESS

PLANNING DIVISION,

PO BOX 145480

SALT LAKE CITY UT 84114

ACCOUNT NUMBER

9001394298

DATE

6/26/2017

ACCOUNT NAME

PLANNING DIVISION,

TELEPHONE

8015357759

ORDER # / INVOICE NUMBER

0001158855 /

PUBLICATION SCHEDULE

START 06/24/2017 END 06/24/2017

CUSTOMER REFERENCE NUMBER

Landmark PH 7/6

CAPTION

Notice of Public Hearing On Wednesday, July 6, 2017, the Salt Lake City Historic Landma

SIZE

49 LINES

2 COLUMN(S)

TIMES

2

TOTAL COST

127.50

Notice of Public Hearing

On Wednesday, July 6, 2017, the Salt Lake City Historic Landmark Commission will hold a public hearing to consider making recommendations to the City Council regarding the following petitions:

**Amendments to the Local Historic District Demolition Process** - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H - Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21 A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traugbber at (801)535-6184 or le x.traugbber@slcgov.com.) Case number: **PLNPMC2009-00014**

**Amendments to the New Construction Standards for Local Historic Districts** - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H - Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801) 535-7625 or Anthony.riederer@slcgov.com.) Case number: **PLNPMC2016-00905**

The public hearing will begin at 5:30 p.m. in room 326 of the City County Building, 451 South State Street, Salt Lake City, UT.

The City & County Building is an accessible facility. People with disabilities may make requests for reasonable accommodation, which may include alternate formats, interpreters, and other auxiliary aids and services. Please make requests at least two business days in advance. To make a request, please contact the Planning Office at 801-535-7757, or relay service 711.

1158855

UPAXLP

AFFIDAVIT OF PUBLICATION

AS NEWSPAPER AGENCY COMPANY, LLC dba UTAH MEDIA GROUP LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF Notice of Public Hearing On Wednesday, July 6, 2017, the Salt Lake City Historic Landmark Commission will hold a public hearing to consider making recommendations FOR PLANNING DIVISION, WAS PUBLISHED BY THE NEWSPAPER AGENCY COMPANY, LLC dba UTAH MEDIA GROUP, AGENT FOR DESERET NEWS AND THE SALT LAKE TRIBUNE, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH. NOTICE IS ALSO POSTED ON UTAHLEGALS.COM ON THE SAME DAY AS THE FIRST NEWSPAPER PUBLICATION DATE AND REMAINS ON UTAHLEGALS.COM INDEFINATELY. COMPLIES WITH UTAH DIGITAL SIGNATURE ACT UTAH CODE 46-2-101; 46-3-104.

PUBLISHED ON Start 06/24/2017 End 06/24/2017

DATE 6/26/2017

SIGNATURE

STATE OF UTAH )

COUNTY OF SALT LAKE )

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS 26TH DAY OF JUNE IN THE YEAR 2017

BY ANN DARTNELL



Virginia Craft  
NOTARY PUBLIC SIGNATURE

### **3. HISTORIC LANDMARK COMMISSION**

**B. Staff Report**

**July 6, 2017**





# Staff Report

PLANNING DIVISION  
COMMUNITY & NEIGHBORHOODS

To: Salt Lake City Historic Landmark Commission  
From: Lex Traugher – Senior Planner  
(801) 535-6184 or lex.traugher@slcgov.com  
Date: July 6, 2017  
Re: Petition PLNPCM2009-00014, Local Historic District Demolition Process Text Amendment

## ZONING ORDINANCE TEXT AMENDMENT

**REQUEST:** A request by former Mayor Ralph Becker to amend certain sections of Title 21A (Zoning) of the Salt Lake City Code to amend and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide.

**RECOMMENDATION:** Planning Staff recommends that the Historic Landmark Commission forward a positive recommendation to the City Council regarding the amendments to sections 21A.34.020 and related provision in Title 21A-Zoning as proposed.

**MOTION:** Based on the analysis and findings listed in this staff report, testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments comply with the review standards as demonstrated in Attachment B of the staff report dated July 6, 2017.

**BACKGROUND AND PROJECT DESCRIPTION:** In 2009, a petition was initiated to review the City's regulations for demolition of landmark sites and contributing buildings in local historic districts, and the associated economic hardship process. The proposed modifications to the zoning ordinance were in response to a 1999 petition for amendments requested by the Planning Commission, a 2004 legislative action, the 2008 Citygate study of planning processes, and issues identified in the Community Preservation Plan. Primary issues identified at that time regarding the demolition and economic hardship provisions of the ordinance were:

- **Comments received during the development of the Community Preservation Plan suggested that the demolition provisions in the ordinance (including the economic hardship process) were too complex.**
- The standards for determination of economic hardship did not contribute to a clear and consistent process for landowners and applicants.
- Difficulty in balancing the goals of historic preservation with other goals of the City.
- **The economic hardship review panel's makeup of three people was/is difficult to achieve.** The three person panel is supposed to consist of a representative of the HLC, a representative of the applicant and a third party neutral expert. It is difficult to find a third party that meets the

qualifications and is also willing to volunteer their time to review large amounts of complicated documentation.

- **The three person economic review panel** was/is not a fair representation of either the applicant or the HLC, is a cumbersome process for everyone, and confusing to both the applicant and the public.

The petition was actively worked on by Planning Staff at that time and subsequently heard by the Historic Landmark Commission and the Planning Commission with positive recommendations given by both Commissions for City Council action. The petition was never transmitted to the City Council. The petition has remained in the Planning Division primarily due to the necessity to allocate time to other petitions and projects that were of greater priority.

At this time, due to recent intense interest in the overall historic landmark processes by the State legislature and **recent requests for demolition of contributing structures in a couple of the City's local historic districts**, it has become evident that the overall demolition and economic hardship processes remain confusing and need to be revised. Planning Staff has revised the ordinance to address concerns in order to render the demolition and economic hardship processes more transparent and user friendly.

**KEY ISSUES/DISCUSSION:** The key issues listed below have been identified through the analysis of the project, public input, and department review:

Issue 1. The current demolition regulations for landmark sites or contributing buildings and/or structures are too complex and confusing.

Proposed changes to address this issue:

- Change the order of the subsections in 21A.34.020 (H –Historic Preservation Overlay District) as related to demolition so that regulations follow the course of how processes actually occur. For example, the economic hardship process currently precedes the process for the issuance of a certificate of appropriateness for demolition, when these processes in practice are actually reversed. An applicant would apply for a certificate of appropriateness for demolition prior to applying for economic hardship if a demolition request was to be denied.
- **Elimination of standard “g” as currently outlined in the standards for approval for a certificate of appropriateness for demolition (Section 21A.34.020(L)(1)(g)).** Standard “g” currently states that a denial of a certificate of appropriateness for demolition would cause an economic hardship. This is being eliminated because there is a separate process to consider economic hardship that currently occurs after a decision for deferral or denial of demolition by the HLC. This standard has been very confusing for the public and for staff, and is in a redundant and illogical location.
- **Elimination of the requisite number of standards that the HLC must meet to make a decision for approval, deferral, or denial (Section 21A.34.020(L)(2)).** **Instead, the decision would be based on “substantially” meeting** the demolition standards as opposed to a decision based on meeting a specific number of standards. This change is consistent with how decisions are made for Conditional Uses, Planned Developments, and Conditional Building & Site Design review. Currently, a certificate of appropriateness would be approved if six (6) standards are met. If three (3) to five (5) standards are met, the HLC could defer a decision for up to a year pending a bona fide preservation effort by an applicant to save a building/structure. If two (2) or less standards are met then a demolition request would be denied. This system of achieving a specific number of standards is proposed to be eliminated.
- **Subsequent elimination of section 21A.34.020(M) that addresses a “Bona Fide Preservation Effort” should the** HLC defer a decision for a certificate of appropriateness when an applicant meets 3-5 of the standards for demolition. The requirement of an applicant to conduct a bona fide preservation effort has proven in the past to be ineffective in the preservation of the structure and some of the required bona fide efforts are not legally enforceable. In addition, an applicant has most likely pursued this effort prior to applying for demolition.

- Add additional definitions for terms used in the demolition ordinance to clarify language.

**2. The standards for determination of “Economic Hardship” as it relates to demolition requests** are not clear and are confusing for applicants.

Proposed changes to address this issue:

- Place the regulations for Economic Hardship after the regulations for Demolition as this is the order in which these processes would occur.
- An overhaul of the language in section 21A.34.020(K) to simplify and make more clear the regulations required for demonstration of economic hardship.
- Replace the set of required standards for economic hardship (21A.34.020(K)(2)), which is quite an extensive list of submittal items and therefore cumbersome and perhaps irrelevant for an applicant, with a list of items that an applicant may submit as evidence to demonstrate an economic hardship. It is incumbent upon an applicant to demonstrate an economic hardship and therefore an applicant should be able to submit documents that support their request as opposed to requiring a long list of submittal items that may or may not be relevant. A laundry list of evidence items has been proposed in the ordinance which an applicant may or may not choose to submit. This laundry list is not meant to be exhaustive. If other evidence items are relevant according to an applicant, then the proposed ordinance would encourage submittal of these items rather than limiting potential evidence items.
- Elimination of the current three-person economic review panel and replacement with an appointed qualified expert to decide economic hardship proposals. This expert would be appointed by the Planning Director. The current three-person economic review panel has proven problematic in the past for several reasons. First, it is difficult to find panelist. Second, because one panelist is appointed by the HLC, a second panelist appointed by the applicant, and a **third proposed by the HLC’s and the applicant’s panelists, the decision for economic hardship essentially falls upon the decision of the third panelist.**

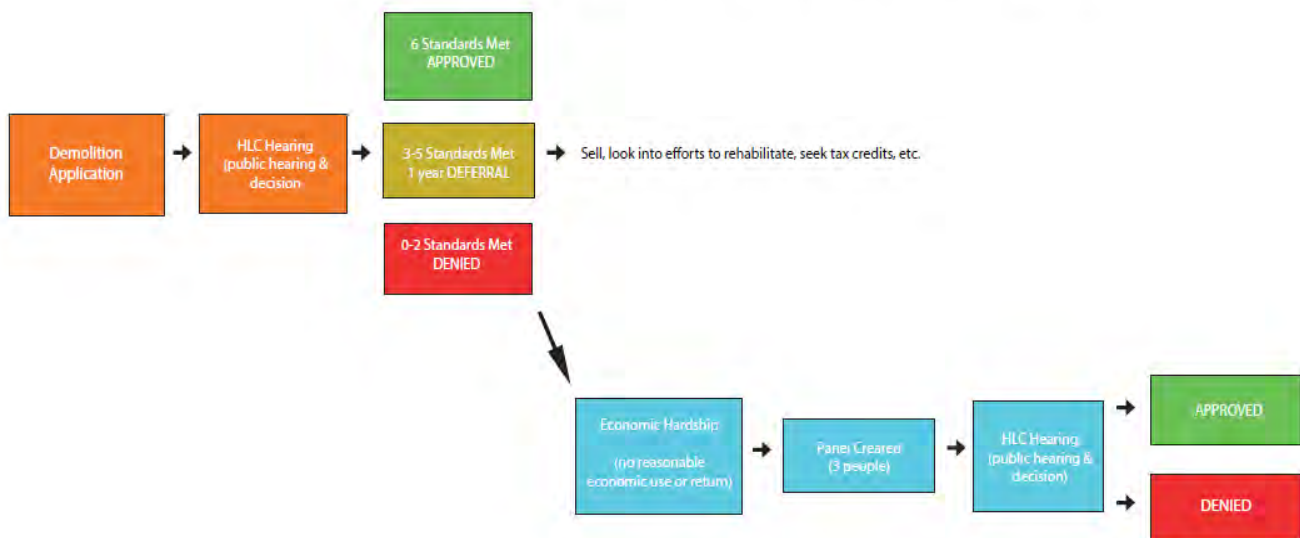
NEXT STEPS: The recommendation of the Historic Landmark Commission will be forwarded to the Planning Commission who will also make a recommendation to the City Council. Both the recommendation of the Historic Landmark Commission and the Planning Commission will be sent on to the City Council for a decision.

ATTACHMENTS:

- A. Current Process Flowchart
- B. Analysis of Standards
- C. Public Process and Comments
- D. Proposed Text Amendments (Strike and Underline)

## ATTACHMENT A: CURRENT PROCESS FLOWCHART

### Demolition & Economic Hardship Process Contributing & Landmark Buildings





## ATTACHMENT B: ANALYSIS OF STANDARDS

### 21A.50.050: STANDARDS FOR GENERAL AMENDMENTS:

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard.

A. In making its decision concerning a proposed text amendment, the city council should consider the following factors:

Standard	Finding	Rationale
Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents	Complies	The proposed text revisions are for the purpose of maintaining, updating, and clarifying the Zoning Ordinance, and as such are consistent with adopted city planning documents.
Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance	Complies	The proposed text amendments further the specific purpose statement for the H Historic Preservation Overlay District located in Title 21A.34.020 of the Salt Lake City Zoning Ordinance.
Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards	Complies	The proposed text amendments are consistent with the purposes and provisions of applicable overlay zoning districts, and help to clarify and improve the provisions of the local historic district demolition process.
The extent to which a proposed text amendment implements best current, professional practices of urban planning and design	Complies	The framework and structure of Salt Lake <b>City's zoning regulations and development</b> standards are sound and do not require wholesale restructuring. However, at times code changes are processed due to land use policy changes adopted by the City or because of State enabling regulation changes. It is beneficial for Salt Lake City to make code revisions that lead to a greater ease of use and understanding. Clarifying the local historic district demolition process is consistent with best practices with regard to public process and transparency.

## ATTACHMENT C: PUBLIC PROCESS AND COMMENTS

### Public Notice, Meetings and Comments

The following is summary of the public notice that has occurred, as well a list of meetings that have been held, and other public input opportunities related to the proposed project.

#### Project Posted to City Websites:

- Citizen Access Portal/Accela – May 11, 2017.
- Open City Hall – May 19, 2017.

#### Notification of Recognized Organizations:

- All recognized organizations were sent notification of the proposal via email on May 8, 2017.

#### Meetings

- An Open House was held on May 22, 2017.
- HLC briefing and work session held on June 1, 2017 (Minutes are attached).

#### Notice of the public hearing for the proposal include:

- Newspaper notification on June 20, 2017.
- Agenda posted on the Planning Division and Utah Public Meeting Notice websites on June 23, 2017.

#### Public Comments:

- All written public comments as of the production and distribution of this staff report are included for review.
- All comments received via Open City Hall as of the production and distribution of this staff report are included for review.

# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

*Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.*

All Registered Statements sorted chronologically

As of June 22, 2017, 11:31 AM



*Open City Hall is not a certified voting system or ballot box. As with any public comment process, participation in Open City Hall is voluntary. The statements in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.*

# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

*Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.*

As of June 22, 2017, 11:31 AM, this forum had:

Attendees:	48
Registered Statements:	4
All Statements:	4
Minutes of Public Comment:	12

This topic started on May 12, 2017, 11:50 AM.

## Ordinance on Demolition of Landmark Sites or in Local Historic Districts

Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.

Carl Kibler inside Council District 4

June 8, 2017, 4:24 PM

I agree with the view that reducing decisions from 3 to 1 persons is a mistake. It makes that single person a lightning rod for all opinions - it makes it personal and subject to whim and pressure more than a panel of 3 would.

Rule streamlining looks good otherwise.

Personally, I like turnover and change in our neighborhoods and cities to let them adapt to the present. The label of 'historic' is far over-applied to lock neighborhoods into particular decades of construction.

---

Name not shown inside Council District 7

June 8, 2017, 12:42 PM

I support every revision/change except the change from a multi-person panel to a single appointed position.

1 Supporter

---

Name not shown inside Council District 6

May 31, 2017, 9:13 PM

I do not agree with replacing a 3 person panel with one (1) person. That is placing too much power with one individual, not elected, to make a decision re: demolitions in Historic Districts.

I also do not support changes that would make it easier to demolish original historic structures. The point in establishing districts is to maintain that very essence, not destroy it.

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Name not shown inside Council District 6

May 30, 2017, 8:17 AM

This seems like a sensible revision to a confusing process. Perhaps an additional public hearing process could also be included so that demolition of structures within historic districts could receive more input from the public.

1 Supporter

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**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact is Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was looking for comments and suggestions on the proposal.

The Commission and Staff discussed and stated the following:

- The legal definition of the term “substantially” and how it is applied in the demolition ordinance.
- Would strongly suggest a set number of the standards had to be met thus not leaving a developer to wonder how the Commission would determine the substantial compliance of a petition.
- Each case was different and there were different elements to consider.
- A definition was needed for the following:
  - Willful neglect.
  - An architect with expertise in rehabilitation of older buildings.
    - Link it to the park service's standards of qualifications.
  - Partial demolition
- The more you define the more tied down the Commission would become.
- The standard for regulatory takings and if it was the correct standard to apply to the demolition ordinance.
- How a taking was determined and the process to appeal a taking.
- The different ways to obtain a demolition.
- If the Historic Landmark Commission should be the body to determine economic hardship or if it should be removed from the ordinance.
- Removing the language regarding regulatory takings and tie the language to the standards of economic hardship.
- If there needed to be a difference stated between income and non- income generating property.
- The demolition standards for a non-contributing structure.
- The importance of keeping contributing property information up to date.
- Giving Staff the ability to approve all solar panel petitions and the pros and cons of doing so.
- Clarifying the meaning of a principal structure and principal building and how each was reviewed.
- Page 3:
  - H.3 - Clarification on the appeal period.

- Page 4:
  - Remove the appeal language and refer to the appeal section.
- The City's response to vacant non maintained buildings.
- How boarded buildings are regulated.
- Encouraged Staff to notify the Commission of boarded buildings in historic districts.
- If property owners were notified that willful neglect was not grounds for demolition when boarding letters are sent.
- Page 7:
  - Change the phrase adverse effect to state, would not create a material adverse effect.
  - Tie a demotion to engaging an implementation of the reuse plan.
- The certification of appropriateness for demolition should not be issued until an acceptable, consistent reuse plan was approved and building permits concurrent with the demolition plan were issued.
- Make the title for the post demolition/ reuse plan consistent throughout the plan.
- Clarify the language regarding willful or negligent in regards to deterioration.
- How to determine routine maintenance in relation to the status of the building.
- Page 9:
  - Reword the language regarding the condition of the property upon purchase.
  - Reword the language about conditions personal to the landowner.
- Page 10:
  - Remove the number of professionals required for testimony.
  - Indicate the required experience for the historic professional to be considered as versed in Historic Preservation.
  - Review the 120 day period for processing the application.
- Page 11:
  - Reword B. to say the appointed Planning Director's expert.
  - Address rentals and owner occupied buildings in the ordinance.
  - Review the language regarding reasonable rate of return.
- Page 13:
  - If bonding should be required and where it would fit in the process.
  - Who determined the level of historic documentation required prior to demolition?
  - Need to require photos to be sent to SHPO prior to demolition with a written history.
  - How to determine what buildings should have detailed documentation.

Staff will make the changes and bring the document back to the Commission for further review.

## Traughber, Lex

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**From:** Dave Alderman <  
**Sent:** Tuesday, May 23, 2017 9:20 AM  
**To:** Traughber, Lex  
**Subject:** Comments on Changes to the Historic District Demolition and New Construction Standards

Lex - Following up on our discussion yesterday at the Open House. Overall, both documents appear to be a good step to streamline some processes. Below are our comments.

### Demolition and New Construction Text

F.1.a.(3) - Partial demolition of a landmark or contributing structure should go to the HLC. Administrative approval of non-contributing or accessory structures is acceptable. But contributing structures should get a more detailed, public review.

Also, the solar panel wording needs to be consistent between the two documents. Installation of solar panels, except on the front of the house, should be handled administratively.

### New Construction Text

F.1.a.(6) - Construction of new one or two family dwellings should continue to be seen by the HLC. This allows for a more public process to allow the design to be fine-tuned to fit the neighborhood. If a substantial addition requires HLC review, then why shouldn't a complete new build?

### General

It's not addressed in either text amendment, but any requests for variances or special exceptions, such as height, setbacks, etc., should go to the HLC. And very few should be approved.

Thanks for the opportunity to provide our input.

Dave and Peg Alderman



## Traughber, Lex

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**From:** Oktay, Michaela  
**Sent:** Thursday, June 1, 2017 9:43 AM  
**To:** Poland, Michelle  
**Cc:** Norris, Nick; Coffey, Cheri; Traughber, Lex  
**Subject:** FW: tonight's HLC meeting

Michelle,

Can you please forward these comments to the HLC members.

Thanks.

**From:** Allen Roberts [mailto:allen@crsa-us.com]  
**Sent:** Thursday, June 01, 2017 9:09 AM  
**To:** Oktay, Michaela <Michaela.Oktay@slcgov.com>  
**Subject:** FW: tonight's HLC meeting

Michaela: Enclosed is an email I just sent to Doug White and Khosrow Semnani containing talking points to tonight's HLC meeting.

Do you know what the format will be for public input? Also, do you know where this item appears on the agenda? (I haven't seen the agenda.)

If there is no public input, then I would like my 5 points to be included as input into the official record, along with the written comments I made on the ordinance changes that I sent to you a couple of months ago.

Thanks, as always. Allen

**Allen Roberts, FAIA**  
Senior Principal



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**From:** Allen Roberts  
**Sent:** Thursday, June 01, 2017 9:03 AM  
**To:** Douglas White

**Cc:** Khosrow B. Semnani  
**Subject:** tonight's HLC meeting

Doug, Khos: Tonight at the SLC HLC meeting the HLC will be discussing the proposed changes to their HLC ordinance, including the demolition section. I sent them comments in writing a couple of months ago, but tonight would be a good opportunity to give your input in person. I don't know what the meeting format will be like an whether the public will be much of an opportunity to make comments (perhaps two minutes each?), but I think it will help to advance your project, especially if you comment on the demolition section. Also, let me know if you would like me to attend and make comments. If we are given only 2 minutes each, here are some of the most important comments I suggest we make:

- 1) The City needs to change its policy of saving its thousands of non-significant, contributory building by denying their demolition, especially where streetscapes have already been heavily compromised. Keeping the present the present policy is preventing many developments, especially needed housing projects, throughout the city's numerous historic district. Freezing these large areas against future development is an unwise, no-growth policy.
- 2) The demolition ordinance is one-sided, unbalanced and unfair, highly subjective in its administration as well as overly complex, cumbersome and difficult for applicants to deal with.
- 3) There are many legitimated reasons for approving the demolition of small numbers of the city's thousands of contributory buildings. The demolition ordinance should acknowledge this and be more balanced in its requirements. We specifically recommend these changes:
  - a. Clarify, simplify and upgrade the six-seven (or however many) criteria.
  - b. Require that only 3 or 4 of the criteria be met. Requiring 6 is one-sided and totally unbalanced.
  - c. Revise or eliminate the economic hardship requirement.
- 4) Reevaluate all of the city's historic districts and their boundaries and adjust them, bringing them up-to-date. Many of them are based on building surveys conducted as long as over 40 years ago. Many changes have occurred during those decades, including the demolition of historic buildings and the construction of new buildings.
- 5) When amending the district boundaries, use credible industry-standard guidelines for the creation of new boundaries.

Best regards, Allen

**Allen Roberts, FAIA**  
Senior Principal



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## Traughber, Lex

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**From:** Oktay, Michaela  
**Sent:** Thursday, June 1, 2017 11:07 AM  
**To:** Traughber, Lex  
**Subject:** FW: proposed new City Demolition Ordinance.

**From:** Allen Roberts [mailto:allen@crsa-us.com]  
**Sent:** Tuesday, March 21, 2017 11:00 AM  
**To:** Oktay, Michaela <Michaela.Oktay@slcgov.com>  
**Subject:** proposed new City Demolition Ordinance.

Michaela: Good morning and happy Spring.

I have taken some time this week to review the proposed revision/zoning text amendment of the City's Demolition Ordinance and have some comments on it:

- 1) I was hoping this would be a newly-conceived, re-thought-out ordinance but what I found is that it is a tweaking and reworking of parts of the existing ordinance. The problem with that is that the present ordinance is too long, complex, confusing and unbalanced/unfair for the average person to deal with. And the public shouldn't have to hire a team of architects, preservationists, attorneys, realtors, economists, etc. to apply for demolition.
- 2) I agree with the validity of the five problems listed on p. 3, although I'm not sure the new wording solves them all.
- 3) The main weakness or flaw in the ordinance is the absence of a "Special Merit" provision. Without it, the ordinance is unbalanced—in favor of preservation and against reasonably justified demolition. I see on p. 4 that Commission considered such a provision but decided not to include it (as you indicated to me might be the case). However, the few arguments made against Special Merit were one-sided and not a balanced weighing of pros and cons. (Special Merit would be just the right provision to help the Trolley Towers project, for example. Basically that is a very beneficial and worthwhile project being held hostage by four dwellings, two of which are severely structurally damaged and beyond repair, one of which was moved onto the site and placed on a newer, incompatibly high, concrete foundation, and one intact house which is surrounded by parking lots and is indistinguishable from thousands of other, similar cottages throughout the city. They are in a part of an historic district which should not be in the district (due to lack of streetscape integrity and lack of any concentration of historic structures) and therefore should not be protected as contributory structures within a district. The entire district is flawed because it was created as a two-block buffer for 600 East rather than for its inclusion of a concentration of significant and contributory buildings—which do not exist throughout many parts of the district. The district boundaries should be re-drawn using the industry standards for creating historic districts, not the non-conforming, over-reaching whim of a neighborhood group not familiar with preservation standards.) In short, the revised ordinance does not solve problems such as this one, in part due its lack of Special Merit. Put another way, if this ordinance had been in place, say in 1900, most of the city's most significant landmarks would not exist today because they would not have been allowed to replace buildings protected then.
- 4) The Economic Hardship provision is still too unreasonable if not Draconian for a typical citizen to deal with.
- 5) On the positive side, it is helpful and more fair for the applicant to have to meet fewer standards (4 or 5 of 6 instead of 6 of 6), so that's a step in the right direction, but having decisions deferred for up to one year is unfair (p.14). Some of the other waiting periods (90 and 100 days, etc.) are too long too.

- 6) The fees listed on page 21 are excessive. They are unjustifiably penalizing. What is the justification for these fees?
- 7) The requirements of part P., p. 21, are excessive, especially for contributory buildings of low/minimal significance. The rule should be: Significant buildings get lots of documentation; contributory building less documentation.
- 8) The requirement that the applicant submit and have approved architectural plans for the replacement project before demolition is granted is extraordinarily expensive, time-consuming and unfair to the applicant. As a preservationist, I do not like speculative demolition (like the Newhouse Hotel) or demolition by neglect (like the two collapsing houses Mr. Semnani bought on his parking lot property), but this particular requirement is truly unreasonable. There must be a better way to achieve its preservation goal without so severely burdening the applicant.
- 9) Overall, I think the City needs to re-think its policy of preserving all of the contributory buildings in all of its historic districts. Because there are now many districts, some of them quite large, there are thousands of these minimally significant buildings, yet they are holding up and even killing worthwhile projects and obstructing other City goals like providing more housing and reversing urban blight.
- 10) Finally, both the present and proposed demolition ordinance, as well as some related preservation ordinances and policies, are dangerous in that they are part of the reason being advanced to the State Legislature for passing laws prohibiting the creation of future historic districts. Think of the recent problems with the Harvard-Yale District. In Park City, for example, building owners and developers were so angry about the City's preservation policies and practices that the City totally did away with the City Landmarks Commission and its supporting documents, leaving it solely to the planning staff to deal with preservation issues. In summary, the new demo ordinance needs to be balanced, fair, reasonable, and accessible and easy to use for both the applicant and the planning staff

I have comments on some of the details in the specific language of the proposed ordinance but I'm still working through those and will try to get them in order later. Overall, though, speaking as a life-long, career preservationist who has served as chairman of three historic district commissions in Utah and designed hundreds of preservation projects throughout the West, I find both the present and proposed demolition ordinances to be, as I've said, too long, complex, confusing, unbalanced/one-sided, costly, unfair and based on faulty underlying resource data, such as the protection of historic districts created with faulty, non-standard boundaries, thereby protecting contributing structures which should not be granted protection, in the process delaying and sometimes killing highly worthwhile, Special Merit projects which would greatly benefit the city.

Sorry for be so negative, but the local preservation pendulum needs some re-tilting back to the middle. Thanks in advance for taking these observations and ideas into consideration as the demolition ordinance moves through City processes.

Allen

**Allen Roberts, FAIA**  
Senior Principal



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## Traughber, Lex

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**From:** Allen Roberts <allen@crsa-us.com>  
**Sent:** Thursday, June 1, 2017 4:10 PM  
**To:** Oktay, Michaela; Traughber, Lex  
**Subject:** one more item...

Michaela, Lex: One more item that should be on the earlier list I sent today:

I (and my various clients like Trolley Square and the Elks Club group) strongly recommend that the revised ordinance include a Special Merit provision in the demolition section. This will help prevent the disapproval to demolish a few non-significant, contributory buildings from stopping or delaying major projects of great merit from being built.

My definition of sacrifice is giving up something of lesser value to achieve something of greater value. A Special Merit provision would allow such justifiable sacrifices to occur.

Thanks again for including my input in the HLC discussion.

Allen

**Allen Roberts, FAIA**  
Senior Principal



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## ATTACHMENT D: PROPOSED TEXT AMENDMENTS



## **ZONING ORDINANCE CHAPTER 21A.34.020**

### **H – HISTORIC PRESERATION OVERLAY DISTRICT**

#### **B. Definitions**

Economic Hardship: Failure to issue a certification of appropriateness for the demolition of a landmark site or contributing principal building will deny the property owner all reasonable beneficial or economically viable use of the property without just compensation.

Wilful Neglect: The intentional absence of routine maintenance and repair of a building over time, leading to structural weakness, decay, or deterioration to the point where a building is beyond rehabilitation or adaptive reuse is no longer feasible.

#### **F. Procedure For Issuance Of Certificate Of Appropriateness:**

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

a. Types Of Construction: The following may be approved by administrative decision:

(1) Minor alteration of or addition to a landmark site or contributing principal building ~~site~~ and/or structure;

(2) Substantial alteration of or addition to a noncontributing site;

(3) Partial demolition of either a landmark site or a contributing principal building or structure;

(4) Demolition of an accessory building or structure;

(5) Demolition of a noncontributing building or structure; and

~~(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section 21A.40.190 of this title.~~

(6) Installation of solar energy collection systems pursuant to section 21A.40.190 of this title.

b. Submission Of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to chapter 21A.10 of this title, and shall forward the application for review and decision.

c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model, window frame sections and samples deemed necessary to consider the application properly and completely.

d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.

e. Notice ~~For~~ of Application For Demolition Of A Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

f. Standards ~~For~~ of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.

g. Review And Decision By The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

h. Referral Of Application By Planning Director To Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the H historic preservation overlay district, or the need for consultation for expertise regarding architectural, construction or preservation issues.

2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only ~~be allowed to~~ be approved by the historic landmark commission subject to the following procedures:

a. Types Of Construction: The following shall be reviewed by the historic landmark commission:

- (1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ principal building;
- (2) New construction of principal building in H historic preservation overlay district;
- (3) Relocation of landmark site or contributing ~~site~~ principal building;
- (4) Demolition of landmark site or contributing ~~site~~ principal building;



(5) Applications for administrative approval referred by the planning director; and

~~(6) Installation of solar energy collection systems pursuant to section [21A.40.190](#) of this title.~~

(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section [21A.40.190](#) of this title.

b. Submission Of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F1b of this section.

c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

d. Materials Submitted With Application: The requirements for the materials to be submitted upon application for a certificate of appropriateness shall be the same as specified in subsection F1c of this section. Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to chapter 21A.10 of this title.

f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to chapter 21A.10 of this title.

g. Standards For Approval: The application shall be reviewed according to the standards set forth in subsections G through ~~L~~ K of this section, whichever are applicable.

h. Review And Decision By The Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, ~~within sixty (60) days following receipt of a completed application; except that a review and decision on an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) days following receipt of a completed application.~~

(1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection ~~L~~ K of this section, whichever are applicable.

(2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness. ~~A decision on an application for a certificate of appropriateness for demolition of a~~

~~contributing structure may be deferred for up to one year pursuant to subsections L and M of this section.~~

(3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing ~~structures~~ principal buildings shall not be issued until the appeal period has expired.

(4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.

~~i. Appeal Of Historic Landmark Commission Decisions To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized organization pursuant to title 2, chapter 2.60 of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of chapter 21A.16 of this title.~~

~~j. Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~

~~k. Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~

~~K. Definition And Determination Of Economic Hardship: The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.~~

~~1. Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be submitted to the planning division. The application must include photographs, information pertaining to the historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.~~

~~2. Standards For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:~~

~~a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;~~

~~b. The current level of economic return on the property as considered in relation to the following:~~

~~(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;~~

~~(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;~~

~~(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;~~

~~(4) Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor;~~

~~(5) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property;~~

~~(6) The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed;~~

~~(7) Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and~~

~~(8) Any state or federal income tax returns on or relating to the property for the previous two (2) years;~~

~~c. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:~~

~~(1) Any real estate broker or firm engaged to sell or lease the property;~~

~~(2) Reasonableness of the price or rent sought by the applicant, and~~

~~(3) Any advertisements placed for the sale or rent of the property;~~

~~d. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:~~

~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~

~~(2) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations;~~

~~(3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use; and~~

~~(4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~

~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~

~~3. Procedure For Determination Of Economic Hardship: The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period.~~

~~a. Review Of Evidence: All of the evidence and documentation presented to the historic landmark commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting complying with the open meetings act to review the evidence of economic hardship in relation to the standards set forth in subsection K2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party; provided, that notice for such public hearing shall be in accordance with chapter 21A.10 of this title.~~

~~b. Report Of Economic Review Panel: Within forty five (45) days after the economic review panel is established, the panel shall complete an evaluation of economic hardship, applying the~~

standards set forth in subsection K2 of this section and shall forward a written report with its findings of fact and conclusions to the historic landmark commission.

~~c. Historic Landmark Commission Determination Of Economic Hardship: At the next regular historic landmark commission meeting following receipt of the report of the economic review panel, the historic landmark commission shall reconvene its public hearing to take final action on the application.~~

~~(1) Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~

~~(2) Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~

~~(3) Consistency With The Economic Review Panel Report: The historic landmark commission decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the historic landmark commission, the historic landmark commission finds by a vote of three-fourths ( $\frac{3}{4}$ ) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.~~

**L. K. Standards For Certificate Of Appropriateness For Demolition Of A Contributing Structure Principal Building In An H Historic Preservation Overlay District:** ~~In~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing structure principal building, the historic landmark commission shall determine whether the applicant has provided evidence that the project request substantially complies with the following standards:

1. Standards For Approval Of A Certificate Of Appropriateness For Demolition:

- a. The physical integrity of the site contributing principal building as defined in subsection C15b of this section is no longer evident;
- b. The streetscape within the context of the H historic preservation overlay district would not be negatively materially affected if the contributing principal building were to be demolished;
- c. The demolition would not create a material adversely affect on the H historic preservation overlay district due to the surrounding noncontributing structures concentration of historic resources used to define the boundaries or maintain the integrity of the district;
- d. The base zoning of the site is incompatible with does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;

~~e. The reuse plan is consistent with the standards outlined in subsection H of this section;~~

~~f. The site contributing principal building has not suffered from wilful neglect, as evidenced by the following:~~

~~(1) Wilful or negligent acts by the owner that have caused significant deteriorates deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,~~

~~(2) Failure to perform normal routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or~~

~~(3) Failure to diligently solicit and retain tenants, and~~

~~(4 3) Failure to secure and board the structure contributing principal building, if vacant, per section 18.64.045 of this title,; and~~

~~g. The denial of a certificate of appropriateness for demolition would cause an "economic hardship" as defined and determined pursuant to the provisions of subsection K of this section.~~

2. Historic Landmark Commission Determination Of Compliance With Standards Of Approval: ~~The historic landmark commission shall make a decision based upon compliance with the requisite number of standards in subsection L1 of this section as set forth below:~~ If the Historic Landmark Commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the Historic Landmark Commission shall approve the request for a certificate of appropriateness for demolition. If the Historic Landmark Commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the Historic Landmark Commission shall deny the request for a certificate of appropriateness for demolition.

~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) of the standards are met, the historic landmark commission shall approve the certificate of appropriateness for demolition.~~

~~b. Denial Of Certificate Of Appropriateness For Demolition: Upon making findings that two (2) or less of the standards are met, the historic landmark commission shall deny the certificate of appropriateness for demolition.~~

~~c. Deferral Of Decision For Up To One Year: Upon making findings that three (3) to five (5) of the standards are met, the historic landmark commission shall defer a decision for up to one year during which the applicant must conduct a bona fide effort to preserve the site pursuant to subsection M of this section.~~

**K. L. Economic Hardship Exception:** Upon denial of a certificate of appropriateness for demolition of a landmark site or contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship.

1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.

2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.

b. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased.

(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years.

(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any.

(4) Real estate taxes for the previous three (3) years by the Salt Lake County assessor,

(5) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,

(6) The fair market value of the property taking into consideration the H historic preservation overlay district;

(7) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;

c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:

(1) Any real estate broker or firm engaged to sell or lease the property,

(2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and

(3) Any advertisements placed for the sale or rental of the property,

d. The feasibility of alternative uses for the property as considered in relation to the following:

(1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,

(2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,

(3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and

(4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.

e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

f. Description of past and current use.

g. An itemized report that identifies what is deficient if the building does not meet minimum City building code standards or violations of City code.

h. Consideration of conditional use options or special exceptions to alleviate hardship.

3. Procedure For Determination Of Economic Hardship: The Planning Director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the Historic Landmark Commission concerning the value of the property and whether or not the denial of demolition could result in the property owner being denied of all reasonable beneficial or economically viable use of the property without just compensation. The extent of the authority of the Planning Director's appointed qualified expert is limited to rendering advice and testimony to



the Historic Landmark Commission. The Planning Director's appointed qualified expert has no decision making capacity. The Planning Director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The Historic Landmark Commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the Planning Director's appointed qualified expert as necessary.

a. Review Of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the Planning Director's appointed qualified expert for determination of economic hardship after receipt of a complete application.

b. Finding Of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the Planning Director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

(1) For demolition of non-residential or multifamily property:

(a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

(2) For demolition of a residential property (single or two family):

(a) The contributing principal building cannot be put to any beneficial use in its present condition.

c. Certificate Of Appropriateness for Demolition: A certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to section 21A.10(D).

d. Denial Of Economic Hardship: If the historic landmark commission finds that the applicant has failed to prove an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

(1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.

(2) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~M. Bona Fide Preservation Effort: Upon the decision of the historic landmark commission to defer the decision of a certificate of appropriateness for demolition for up to one year, the applicant must undertake bona fide efforts to preserve the structure. The one year period shall begin only when the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions:~~

- ~~1. Marketing the property for sale or lease;~~
- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision for the certificate of appropriateness for demolition pursuant to subsection F2 of this section. The historic landmark commission shall approve the certificate of appropriateness for demolition and approve, approve with modifications or deny the certificate of appropriateness for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.~~

**M. Requirements for Certificate of Appropriateness for Demolition:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is to be replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H historic preservation overlay district standards for new construction,

2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.

3. Submittal of documentation to the Planning Division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.

a. Photographs. Digital or print photographs. Views should include:

(1) Exterior views;

(2) Close-ups of significant exterior features;

(3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.

b. Site plan showing the location of the building and site features.

**N. Revocation Of The Designation Of A Landmark Site:** If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition: Prior to approval of any certificate of appropriateness for demolition the historic landmark commission shall review the postdemolition plans to assure that the plans comply with the standards of subsection H of this section. If the postdemolition plan is to landscape the site, a bond shall be required to ensure the completion of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.~~

~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and shall be sufficient to cover the estimated cost, to:~~  
~~a) restore the grade as required by [title 18](#) of this code; b) install an automatic sprinkling system; and c) revegetate and landscape as per the approved plan.~~

~~2. The bond shall require installation of landscaping and sprinklers within six (6) months, unless the owner has obtained a building permit and commenced construction of a building or structure on the site.~~

**Q. O. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous Structures Building:** A hazardous structure building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. Hazardous structures demolished under this section shall

~~comply with subsection P of this section.~~ Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision.

**~~R. P.~~ Expiration Of Approvals:** Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. (~~Ord. 67-16, 2016: Ord. 60-15, 2015: Ord. 54-14, 2014: Ord. 58-13, 2013: Ord. 74-12, 2012~~)

### **3. HISTORIC LANDMARK COMMISSION**

**C. Agenda & Minutes**

**July 6, 2017**

**SALT LAKE CITY HISTORIC LANDMARK COMMISSION MEETING AGENDA**  
**In Room 326 of the City & County Building 451 South State Street**  
**Thursday, July 6, 2017 at 5:30 pm**  
**(The order of the items may change at the Commission's discretion.)**

**DINNER – Will be served to the Historic Landmark Commissioners and Staff at 5:00 p.m. in Room 118 of the City and County Building.**

**HISTORIC LANDMARK COMMISSION MEETING WILL BEGIN AT 5:30 PM IN ROOM 326**

**Approval of the Minutes from June 1, 2017.**

**Report of the Chair and Vice Chair**

**Director's Report**

**Public Comments** - The Commission will hear public comments not pertaining to items listed on the agenda.

**Public Hearings**

1. **New Rear Addition, Side Porch and Garage to Single Family Residence at approximately 638 6th Avenue** - A request by Thom Jakab, on behalf of owner James Williamson, for approval of a two story addition with basement to the rear of the existing house, the reconstruction of a new porch to match the original and a new garage. The house is a contributing building in the Avenues Historic District, is on a corner lot and the addition will face J Street. The subject property is zoned SR-1A (Special Development Pattern Residential District) and is located in City Council District 3, represented by Stan Penfold. This proposal is being referred to the Historic Landmark Commission for decision because it is a substantial addition to this residence, and special exception approval is required for proposals exceeding the SR-1A zone standards. (Staff contact: Carl Leith at (801) 535-7758 or [carl.leith@slcgov.com](mailto:carl.leith@slcgov.com))
  - a. **Proposed Addition and Porch** - The proposed addition and garage are situated to the rear and porch along the north and east sides of this original dwelling, and on this corner lot they face onto J Street. Case number: **PLNHLC2015-00586**
  - b. **Special Exception** – Special Exception approval is sought for the proposed porch that would project into the corner side yard by 1'-2 ½", an accessory building positioned within 2'-9 ¼" from an adjacent residential building, cooling equipment placed 1' from the property line within the inside yard area, grade changes which may exceed 4 feet and proposed lot coverage of 54%. Case number: **PLNHLC2015-00587**
2. **Single Family New Construction at approximately 970 E 2nd Avenue** - Dallas Davis, the architect and the owner of the property, is requesting New Construction approval from the Historic Landmark Commission for the design of a single family dwelling in the Avenues Local Historic District. The proposed development requires approval from the Historic Landmark Commission for new construction in an historic district. The subject property is zoned SR1-A (Special Development Pattern Residential District) and is located in City Council District 3, represented by Stan Penfold. (Staff contact: Amy Thompson at (801)535-7281 or [amy.thompson@slcgov.com](mailto:amy.thompson@slcgov.com)) Case number: **PLNHLC2017-00339**.
3. **Bishop Place Demolition Request** - Don Armstrong is request approval for the demolition of nine (9) contributing structures located at the approximate addresses listed below in the Capitol Hill Local Historic District. The subject properties are located within Council District

3, represented by Stan Penfold (Staff Contact: Anthony Riederer at (801)535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com))

- a. **Demolition of a Historic Structure at approximately 241 W Bishop Place** - City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. Case number: **PLNHLC2017-00014**
  - b. **Demolition of a Historic Structure at approximately 245 W Bishop Place** - City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. Case number: **PLNHLC2017-00015**
  - c. **Demolition of a Historic Structure at approximately 249 W Bishop Place** - City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. Case number: **PLNHLC2017-00021**
  - d. **Demolition of a Historic Structure at approximately 259 W Bishop Place** - City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. Case number: **PLNHLC2017-00023**
  - e. **Demolition of a Historic Structure at approximately 265 W Bishop Place** - City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. Case number: **PLNHLC2017-00028**
  - f. **Demolition of a Historic Structure at approximately 432 North 300 West** - City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. Case number: **PLNHLC2017-00031**
  - g. **Demolition of a Historic Structure at approximately 262 W Bishop Place** City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. **PLNHLC2017-00027**
  - h. **Demolition of a Historic Structure at approximately 258 W Bishop Place** - City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. Case number: **PLNHLC2017-00022**
  - i. **Demolition of a Historic Structure at approximately 248 W Bishop Place** City surveys indicate that the building in question is a contributing property within the Capitol Hill Historic District. Case number: **PLNHLC2017-00018**
4. **Amendments to the Local Historic District Demolition Process** - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traugher at (801)535-6184 or [lex.traugher@slcgov.com](mailto:lex.traugher@slcgov.com).) Case number: **PLNPCM2009-00014**
5. **Amendments to the New Construction Standards for Local Historic Districts** - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801) 535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com).) Case number: **PLNPCM2016-00905**

## **Work Session**

6. **Trolley Square Ventures Rezone Briefing at approximately 603 S 600 East Street** - Douglas White, on behalf of Trolley Squares Ventures LLC, has requested a zoning map amendment from RMF-30 Low Density Multi-Family Residential District to R-MU-35 Residential/Mixed Use District at the above listed address. Currently the land is used for parking. The purpose of the request is to develop a 24 unit apartment building that will not exceed 35 feet in height. Although the applicant has requested the property be rezoned to R-MU-35 District, consideration may be given to rezoning the property to another zoning district with similar characteristics. The subject property is located within Council District 4, represented by Derek Kitchen. (Staff contact: Michael Maloy, Senior Planner, at (801)535-7118 or [michael.maloy@slcgov.com](mailto:michael.maloy@slcgov.com)). Case number: **PLNPCM2017-00373**.

***The next regular meeting of the Commission is scheduled for Thursday, August 3, 2017, unless a special meeting is scheduled prior to that date.***

*Appeal Of Historic Landmark Commission Decision: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized or registered organization pursuant to title 2, chapter 2.62 of this code, the Utah State Historical Society or Preservation Utah (Utah Heritage Foundation), aggrieved by the Historic Landmark Commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued.*

*Files for agenda items are available in the Planning Division Offices, Room 406 of the City and County Building. **Please contact the staff planner for more information.** Visit the Historic Landmark Commission's website <http://www.slcgov.com/planning/planning-historic-landmark-commission-meetings> to obtain copies of the Historic Landmark Commission's agendas, staff reports, and minutes. Staff reports will be posted by the end of the business day on the Friday prior to the meeting and minutes will be posted by the end of the business day two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Historic Landmark Commission.*

*The City & County Building is an accessible facility. People with disabilities may make requests for reasonable accommodation, which may include alternate formats, interpreters, and other auxiliary aids and services. Please make requests at least two business days in advance. To make a request, please contact the Planning Office at (801)535-7757, or relay service 711.*



**Commissioner Harding amended the motion to state Standard E had been met. Commissioner Brennan seconded the amendment.**

The Commission and Staff discussed the following

- If landscaping was an appropriate reuse plan.
- Willful neglect as stated in the ordinance and that the Commission would have to find that all of the standards for willful neglect had been demonstrated.

**Commissioners Harding, Peters, Shepherd and Brennan voted “aye”. Commissioner Adams and Hyde voted “nay”. The motion passed 4-2.**

The Commission took a five minute break. [9:03:13 PM](#)

The Commission reconvened. [9:08:22 PM](#)

[9:08:26 PM](#)

**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number: PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The standards for appropriateness of demolition of a contributing principal building.
  - Under K add the language to state “the request substantially complies with the following standards.”
- Definition of economic hardship should state “the property owner was denied all reasonable benefit, economical, viable use based on the certificate of appropriateness being denied”.
- The definition of an appropriate reuse plan.

**PUBLIC HEARING [9:19:58 PM](#)**

Chairperson Shepherd opened the Public Hearing.

The following individuals spoke to the petitions: Ms. Polly Hart, Mr. Allen Roberts, Ms. Cindy Cromer and Mr. Douglas White.

The following comments were made:

- There was a difference between making the demolition process simpler, not easier and the goal was to not make demolition easier to achieve.
- The ordinance was a hoop not a barrier to demolition as it should be more difficult to demolish historic structures.
- Did not like people buying historic properties simply to demolish them.
- The six standards should remain in the ordinance as they were the only thing standing between buildings remaining or be demolished.
- The merit provision was deleted from the current proposal and should be re-added as sometimes the demolition of a historic structure was justified.
- Special merit existed to allow demolitions when the new project had considerable merit.
- Almost every major historic building in the city was built on the site of a previous historic building.
- Preservation was not the only priority of the city.
- The city needed a special merit provision to allow for growth.
- The Staff Report needed to look at taking some of the subjectivity out of Section L as it pitted the property owner against preservation efforts.
- Under section L, g. needed to be removed.
- Please do not do away with the three person economic hardship panel.
- The Special Merit was not always what it presented itself to be and was a huge risk.
- There are a limited number of people in Salt Lake City that truly have expertise with historic structures and their rehabilitation.
- Remove demolitions from the political process and hire someone who was unbiased to review these petitions.

The Commission, Staff and Mr. Roberts discussed the following:

- Why the Special Merit provision was removed from the ordinance?
  - It was determined that if a Special Merit provision was implemented it would become the sole process developers would chose in order to achieve demolition.
- Some version of Special Merit was needed to allow for growth and a proposal would have to be exceptional to allow for demolition of a historic structure.
- How surveys affected the demolition process.

Chairperson Shepherd closed the Public Hearing.

The Commission and Staff discussed and stated the following:

- The reuse plan and how it was addressed in the proposed ordinance.
  - The landscape plan had been removed from the proposed ordinance as a reuse option.
- If there were two different approvals one for the demolition and one for the site/reuse plan?
- The standards for demolition approval.

- How base zoning affected demolition and how it was applied in the ordinance.
- If the base zoning standard should be part of the economic hardship process.
- The standards and language under willful neglect.
- The Commission had helped developers to streamline proposals and allow development to move forward.
- The Special Merit program and how it applied to demolitions.
  - The Commission would like more information on Special Merit programs and how other cities use the program.
- If an outside unbiased entity should review demolitions or if the three person panel was a better option.

**MOTION [10:11:50 PM](#)**

Commissioner Brennan stated regarding PLNPCM2009-00014 – Local Historic District Demolition Process Text Amendment, tabled the petition to a future meeting to allow Staff to gather information on the items of question. Commissioner Harding seconded the motion. Commissioners Peters, Harding Adams, Brennan, Hyde and Svendsen voted “aye”. The motion passed unanimously.

**[10:13:06 PM](#)**

**Amendments to the New Construction Standards for Local Historic Districts - A** text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801) 535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com).) Case number: PLNPCM2016-00905

**MOTION [10:13:25 PM](#)**

Commissioner Brennan stated regarding PLNPCM2016-00905 - Amendments to the New Construction Standards for Local Historic Districts, he moved to table the petition to the August 3, 2017 meeting. Commissioner Peters seconded the motion. Commissioners Peters, Adams, Brennan, Harding, Hyde and Svendsen voted “aye”. The motion passed unanimously.

Commissioners Harding and Adams recused themselves from the meeting. [10:13:48 PM](#)

**Work Session [10:14:24 PM](#)**

**Trolley Square Ventures Rezone Briefing at approximately 603 S 600 East Street -** Douglas White, on behalf of Trolley Squares Ventures LLC, has requested a zoning map amendment from RMF-30 Low Density Multi-Family Residential District to R-MU-35 Residential/Mixed Use District at the above listed address. Currently the land is used for parking. The purpose of the request is to develop a 24 unit apartment building that will not exceed 35 feet in height. Although the applicant

### **3. HISTORIC LANDMARK COMMISSION**

**D. Staff Report**

**August 3, 2017**



# Memorandum

Planning Division  
Community and Neighborhoods

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**To:** Historic Landmark Commission

**From:** Lex Traughber – Senior Planner

**Date:** August 3, 2017

**Re: Amendments to the Local Historic District Demolition Process  
Petition PLNPCM2009-00014**

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At the HLC meeting on July 6, 2017, several questions were raised by Commissioners that Planning Staff would like to address and provide clarification. The questions posed were as follows:

## **1. Special Merit Exception**

The issue of special merit exception was raised by a member of the public and piqued the interest of several Commissioners. Planning Staff was tasked with providing additional information regarding special merit exceptions.

A special merit exception is defined as a project having significant benefits to the City or to the community by virtue of exemplary architecture, special features of land planning, or social or other benefits having a high priority for community amenities. The inclusion of a provision for a special merit exception in the historic preservation overlay zone is intended to provide a mechanism for consideration of the level of importance of other adopted City policies when considering demolition of a contributing principal building(s). In the event that a special merit exception review would be requested should the City adopt regulations, the Historic Landmark Commission and/or the Planning Commission would be tasked with deciding if a proposed new construction project provided significant public benefit, outweighing the benefit of preserving a contributing principal structure(s), based on multiple policies adopted by the City Council. A special merit exception process has the potential to usurp the demolition process.

The Historic Landmark Commission considered adding a provision for special merit exception when the demolition and economic hardship sections of the ordinance were being worked on in 2013. After reviewing Planning Staff's proposal for special merit exception, taking public comment, deliberating the benefits and detriments of such a proposal, the Historic Landmark Commission decided to forego a special merit exception provision as part of the proposed ordinance revisions at that time. The minutes from the HLC hearing on July 18, 2013 state, "The Commission reiterated concern over the special merit exception and questioned the need for this provision. It was noted that few cities in the country have similar provisions and that Salt Lake City's historic preservation

regulation do not create any major impediments to development which justify including the special merit exception.” The proposed ordinance revisions at that time were forwarded to the City Council with a recommendation for approval without the provision for a special merit exception. The Planning Commission likewise made a positive recommendation regarding the text amendments to the City Council without the special merit exception process.

At this time, consistent with prior sentiment of the Historic Landmark Commission, it is Planning Staff’s opinion that a special merit exception is not warranted, primarily for the potential of abuse of any special merit exception regulations adopted, and the opportunity for the special merit exception process to become the de facto demolition process for contributing principal structures. Should the Historic Landmark Commission desire further research into special merit exception regulations, Planning Staff would ask that the Historic Landmark Commission request that the Mayor initiate a separate petition to address special merit exception regulations as a stand-alone issue. It is imperative that proposed amendments to the demolition and economic hardship processes move forward at this time, as again, they are confusing and not readily transparent and need improvements.

## **2. Demolition standard concerning base zoning and reuse**

A question was raised for the need of a demolition standard addressing the base zoning of a property and the potential reuse of a building. Currently, the demolition ordinance includes the following standard, “The base zoning of the site is incompatible with the reuse of the structure.” This standard is proposed to be modified to read, “The base zoning of the site does not permit land uses that would allow the adaptive reuse of the contributing principal structure.” The issue raised was that following the first three standards relating to the integrity of the building, the effect of demolition on the streetscape, and then the effect of demolition on the district, a standard looking at zoning and reuse seems unnecessary. There was discussion to remove this standard.

It is Planning Staff’s opinion that a look at the zoning of any given site and any associated reuse of a building is a relevant question when considering demolition. In most instances, the zoning of a property will allow for the reuse of a contributing principal building. In the odd event that a given zone would not readily allow for reuse of a contributing principal building, this rare occurrence should be recognized and considered by Planning Staff and the Historic Landmark Commission in a demolition request.

Additionally, in any event where the zone allows for limited reuse options, it may be prudent to analyze other land use processes that could potentially allow for additional redevelopment opportunities for contributing principal buildings. For example, the Trolley Square South property on 600 South was recently rezoned to FB-UN2 (Form Based Urban Neighborhood District) from multi-family and single-family zones. This rezone action greatly expanded the reuse potential of the four residential properties on the subject site by introducing a commercial reuse option in addition to the residential options available under the prior multi-family and single-family zones.

## **3. Reuse Plan**

A question was posed regarding reuse plans and more specifically the option of landscaping a site as opposed to new construction on a site. Currently, under Section 21A.34.020P, a post demolition option is landscaping of a site after demolition. This section of the ordinance is proposed to be removed in the latest draft of revisions to

demolition requirements in the H – Historic Preservation Overlay District. The current proposal would require new construction to take place on a site that has been approved by the HLC for demolition (see proposed section “M” in the draft text). The Certificate of Appropriateness for demolition would be issued after new construction was approved by the HLC and issued concurrently with the appropriate approvals and permits for a replacement building.

Since the time of the HLC hearing on July 6, 2017, Planning Staff has made several modification to the proposed ordinance as discussed and noted in the meeting. The definitions of “Economic Hardship” and “Wilful Neglect” have been modified as suggested. Accordingly, proposed section 21A.34.020L3 has been modified to remain consistent with the proposed definition of “Economic Hardship”. The proposed introduction paragraph to section 21A.34.020K (Standards for Certificate of Appropriateness for Demolition of a Contributing Principal Building in an H Historic Preservation Overlay District) has been modified as suggested and the text “applicant has provided evidence that the project” has been removed.

In addition, section 21A.34.020F2j (Procedure for Issuance of a Certificate of Appropriateness – Review by City Attorney) has been struck as it is an unnecessary and redundant step that is addressed through the Economic Hardship process. Modifications have been included in section 21A.34.020J (Standards for a Certificate of Appropriateness for Demolition of a Landmark Site) to reflect references to other sections of the code, and to clarify the language for the economic hardship provision for the demolition of landmark sites consistent with the proposed definition for “Economic Hardship”. In the proposed introduction to section 21A.34.020L (Economic Hardship Determination), a sentence has been added to clarify that a request for a demolition of a landmark site can occur anytime as necessary to meet the standards of section 21A.34.020J.

At this time, Planning Staff requests that the Historic Landmark Commission review the proposed ordinance text, make any suggestions for changes to be followed up by Planning Staff, and forward a positive recommendation on to the Planning Commission and City Council for adoption of the text.

**Attachments**

- A. HLC staff report – July 6, 2017
- B. Draft HLC Minutes – July 6, 2017
- C. Draft Ordinance Text – August 3, 2017







# Staff Report

PLANNING DIVISION  
COMMUNITY & NEIGHBORHOODS

To: Salt Lake City Historic Landmark Commission  
From: Lex Traugher – Senior Planner  
(801) 535-6184 or lex.traugher@slcgov.com  
Date: July 6, 2017  
Re: Petition PLNPCM2009-00014, Local Historic District Demolition Process Text Amendment

## ZONING ORDINANCE TEXT AMENDMENT

**REQUEST:** A request by former Mayor Ralph Becker to amend certain sections of Title 21A (Zoning) of the Salt Lake City Code to amend and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide.

**RECOMMENDATION:** Planning Staff recommends that the Historic Landmark Commission forward a positive recommendation to the City Council regarding the amendments to sections 21A.34.020 and related provision in Title 21A-Zoning as proposed.

**MOTION:** Based on the analysis and findings listed in this staff report, testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments comply with the review standards as demonstrated in Attachment B of the staff report dated July 6, 2017.

**BACKGROUND AND PROJECT DESCRIPTION:** In 2009, a petition was initiated to review the City's regulations for demolition of landmark sites and contributing buildings in local historic districts, and the associated economic hardship process. The proposed modifications to the zoning ordinance were in response to a 1999 petition for amendments requested by the Planning Commission, a 2004 legislative action, the 2008 Citygate study of planning processes, and issues identified in the Community Preservation Plan. Primary issues identified at that time regarding the demolition and economic hardship provisions of the ordinance were:

- **Comments received during the development of the Community Preservation Plan suggested that the demolition provisions in the ordinance (including the economic hardship process) were too complex.**
- The standards for determination of economic hardship did not contribute to a clear and consistent process for landowners and applicants.
- Difficulty in balancing the goals of historic preservation with other goals of the City.
- **The economic hardship review panel's makeup of three people was/is difficult to achieve.** The three person panel is supposed to consist of a representative of the HLC, a representative of the applicant and a third party neutral expert. It is difficult to find a third party that meets the

qualifications and is also willing to volunteer their time to review large amounts of complicated documentation.

- **The three person economic review panel** was/is not a fair representation of either the applicant or the HLC, is a cumbersome process for everyone, and confusing to both the applicant and the public.

The petition was actively worked on by Planning Staff at that time and subsequently heard by the Historic Landmark Commission and the Planning Commission with positive recommendations given by both Commissions for City Council action. The petition was never transmitted to the City Council. The petition has remained in the Planning Division primarily due to the necessity to allocate time to other petitions and projects that were of greater priority.

At this time, due to recent intense interest in the overall historic landmark processes by the State legislature and **recent requests for demolition of contributing structures in a couple of the City's local historic districts**, it has become evident that the overall demolition and economic hardship processes remain confusing and need to be revised. Planning Staff has revised the ordinance to address concerns in order to render the demolition and economic hardship processes more transparent and user friendly.

**KEY ISSUES/DISCUSSION:** The key issues listed below have been identified through the analysis of the project, public input, and department review:

Issue 1. The current demolition regulations for landmark sites or contributing buildings and/or structures are too complex and confusing.

Proposed changes to address this issue:

- Change the order of the subsections in 21A.34.020 (H –Historic Preservation Overlay District) as related to demolition so that regulations follow the course of how processes actually occur. For example, the economic hardship process currently precedes the process for the issuance of a certificate of appropriateness for demolition, when these processes in practice are actually reversed. An applicant would apply for a certificate of appropriateness for demolition prior to applying for economic hardship if a demolition request was to be denied.
- **Elimination of standard “g” as currently outlined in the standards for approval for a certificate of appropriateness for demolition (Section 21A.34.020(L)(1)(g)).** Standard “g” currently states that a denial of a certificate of appropriateness for demolition would cause an economic hardship. This is being eliminated because there is a separate process to consider economic hardship that currently occurs after a decision for deferral or denial of demolition by the HLC. This standard has been very confusing for the public and for staff, and is in a redundant and illogical location.
- Elimination of the requisite number of standards that the HLC must meet to make a decision for approval, **deferral, or denial (Section 21A.34.020(L)(2)).** **Instead, the decision would be based on “substantially” meeting** the demolition standards as opposed to a decision based on meeting a specific number of standards. This change is consistent with how decisions are made for Conditional Uses, Planned Developments, and Conditional Building & Site Design review. Currently, a certificate of appropriateness would be approved if six (6) standards are met. If three (3) to five (5) standards are met, the HLC could defer a decision for up to a year pending a bona fide preservation effort by an applicant to save a building/structure. If two (2) or less standards are met then a demolition request would be denied. This system of achieving a specific number of standards is proposed to be eliminated.
- **Subsequent elimination of section 21A.34.020(M) that addresses a “Bona Fide Preservation Effort” should the** HLC defer a decision for a certificate of appropriateness when an applicant meets 3-5 of the standards for demolition. The requirement of an applicant to conduct a bona fide preservation effort has proven in the past to be ineffective in the preservation of the structure and some of the required bona fide efforts are not legally enforceable. In addition, an applicant has most likely pursued this effort prior to applying for demolition.

- Add additional definitions for terms used in the demolition ordinance to clarify language.

**2. The standards for determination of “Economic Hardship” as it relates to demolition requests** are not clear and are confusing for applicants.

Proposed changes to address this issue:

- Place the regulations for Economic Hardship after the regulations for Demolition as this is the order in which these processes would occur.
- An overhaul of the language in section 21A.34.020(K) to simplify and make more clear the regulations required for demonstration of economic hardship.
- Replace the set of required standards for economic hardship (21A.34.020(K)(2)), which is quite an extensive list of submittal items and therefore cumbersome and perhaps irrelevant for an applicant, with a list of items that an applicant may submit as evidence to demonstrate an economic hardship. It is incumbent upon an applicant to demonstrate an economic hardship and therefore an applicant should be able to submit documents that support their request as opposed to requiring a long list of submittal items that may or may not be relevant. A laundry list of evidence items has been proposed in the ordinance which an applicant may or may not choose to submit. This laundry list is not meant to be exhaustive. If other evidence items are relevant according to an applicant, then the proposed ordinance would encourage submittal of these items rather than limiting potential evidence items.
- Elimination of the current three-person economic review panel and replacement with an appointed qualified expert to decide economic hardship proposals. This expert would be appointed by the Planning Director. The current three-person economic review panel has proven problematic in the past for several reasons. First, it is difficult to find panelist. Second, because one panelist is appointed by the HLC, a second panelist appointed by the applicant, and a **third proposed by the HLC’s and the applicant’s panelists, the decision for economic hardship essentially falls upon the decision of the third panelist.**

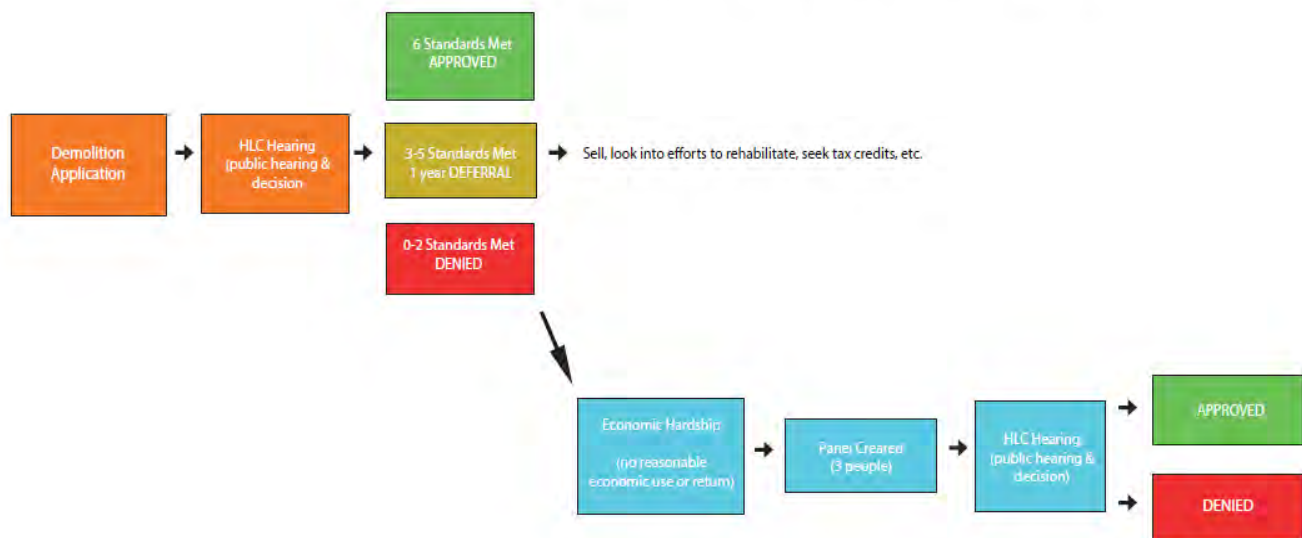
NEXT STEPS: The recommendation of the Historic Landmark Commission will be forwarded to the Planning Commission who will also make a recommendation to the City Council. Both the recommendation of the Historic Landmark Commission and the Planning Commission will be sent on to the City Council for a decision.

ATTACHMENTS:

- A. Current Process Flowchart
- B. Analysis of Standards
- C. Public Process and Comments
- D. Proposed Text Amendments (Strike and Underline)

## ATTACHMENT A: CURRENT PROCESS FLOWCHART

### Demolition & Economic Hardship Process Contributing & Landmark Buildings



## ATTACHMENT B: ANALYSIS OF STANDARDS

### 21A.50.050: STANDARDS FOR GENERAL AMENDMENTS:

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard.

A. In making its decision concerning a proposed text amendment, the city council should consider the following factors:

Standard	Finding	Rationale
Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents	Complies	The proposed text revisions are for the purpose of maintaining, updating, and clarifying the Zoning Ordinance, and as such are consistent with adopted city planning documents.
Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance	Complies	The proposed text amendments further the specific purpose statement for the H Historic Preservation Overlay District located in Title 21A.34.020 of the Salt Lake City Zoning Ordinance.
Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards	Complies	The proposed text amendments are consistent with the purposes and provisions of applicable overlay zoning districts, and help to clarify and improve the provisions of the local historic district demolition process.
The extent to which a proposed text amendment implements best current, professional practices of urban planning and design	Complies	The framework and structure of Salt Lake <b>City's zoning regulations and development</b> standards are sound and do not require wholesale restructuring. However, at times code changes are processed due to land use policy changes adopted by the City or because of State enabling regulation changes. It is beneficial for Salt Lake City to make code revisions that lead to a greater ease of use and understanding. Clarifying the local historic district demolition process is consistent with best practices with regard to public process and transparency.

## ATTACHMENT C: PUBLIC PROCESS AND COMMENTS

### Public Notice, Meetings and Comments

The following is summary of the public notice that has occurred, as well a list of meetings that have been held, and other public input opportunities related to the proposed project.

#### Project Posted to City Websites:

- Citizen Access Portal/Accela – May 11, 2017.
- Open City Hall – May 19, 2017.

#### Notification of Recognized Organizations:

- All recognized organizations were sent notification of the proposal via email on May 8, 2017.

#### Meetings

- An Open House was held on May 22, 2017.
- HLC briefing and work session held on June 1, 2017 (Minutes are attached).

#### Notice of the public hearing for the proposal include:

- Newspaper notification on June 20, 2017.
- Agenda posted on the Planning Division and Utah Public Meeting Notice websites on June 23, 2017.

#### Public Comments:

- All written public comments as of the production and distribution of this staff report are included for review.
- All comments received via Open City Hall as of the production and distribution of this staff report are included for review.

# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

*Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.*

All Registered Statements sorted chronologically

As of June 22, 2017, 11:31 AM



*Open City Hall is not a certified voting system or ballot box. As with any public comment process, participation in Open City Hall is voluntary. The statements in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.*

# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

*Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.*

As of June 22, 2017, 11:31 AM, this forum had:

Attendees:	48
Registered Statements:	4
All Statements:	4
Minutes of Public Comment:	12

This topic started on May 12, 2017, 11:50 AM.



# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.

Carl Kibler inside Council District 4

June 8, 2017, 4:24 PM

I agree with the view that reducing decisions from 3 to 1 persons is a mistake. It makes that single person a lightning rod for all opinions - it makes it personal and subject to whim and pressure more than a panel of 3 would.

Rule streamlining looks good otherwise.

Personally, I like turnover and change in our neighborhoods and cities to let them adapt to the present. The label of 'historic' is far over-applied to lock neighborhoods into particular decades of construction.

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Name not shown inside Council District 7

June 8, 2017, 12:42 PM

I support every revision/change except the change from a multi-person panel to a single appointed position.

1 Supporter

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Name not shown inside Council District 6

May 31, 2017, 9:13 PM

I do not agree with replacing a 3 person panel with one (1) person. That is placing too much power with one individual, not elected, to make a decision re: demolitions in Historic Districts.

I also do not support changes that would make it easier to demolish original historic structures. The point in establishing districts is to maintain that very essence, not destroy it.

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Name not shown inside Council District 6

May 30, 2017, 8:17 AM

This seems like a sensible revision to a confusing process. Perhaps an additional public hearing process could also be included so that demolition of structures within historic districts could receive more input from the public.

1 Supporter

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**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact is Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was looking for comments and suggestions on the proposal.

The Commission and Staff discussed and stated the following:

- The legal definition of the term “substantially” and how it is applied in the demolition ordinance.
- Would strongly suggest a set number of the standards had to be met thus not leaving a developer to wonder how the Commission would determine the substantial compliance of a petition.
- Each case was different and there were different elements to consider.
- A definition was needed for the following:
  - Willful neglect.
  - An architect with expertise in rehabilitation of older buildings.
    - Link it to the park service's standards of qualifications.
  - Partial demolition
- The more you define the more tied down the Commission would become.
- The standard for regulatory takings and if it was the correct standard to apply to the demolition ordinance.
- How a taking was determined and the process to appeal a taking.
- The different ways to obtain a demolition.
- If the Historic Landmark Commission should be the body to determine economic hardship or if it should be removed from the ordinance.
- Removing the language regarding regulatory takings and tie the language to the standards of economic hardship.
- If there needed to be a difference stated between income and non- income generating property.
- The demolition standards for a non-contributing structure.
- The importance of keeping contributing property information up to date.
- Giving Staff the ability to approve all solar panel petitions and the pros and cons of doing so.
- Clarifying the meaning of a principal structure and principal building and how each was reviewed.
- Page 3:
  - H.3 - Clarification on the appeal period.

- Page 4:
  - Remove the appeal language and refer to the appeal section.
- The City's response to vacant non maintained buildings.
- How boarded buildings are regulated.
- Encouraged Staff to notify the Commission of boarded buildings in historic districts.
- If property owners were notified that willful neglect was not grounds for demolition when boarding letters are sent.
- Page 7:
  - Change the phrase adverse effect to state, would not create a material adverse effect.
  - Tie a demotion to engaging an implementation of the reuse plan.
- The certification of appropriateness for demolition should not be issued until an acceptable, consistent reuse plan was approved and building permits concurrent with the demolition plan were issued.
- Make the title for the post demolition/ reuse plan consistent throughout the plan.
- Clarify the language regarding willful or negligent in regards to deterioration.
- How to determine routine maintenance in relation to the status of the building.
- Page 9:
  - Reword the language regarding the condition of the property upon purchase.
  - Reword the language about conditions personal to the landowner.
- Page 10:
  - Remove the number of professionals required for testimony.
  - Indicate the required experience for the historic professional to be considered as versed in Historic Preservation.
  - Review the 120 day period for processing the application.
- Page 11:
  - Reword B. to say the appointed Planning Director's expert.
  - Address rentals and owner occupied buildings in the ordinance.
  - Review the language regarding reasonable rate of return.
- Page 13:
  - If bonding should be required and where it would fit in the process.
  - Who determined the level of historic documentation required prior to demolition?
  - Need to require photos to be sent to SHPO prior to demolition with a written history.
  - How to determine what buildings should have detailed documentation.

Staff will make the changes and bring the document back to the Commission for further review.

## Traughber, Lex

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**From:** Dave Alderman <  
**Sent:** Tuesday, May 23, 2017 9:20 AM  
**To:** Traughber, Lex  
**Subject:** Comments on Changes to the Historic District Demolition and New Construction Standards

Lex - Following up on our discussion yesterday at the Open House. Overall, both documents appear to be a good step to streamline some processes. Below are our comments.

### Demolition and New Construction Text

F.1.a.(3) - Partial demolition of a landmark or contributing structure should go to the HLC. Administrative approval of non-contributing or accessory structures is acceptable. But contributing structures should get a more detailed, public review.

Also, the solar panel wording needs to be consistent between the two documents. Installation of solar panels, except on the front of the house, should be handled administratively.

### New Construction Text

F.1.a.(6) - Construction of new one or two family dwellings should continue to be seen by the HLC. This allows for a more public process to allow the design to be fine-tuned to fit the neighborhood. If a substantial addition requires HLC review, then why shouldn't a complete new build?

### General

It's not addressed in either text amendment, but any requests for variances or special exceptions, such as height, setbacks, etc., should go to the HLC. And very few should be approved.

Thanks for the opportunity to provide our input.

Dave and Peg Alderman

## Traughber, Lex

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**From:** Oktay, Michaela  
**Sent:** Thursday, June 1, 2017 9:43 AM  
**To:** Poland, Michelle  
**Cc:** Norris, Nick; Coffey, Cheri; Traughber, Lex  
**Subject:** FW: tonight's HLC meeting

Michelle,

Can you please forward these comments to the HLC members.

Thanks.

**From:** Allen Roberts [mailto:[allen@crsa-us.com](mailto:allen@crsa-us.com)]  
**Sent:** Thursday, June 01, 2017 9:09 AM  
**To:** Oktay, Michaela <[Michaela.Oktay@slcgov.com](mailto:Michaela.Oktay@slcgov.com)>  
**Subject:** FW: tonight's HLC meeting

Michaela: Enclosed is an email I just sent to Doug White and Khosrow Semnani containing talking points to tonight's HLC meeting.

Do you know what the format will be for public input? Also, do you know where this item appears on the agenda? (I haven't seen the agenda.)

If there is no public input, then I would like my 5 points to be included as input into the official record, along with the written comments I made on the ordinance changes that I sent to you a couple of months ago.

Thanks, as always. Allen

**Allen Roberts, FAIA**  
Senior Principal



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**From:** Allen Roberts  
**Sent:** Thursday, June 01, 2017 9:03 AM  
**To:** Douglas White

**Cc:** Khosrow B. Semnani  
**Subject:** tonight's HLC meeting

Doug, Khos: Tonight at the SLC HLC meeting the HLC will be discussing the proposed changes to their HLC ordinance, including the demolition section. I sent them comments in writing a couple of months ago, but tonight would be a good opportunity to give your input in person. I don't know what the meeting format will be like an whether the public will be much of an opportunity to make comments (perhaps two minutes each?), but I think it will help to advance your project, especially if you comment on the demolition section. Also, let me know if you would like me to attend and make comments. If we are given only 2 minutes each, here are some of the most important comments I suggest we make:

- 1) The City needs to change its policy of saving its thousands of non-significant, contributory building by denying their demolition, especially where streetscapes have already been heavily compromised. Keeping the present the present policy is preventing many developments, especially needed housing projects, throughout the city's numerous historic district. Freezing these large areas against future development is an unwise, no-growth policy.
- 2) The demolition ordinance is one-sided, unbalanced and unfair, highly subjective in its administration as well as overly complex, cumbersome and difficult for applicants to deal with.
- 3) There are many legitimated reasons for approving the demolition of small numbers of the city's thousands of contributory buildings. The demolition ordinance should acknowledge this and be more balanced in its requirements. We specifically recommend these changes:
  - a. Clarify, simplify and upgrade the six-seven (or however many) criteria.
  - b. Require that only 3 or 4 of the criteria be met. Requiring 6 is one-sided and totally unbalanced.
  - c. Revise or eliminate the economic hardship requirement.
- 4) Reevaluate all of the city's historic districts and their boundaries and adjust them, bringing them up-to-date. Many of them are based on building surveys conducted as long as over 40 years ago. Many changes have occurred during those decades, including the demolition of historic buildings and the construction of new buildings.
- 5) When amending the district boundaries, use credible industry-standard guidelines for the creation of new boundaries.

Best regards, Allen

**Allen Roberts, FAIA**  
Senior Principal



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## Traughber, Lex

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**From:** Oktay, Michaela  
**Sent:** Thursday, June 1, 2017 11:07 AM  
**To:** Traughber, Lex  
**Subject:** FW: proposed new City Demolition Ordinance.

**From:** Allen Roberts [mailto:allen@crsa-us.com]  
**Sent:** Tuesday, March 21, 2017 11:00 AM  
**To:** Oktay, Michaela <Michaela.Oktay@slcgov.com>  
**Subject:** proposed new City Demolition Ordinance.

Michaela: Good morning and happy Spring.

I have taken some time this week to review the proposed revision/zoning text amendment of the City's Demolition Ordinance and have some comments on it:

- 1) I was hoping this would be a newly-conceived, re-thought-out ordinance but what I found is that it is a tweaking and reworking of parts of the existing ordinance. The problem with that is that the present ordinance is too long, complex, confusing and unbalanced/unfair for the average person to deal with. And the public shouldn't have to hire a team of architects, preservationists, attorneys, realtors, economists, etc. to apply for demolition.
- 2) I agree with the validity of the five problems listed on p. 3, although I'm not sure the new wording solves them all.
- 3) The main weakness or flaw in the ordinance is the absence of a "Special Merit" provision. Without it, the ordinance is unbalanced—in favor of preservation and against reasonably justified demolition. I see on p. 4 that Commission considered such a provision but decided not to include it (as you indicated to me might be the case). However, the few arguments made against Special Merit were one-sided and not a balanced weighing of pros and cons. (Special Merit would be just the right provision to help the Trolley Towers project, for example. Basically that is a very beneficial and worthwhile project being held hostage by four dwellings, two of which are severely structurally damaged and beyond repair, one of which was moved onto the site and placed on a newer, incompatibly high, concrete foundation, and one intact house which is surrounded by parking lots and is indistinguishable from thousands of other, similar cottages throughout the city. They are in a part of an historic district which should not be in the district (due to lack of streetscape integrity and lack of any concentration of historic structures) and therefore should not be protected as contributory structures within a district. The entire district is flawed because it was created as a two-block buffer for 600 East rather than for its inclusion of a concentration of significant and contributory buildings—which do not exist throughout many parts of the district. The district boundaries should be re-drawn using the industry standards for creating historic districts, not the non-conforming, over-reaching whim of a neighborhood group not familiar with preservation standards.) In short, the revised ordinance does not solve problems such as this one, in part due its lack of Special Merit. Put another way, if this ordinance had been in place, say in 1900, most of the city's most significant landmarks would not exist today because they would not have been allowed to replace buildings protected then.
- 4) The Economic Hardship provision is still too unreasonable if not Draconian for a typical citizen to deal with.
- 5) On the positive side, it is helpful and more fair for the applicant to have to meet fewer standards (4 or 5 of 6 instead of 6 of 6), so that's a step in the right direction, but having decisions deferred for up to one year is unfair (p.14). Some of the other waiting periods (90 and 100 days, etc.) are too long too.

- 6) The fees listed on page 21 are excessive. They are unjustifiably penalizing. What is the justification for these fees?
- 7) The requirements of part P., p. 21, are excessive, especially for contributory buildings of low/minimal significance. The rule should be: Significant buildings get lots of documentation; contributory building less documentation.
- 8) The requirement that the applicant submit and have approved architectural plans for the replacement project before demolition is granted is extraordinarily expensive, time-consuming and unfair to the applicant. As a preservationist, I do not like speculative demolition (like the Newhouse Hotel) or demolition by neglect (like the two collapsing houses Mr. Semnani bought on his parking lot property), but this particular requirement is truly unreasonable. There must be a better way to achieve its preservation goal without so severely burdening the applicant.
- 9) Overall, I think the City needs to re-think its policy of preserving all of the contributory buildings in all of its historic districts. Because there are now many districts, some of them quite large, there are thousands of these minimally significant buildings, yet they are holding up and even killing worthwhile projects and obstructing other City goals like providing more housing and reversing urban blight.
- 10) Finally, both the present and proposed demolition ordinance, as well as some related preservation ordinances and policies, are dangerous in that they are part of the reason being advanced to the State Legislature for passing laws prohibiting the creation of future historic districts. Think of the recent problems with the Harvard-Yale District. In Park City, for example, building owners and developers were so angry about the City's preservation policies and practices that the City totally did away with the City Landmarks Commission and its supporting documents, leaving it solely to the planning staff to deal with preservation issues. In summary, the new demo ordinance needs to be balanced, fair, reasonable, and accessible and easy to use for both the applicant and the planning staff

I have comments on some of the details in the specific language of the proposed ordinance but I'm still working through those and will try to get them in order later. Overall, though, speaking as a life-long, career preservationist who has served as chairman of three historic district commissions in Utah and designed hundreds of preservation projects throughout the West, I find both the present and proposed demolition ordinances to be, as I've said, too long, complex, confusing, unbalanced/one-sided, costly, unfair and based on faulty underlying resource data, such as the protection of historic districts created with faulty, non-standard boundaries, thereby protecting contributing structures which should not be granted protection, in the process delaying and sometimes killing highly worthwhile, Special Merit projects which would greatly benefit the city.

Sorry for be so negative, but the local preservation pendulum needs some re-tilting back to the middle. Thanks in advance for taking these observations and ideas into consideration as the demolition ordinance moves through City processes.

Allen

**Allen Roberts, FAIA**  
Senior Principal



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## Traughber, Lex

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**From:** Allen Roberts <allen@crsa-us.com>  
**Sent:** Thursday, June 1, 2017 4:10 PM  
**To:** Oktay, Michaela; Traughber, Lex  
**Subject:** one more item...

Michaela, Lex: One more item that should be on the earlier list I sent today:

I (and my various clients like Trolley Square and the Elks Club group) strongly recommend that the revised ordinance include a Special Merit provision in the demolition section. This will help prevent the disapproval to demolish a few non-significant, contributory buildings from stopping or delaying major projects of great merit from being built.

My definition of sacrifice is giving up something of lesser value to achieve something of greater value. A Special Merit provision would allow such justifiable sacrifices to occur.

Thanks again for including my input in the HLC discussion.

Allen

**Allen Roberts, FAIA**  
Senior Principal



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## ATTACHMENT D: PROPOSED TEXT AMENDMENTS

## **ZONING ORDINANCE CHAPTER 21A.34.020**

### **H – HISTORIC PRESERATION OVERLAY DISTRICT**

#### **B. Definitions**

Economic Hardship: Failure to issue a certification of appropriateness for the demolition of a landmark site or contributing principal building will deny the property owner all reasonable beneficial or economically viable use of the property without just compensation.

Wilful Neglect: The intentional absence of routine maintenance and repair of a building over time, leading to structural weakness, decay, or deterioration to the point where a building is beyond rehabilitation or adaptive reuse is no longer feasible.

#### **F. Procedure For Issuance Of Certificate Of Appropriateness:**

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

a. Types Of Construction: The following may be approved by administrative decision:

(1) Minor alteration of or addition to a landmark site or contributing principal building ~~site~~ and/or structure;

(2) Substantial alteration of or addition to a noncontributing site;

(3) Partial demolition of either a landmark site or a contributing principal building or structure;

(4) Demolition of an accessory building or structure;

(5) Demolition of a noncontributing building or structure; and

~~(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section 21A.40.190 of this title.~~

(6) Installation of solar energy collection systems pursuant to section 21A.40.190 of this title.

b. Submission Of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to chapter 21A.10 of this title, and shall forward the application for review and decision.

c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model, window frame sections and samples deemed necessary to consider the application properly and completely.

d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.

e. Notice ~~For~~ of Application For Demolition Of A Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

f. Standards ~~For~~ of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.

g. Review And Decision By The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

h. Referral Of Application By Planning Director To Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the H historic preservation overlay district, or the need for consultation for expertise regarding architectural, construction or preservation issues.

2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only ~~be allowed to~~ be approved by the historic landmark commission subject to the following procedures:

a. Types Of Construction: The following shall be reviewed by the historic landmark commission:

- (1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ principal building;
- (2) New construction of principal building in H historic preservation overlay district;
- (3) Relocation of landmark site or contributing ~~site~~ principal building;
- (4) Demolition of landmark site or contributing ~~site~~ principal building;

(5) Applications for administrative approval referred by the planning director; and

~~(6) Installation of solar energy collection systems pursuant to section 21A.40.190 of this title.~~

(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section 21A.40.190 of this title.

b. Submission Of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F1b of this section.

c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

d. Materials Submitted With Application: The requirements for the materials to be submitted upon application for a certificate of appropriateness shall be the same as specified in subsection F1c of this section. Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to chapter 21A.10 of this title.

f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to chapter 21A.10 of this title.

g. Standards For Approval: The application shall be reviewed according to the standards set forth in subsections G through ~~L~~ K of this section, whichever are applicable.

h. Review And Decision By The Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, ~~within sixty (60) days following receipt of a completed application; except that a review and decision on an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) days following receipt of a completed application.~~

(1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection ~~L~~ K of this section, whichever are applicable.

(2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness. ~~A decision on an application for a certificate of appropriateness for demolition of a~~

~~contributing structure may be deferred for up to one year pursuant to subsections L and M of this section.~~

(3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing ~~structures~~ principal buildings shall not be issued until the appeal period has expired.

(4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.

~~i. Appeal Of Historic Landmark Commission Decisions To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized organization pursuant to title 2, chapter 2.60 of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of chapter 21A.16 of this title.~~

~~j. Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~

~~k. Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~

~~K. Definition And Determination Of Economic Hardship: The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.~~

~~1. Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be submitted to the planning division. The application must include photographs, information pertaining to the historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.~~

~~2. Standards For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:~~

~~a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;~~

~~b. The current level of economic return on the property as considered in relation to the following:~~

~~(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;~~

~~(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;~~

~~(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;~~

~~(4) Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor;~~

~~(5) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property;~~

~~(6) The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed;~~

~~(7) Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and~~

~~(8) Any state or federal income tax returns on or relating to the property for the previous two (2) years;~~

~~c. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:~~

~~(1) Any real estate broker or firm engaged to sell or lease the property;~~

~~(2) Reasonableness of the price or rent sought by the applicant, and~~

~~(3) Any advertisements placed for the sale or rent of the property;~~

~~d. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:~~

~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~

~~(2) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations;~~

~~(3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use; and~~

~~(4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~

~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~

~~3. Procedure For Determination Of Economic Hardship: The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period.~~

~~a. Review Of Evidence: All of the evidence and documentation presented to the historic landmark commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting complying with the open meetings act to review the evidence of economic hardship in relation to the standards set forth in subsection K2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party; provided, that notice for such public hearing shall be in accordance with chapter 21A.10 of this title.~~

~~b. Report Of Economic Review Panel: Within forty five (45) days after the economic review panel is established, the panel shall complete an evaluation of economic hardship, applying the~~



standards set forth in subsection K2 of this section and shall forward a written report with its findings of fact and conclusions to the historic landmark commission.

~~c. Historic Landmark Commission Determination Of Economic Hardship: At the next regular historic landmark commission meeting following receipt of the report of the economic review panel, the historic landmark commission shall reconvene its public hearing to take final action on the application.~~

~~(1) Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~

~~(2) Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~

~~(3) Consistency With The Economic Review Panel Report: The historic landmark commission decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the historic landmark commission, the historic landmark commission finds by a vote of three-fourths ( $\frac{3}{4}$ ) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.~~

**L. K. Standards For Certificate Of Appropriateness For Demolition Of A Contributing Structure Principal Building In An H Historic Preservation Overlay District:** ~~In~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing structure principal building, the historic landmark commission shall determine whether the applicant has provided evidence that the project request substantially complies with the following standards:

1. Standards For Approval Of A Certificate Of Appropriateness For Demolition:

a. The physical integrity of the site contributing principal building as defined in subsection C15b of this section is no longer evident;

b. The streetscape within the context of the H historic preservation overlay district would not be negatively materially affected if the contributing principal building were to be demolished;

c. The demolition would not create a material adversely affect on the H historic preservation overlay district due to the surrounding noncontributing structures concentration of historic resources used to define the boundaries or maintain the integrity of the district;

d. The base zoning of the site ~~is incompatible with~~ does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;

~~e. The reuse plan is consistent with the standards outlined in subsection H of this section;~~

~~f. The site contributing principal building has not suffered from wilful neglect, as evidenced by the following:~~

~~(1) Wilful or negligent acts by the owner that have caused significant deteriorates deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,~~

~~(2) Failure to perform normal routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or~~

~~(3) Failure to diligently solicit and retain tenants, and~~

~~(4 3) Failure to secure and board the structure contributing principal building, if vacant, per section 18.64.045 of this title,; and~~

~~g. The denial of a certificate of appropriateness for demolition would cause an "economic hardship" as defined and determined pursuant to the provisions of subsection K of this section.~~

2. Historic Landmark Commission Determination Of Compliance With Standards Of Approval: ~~The historic landmark commission shall make a decision based upon compliance with the requisite number of standards in subsection L1 of this section as set forth below:~~ If the Historic Landmark Commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the Historic Landmark Commission shall approve the request for a certificate of appropriateness for demolition. If the Historic Landmark Commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the Historic Landmark Commission shall deny the request for a certificate of appropriateness for demolition.

~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) of the standards are met, the historic landmark commission shall approve the certificate of appropriateness for demolition.~~

~~b. Denial Of Certificate Of Appropriateness For Demolition: Upon making findings that two (2) or less of the standards are met, the historic landmark commission shall deny the certificate of appropriateness for demolition.~~

~~c. Deferral Of Decision For Up To One Year: Upon making findings that three (3) to five (5) of the standards are met, the historic landmark commission shall defer a decision for up to one year during which the applicant must conduct a bona fide effort to preserve the site pursuant to subsection M of this section.~~

**K. L. Economic Hardship Exception:** Upon denial of a certificate of appropriateness for demolition of a landmark site or contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship.

1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.

2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.

b. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased.

(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years.

(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any.

(4) Real estate taxes for the previous three (3) years by the Salt Lake County assessor,

(5) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,

(6) The fair market value of the property taking into consideration the H historic preservation overlay district;

(7) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;

c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:

(1) Any real estate broker or firm engaged to sell or lease the property,

(2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and

(3) Any advertisements placed for the sale or rental of the property,

d. The feasibility of alternative uses for the property as considered in relation to the following:

(1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,

(2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,

(3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and

(4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.

e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

f. Description of past and current use.

g. An itemized report that identifies what is deficient if the building does not meet minimum City building code standards or violations of City code.

h. Consideration of conditional use options or special exceptions to alleviate hardship.

3. Procedure For Determination Of Economic Hardship: The Planning Director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the Historic Landmark Commission concerning the value of the property and whether or not the denial of demolition could result in the property owner being denied of all reasonable beneficial or economically viable use of the property without just compensation. The extent of the authority of the Planning Director's appointed qualified expert is limited to rendering advice and testimony to

the Historic Landmark Commission. The Planning Director's appointed qualified expert has no decision making capacity. The Planning Director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The Historic Landmark Commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the Planning Director's appointed qualified expert as necessary.

a. Review Of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the Planning Director's appointed qualified expert for determination of economic hardship after receipt of a complete application.

b. Finding Of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the Planning Director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

(1) For demolition of non-residential or multifamily property:

(a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

(2) For demolition of a residential property (single or two family):

(a) The contributing principal building cannot be put to any beneficial use in its present condition.

c. Certificate Of Appropriateness for Demolition: A certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to section 21A.10(D).

d. Denial Of Economic Hardship: If the historic landmark commission finds that the applicant has failed to prove an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

(1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.

(2) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~M. Bona Fide Preservation Effort: Upon the decision of the historic landmark commission to defer the decision of a certificate of appropriateness for demolition for up to one year, the applicant must undertake bona fide efforts to preserve the structure. The one year period shall begin only when the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions:~~

- ~~1. Marketing the property for sale or lease;~~
- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision for the certificate of appropriateness for demolition pursuant to subsection F2 of this section. The historic landmark commission shall approve the certificate of appropriateness for demolition and approve, approve with modifications or deny the certificate of appropriateness for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.~~

**M. Requirements for Certificate of Appropriateness for Demolition:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is to be replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H historic preservation overlay district standards for new construction,

2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.

3. Submittal of documentation to the Planning Division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.

a. Photographs. Digital or print photographs. Views should include:

(1) Exterior views;

(2) Close-ups of significant exterior features;

(3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.

b. Site plan showing the location of the building and site features.

**N. Revocation Of The Designation Of A Landmark Site:** If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition:~~ Prior to approval of any certificate of appropriateness for demolition the historic landmark commission shall review the postdemolition plans to assure that the plans comply with the standards of subsection H of this section. If the postdemolition plan is to landscape the site, a bond shall be required to ensure the completion of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.

~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and shall be sufficient to cover the estimated cost, to:~~  
~~a) restore the grade as required by [title 18](#) of this code; b) install an automatic sprinkling system; and c) revegetate and landscape as per the approved plan.~~

~~2. The bond shall require installation of landscaping and sprinklers within six (6) months, unless the owner has obtained a building permit and commenced construction of a building or structure on the site.~~

**Q. O. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous Structures Building:** A hazardous structure building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. Hazardous structures demolished under this section shall

~~comply with subsection P of this section.~~ Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision.

**~~R. P.~~ Expiration Of Approvals:** Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. (~~Ord. 67-16, 2016: Ord. 60-15, 2015: Ord. 54-14, 2014: Ord. 58-13, 2013: Ord. 74-12, 2012~~)



## **Motion Sheet for PLNPCM2009-00014 – Local Historic District Demolition Process Text Amendment**

### **Motion to approve:**

Based on the analysis and findings listed in this staff report, testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments comply with the review standards as demonstrated in Attachment B of the staff report dated July 6, 2017.

### **Motion to deny:**

Based on the testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council deny petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments do not comply with the review standards in Attachment B of the staff report dated July 6, 2017. (The Commission should list what standards, factors, etc. were considered to recommend denial if different from the analysis of standards outlined in the staff report).



**Commissioner Harding amended the motion to state Standard E had been met. Commissioner Brennan seconded the amendment.**

The Commission and Staff discussed the following

- If landscaping was an appropriate reuse plan.
- Willful neglect as stated in the ordinance and that the Commission would have to find that all of the standards for willful neglect had been demonstrated.

**Commissioners Harding, Peters, Shepherd and Brennan voted “aye”. Commissioner Adams and Hyde voted “nay”. The motion passed 4-2.**

The Commission took a five minute break. [9:03:13 PM](#)

The Commission reconvened. [9:08:22 PM](#)

[9:08:26 PM](#)

**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number: PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The standards for appropriateness of demolition of a contributing principal building.
  - Under K add the language to state “the request substantially complies with the following standards.”
- Definition of economic hardship should state “the property owner was denied all reasonable benefit, economical, viable use based on the certificate of appropriateness being denied”.
- The definition of an appropriate reuse plan.

**PUBLIC HEARING [9:19:58 PM](#)**

Chairperson Shepherd opened the Public Hearing.

The following individuals spoke to the petitions: Ms. Polly Hart, Mr. Allen Roberts, Ms. Cindy Cromer and Mr. Douglas White.

The following comments were made:

- There was a difference between making the demolition process simpler, not easier and the goal was to not make demolition easier to achieve.
- The ordinance was a hoop not a barrier to demolition as it should be more difficult to demolish historic structures.
- Did not like people buying historic properties simply to demolish them.
- The six standards should remain in the ordinance as they were the only thing standing between buildings remaining or be demolished.
- The merit provision was deleted from the current proposal and should be re-added as sometimes the demolition of a historic structure was justified.
- Special merit existed to allow demolitions when the new project had considerable merit.
- Almost every major historic building in the city was built on the site of a previous historic building.
- Preservation was not the only priority of the city.
- The city needed a special merit provision to allow for growth.
- The Staff Report needed to look at taking some of the subjectivity out of Section L as it pitted the property owner against preservation efforts.
- Under section L, g. needed to be removed.
- Please do not do away with the three person economic hardship panel.
- The Special Merit was not always what it presented itself to be and was a huge risk.
- There are a limited number of people in Salt Lake City that truly have expertise with historic structures and their rehabilitation.
- Remove demolitions from the political process and hire someone who was unbiased to review these petitions.

The Commission, Staff and Mr. Roberts discussed the following:

- Why the Special Merit provision was removed from the ordinance?
  - It was determined that if a Special Merit provision was implemented it would become the sole process developers would chose in order to achieve demolition.
- Some version of Special Merit was needed to allow for growth and a proposal would have to be exceptional to allow for demolition of a historic structure.
- How surveys affected the demolition process.

Chairperson Shepherd closed the Public Hearing.

The Commission and Staff discussed and stated the following:

- The reuse plan and how it was addressed in the proposed ordinance.
  - The landscape plan had been removed from the proposed ordinance as a reuse option.
- If there were two different approvals one for the demolition and one for the site/reuse plan?
- The standards for demolition approval.

- How base zoning affected demolition and how it was applied in the ordinance.
- If the base zoning standard should be part of the economic hardship process.
- The standards and language under willful neglect.
- The Commission had helped developers to streamline proposals and allow development to move forward.
- The Special Merit program and how it applied to demolitions.
  - The Commission would like more information on Special Merit programs and how other cities use the program.
- If an outside unbiased entity should review demolitions or if the three person panel was a better option.

**MOTION [10:11:50 PM](#)**

Commissioner Brennan stated regarding PLNPCM2009-00014 – Local Historic District Demolition Process Text Amendment, tabled the petition to a future meeting to allow Staff to gather information on the items of question. Commissioner Harding seconded the motion. Commissioners Peters, Harding Adams, Brennan, Hyde and Svendsen voted “aye”. The motion passed unanimously.

**[10:13:06 PM](#)**

**Amendments to the New Construction Standards for Local Historic Districts - A** text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801) 535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com).) Case number: PLNPCM2016-00905

**MOTION [10:13:25 PM](#)**

Commissioner Brennan stated regarding PLNPCM2016-00905 - Amendments to the New Construction Standards for Local Historic Districts, he moved to table the petition to the August 3, 2017 meeting. Commissioner Peters seconded the motion. Commissioners Peters, Adams, Brennan, Harding, Hyde and Svendsen voted “aye”. The motion passed unanimously.

Commissioners Harding and Adams recused themselves from the meeting. [10:13:48 PM](#)

**Work Session [10:14:24 PM](#)**

**Trolley Square Ventures Rezone Briefing at approximately 603 S 600 East Street -** Douglas White, on behalf of Trolley Squares Ventures LLC, has requested a zoning map amendment from RMF-30 Low Density Multi-Family Residential District to R-MU-35 Residential/Mixed Use District at the above listed address. Currently the land is used for parking. The purpose of the request is to develop a 24 unit apartment building that will not exceed 35 feet in height. Although the applicant



## **ZONING ORDINANCE CHAPTER 21A.34.020**

### **H – HISTORIC PRESERATION OVERLAY DISTRICT**

#### **B. Definitions**

Economic Hardship: Denial of a property owner of all reasonable beneficial or economically viable use of a property without just compensation.

Wilful Neglect: The intentional absence of routine maintenance and repair of a building over time, leading to significant structural weakness, decay, or deterioration.

#### **F. Procedure For Issuance Of Certificate Of Appropriateness:**

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

a. Types Of Construction: The following may be approved by administrative decision:

- (1) Minor alteration of or addition to a landmark site or contributing site, building, and/or structure;
- (2) Substantial alteration of or addition to a noncontributing site;
- (3) Partial demolition of either a landmark site or a contributing principal building or structure;
- (4) Demolition of an accessory building or structure;
- (5) Demolition of a noncontributing building or structure; and
- ~~(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section [21A.40.190](#) of this title.~~

(6) Installation of solar energy collection systems pursuant to section [21A.40.190](#) of this title.

b. Submission Of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to chapter 21A.10 of this title, and shall forward the application for review and decision.

c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model,

window frame sections and samples deemed necessary to consider the application properly and completely.

d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.

e. Notice ~~For~~ of Application For Demolition Of A Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

f. Standards ~~For~~ of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.

g. Review And Decision By The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

h. Referral Of Application By Planning Director To Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the H historic preservation overlay district, or the need for consultation for expertise regarding architectural, construction or preservation issues.

2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only ~~be allowed to~~ be approved by the historic landmark commission subject to the following procedures:

a. Types Of Construction: The following shall be reviewed by the historic landmark commission:

(1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ site, building, and/or structure;

(2) New construction of principal building in H historic preservation overlay district;

(3) Relocation of landmark site or contributing ~~site~~ principal building;

(4) Demolition of landmark site or contributing ~~site~~ principal building;

(5) Applications for administrative approval referred by the planning director; and



~~(6) Installation of solar energy collection systems pursuant to section 21A.40.190 of this title.~~

(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section 21A.40.190 of this title.

b. Submission Of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F1b of this section.

c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

d. Materials Submitted With Application: The requirements for the materials to be submitted upon application for a certificate of appropriateness shall be the same as specified in subsection F1c of this section. Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to chapter 21A.10 of this title.

f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to chapter 21A.10 of this title.

g. Standards For Approval: The application shall be reviewed according to the standards set forth in subsections G through ~~L~~ K of this section, whichever are applicable.

h. Review And Decision By The Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, ~~within sixty (60) days following receipt of a completed application, except that a review and decision on an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) days following receipt of a completed application.~~

(1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection ~~L~~ K of this section, whichever are applicable.

(2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness. ~~A decision on an application for a certificate of appropriateness for demolition of a contributing structure may be deferred for up to one year pursuant to subsections L and M of this section.~~

(3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing ~~structures~~ principal buildings shall not be issued until the appeal period has expired.

(4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.

i. ~~Appeal Of Historic Landmark Commission Decisions To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized organization pursuant to title 2, chapter 2.60 of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of chapter 21A.16 of this title.~~

j. ~~Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~

k. ~~Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~

K. ~~Definition And Determination Of Economic Hardship: The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.~~

1. ~~Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be~~

submitted to the planning division. The application must include photographs, information pertaining to the historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.

2. ~~Standards For Determination Of Economic Hardship:~~ The historic landmark commission shall apply the following standards and make findings concerning economic hardship:

a. ~~The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;~~

b. ~~The current level of economic return on the property as considered in relation to the following:~~

(1) ~~The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased,~~

(2) ~~The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,~~

(3) ~~Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years,~~

(4) ~~Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor,~~

(5) ~~All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property,~~

(6) ~~The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed,~~

(7) ~~Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and~~

(8) ~~Any state or federal income tax returns on or relating to the property for the previous two (2) years;~~

c. ~~The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:~~

(1) ~~Any real estate broker or firm engaged to sell or lease the property,~~

(2) ~~Reasonableness of the price or rent sought by the applicant, and~~

~~(3) Any advertisements placed for the sale or rent of the property;~~

~~d. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:~~

~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~

~~(2) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations;~~

~~(3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use; and~~

~~(4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~

~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~

~~3. Procedure For Determination Of Economic Hardship: The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period.~~

~~a. Review Of Evidence: All of the evidence and documentation presented to the historic landmark commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting complying with the open meetings act to review the evidence of economic hardship in relation to the standards set forth in subsection K2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party; provided, that notice for such public hearing shall be in accordance with chapter 21A.10 of this title.~~

~~b. Report Of Economic Review Panel: Within forty five (45) days after the economic review panel is established, the panel shall complete an evaluation of economic hardship, applying the standards set forth in subsection K2 of this section and shall forward a written report with its findings of fact and conclusions to the historic landmark commission.~~

~~c. Historic Landmark Commission Determination Of Economic Hardship: At the next regular historic landmark commission meeting following receipt of the report of the economic review panel, the historic landmark commission shall reconvene its public hearing to take final action on the application.~~

~~(1) Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~

~~(2) Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~

~~(3) Consistency With The Economic Review Panel Report: The historic landmark commission decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the historic landmark commission, the historic landmark commission finds by a vote of three fourths ( $\frac{3}{4}$ ) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.~~

**J. Standards For Certificate Of Appropriateness For Demolition Of Landmark Site:** In considering an application for a certificate of appropriateness for demolition of a landmark site, the historic landmark commission shall only approve the application upon finding that the project fully complies with one of the following standards:

1. The demolition is required to alleviate a threat to public health and safety pursuant to subsection Q O of this section; or
2. The demolition is required to rectify a condition of "economic hardship", as defined and determined A determination of economic hardship has been granted by the Historic Landmark Commission pursuant to the provisions of subsection K L of this section.

**L. K. Standards For Certificate Of Appropriateness For Demolition Of A Contributing Structure Principal Building In An H Historic Preservation Overlay District:** ~~In~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing structure principal building, the historic landmark commission shall determine whether the project request substantially complies with the following standards:

1. Standards For Approval Of A Certificate Of Appropriateness For Demolition:

- a. The ~~physical~~ integrity of the site as defined in subsection C15b of this section is no longer evident;

b. The streetscape within the context of the H historic preservation overlay district would not be negatively materially affected if the contributing principal building were to be demolished;

c. The demolition would not create a material adversely affect on the H historic preservation overlay district due to the surrounding noncontributing structures concentration of historic resources used to define the boundaries or maintain the integrity of the district;

d. The base zoning of the site ~~is incompatible with~~ does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;

e. ~~The reuse plan is consistent with the standards outlined in subsection H of this section~~;

~~f-e.~~ The site contributing principal building has not suffered from wilful neglect, as evidenced by the following:

(1) ~~Wilful or negligent acts by the owner that have caused significant deteriorates~~ deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,

(2) ~~Failure to perform normal~~ routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or

(3) ~~Failure to diligently solicit and retain tenants, and~~

(4 ~~3~~) Failure to secure and board the structure contributing principal building, if vacant, per section 18.64.045 of this title,; and

~~g. The denial of a certificate of appropriateness for demolition would cause an "economic hardship" as defined and determined pursuant to the provisions of subsection K of this section.~~

2. Historic Landmark Commission Determination Of Compliance With Standards Of Approval: ~~The historic landmark commission shall make a decision based upon compliance with the requisite number of standards in subsection L1 of this section as set forth below: If the historic landmark commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the historic landmark commission shall approve the request for a certificate of appropriateness for demolition. If the historic landmark commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the historic landmark commission shall deny the request for a certificate of appropriateness for demolition.~~

~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) of the standards are met, the historic landmark commission shall approve the certificate of appropriateness for demolition.~~

~~b. Denial Of Certificate Of Appropriateness For Demolition: Upon making findings that two (2) or less of the standards are met, the historic landmark commission shall deny the certificate of appropriateness for demolition.~~

~~c. Deferral Of Decision For Up To One Year: Upon making findings that three (3) to five (5) of the standards are met, the historic landmark commission shall defer a decision for up to one year during which the applicant must conduct a bona fide effort to preserve the site pursuant to subsection M of this section.~~

**K. L. Economic Hardship Determination:** Upon denial of a certificate of appropriateness for demolition of a contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship. In the case of a landmark site, an application for determination of economic hardship can be submitted at any time as necessary to meet the standard of subsection J2 of this section.

1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.

2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.

b. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased.

(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years.

(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any.

(4) Real estate taxes for the previous three (3) years by the Salt Lake County assessor,

(5) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,

(6) The fair market value of the property taking into consideration the H historic preservation overlay district;

(7) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;

c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:

(1) Any real estate broker or firm engaged to sell or lease the property,

(2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and

(3) Any advertisements placed for the sale or rental of the property,

d. The feasibility of alternative uses for the property as considered in relation to the following:

(1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,

(2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,

(3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and

(4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.

e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.



f. Description of past and current use.

g. An itemized report that identifies what is deficient if the building does not meet minimum City building code standards or violations of City code.

h. Consideration of map amendment, conditional use, special exception or other land use processes to alleviate hardship

3. Procedure For Determination Of Economic Hardship: The planning director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the historic landmark commission concerning the value of the property and whether or not the denial of demolition could result in an economic hardship. The extent of the authority of the planning director's appointed qualified expert is limited to rendering advice and testimony to the historic landmark commission. The planning director's appointed qualified expert has no decision making capacity. The planning director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The historic landmark commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the planning director's appointed qualified expert as necessary.

a. Review of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the planning director's appointed qualified expert for determination of economic hardship after receipt of a complete application.

b. Finding of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the planning director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

(1) For demolition of non-residential or multifamily property:

(a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

(2) For demolition of a residential property (single or two family):

(a) The contributing principal building cannot be put to any beneficial use in its present condition.

c. Certificate of Appropriateness for Demolition: If the historic landmark commission finds an economic hardship, a certificate of appropriateness for demolition shall be valid for one

(1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to section 21A.10D.

d. Denial of Economic Hardship: If the historic landmark commission does not find an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

(1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.

(2) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~M. Bona Fide Preservation Effort: Upon the decision of the historic landmark commission to defer the decision of a certificate of appropriateness for demolition for up to one year, the applicant must undertake bona fide efforts to preserve the structure. The one year period shall begin only when the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions:~~

- ~~1. Marketing the property for sale or lease;~~
- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision for the certificate of appropriateness for demolition pursuant to subsection F2 of this section. The historic landmark commission shall approve the certificate of appropriateness for demolition and approve, approve with modifications or deny the certificate of appropriateness for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.~~

**M. Requirements for Certificate of Appropriateness for Demolition:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is to be replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H historic preservation overlay district standards for new construction.
2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.
3. Submittal of documentation to the planning division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.

a. Photographs. Digital or print photographs. Views should include:

- (1) Exterior views;
- (2) Close-ups of significant exterior features;
- (3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.

b. Site plan showing the location of the building and site features.

**N. Revocation of the Designation of a Landmark Site:** If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition: Prior to approval of any certificate of appropriateness for demolition the historic landmark commission shall review the postdemolition plans to assure that the plans comply with the standards of subsection H of this section. If the postdemolition plan is to landscape the site, a bond shall be required to ensure the completion of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.~~

- ~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and shall be sufficient to cover the estimated cost, to:~~

a) restore the grade as required by [title 18](#) of this code; b) install an automatic sprinkling system; and c) revegetate and landscape as per the approved plan.

~~2. The bond shall require installation of landscaping and sprinklers within six (6) months, unless the owner has obtained a building permit and commenced construction of a building or structure on the site.~~

**Q. O. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous**

**Structures Buildings:** A hazardous ~~structure~~ building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. ~~Hazardous structures demolished under this section shall comply with subsection P of this section.~~ Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision.

**R. P. Expiration Of Approvals:** Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. (~~Ord. 67-16, 2016; Ord. 60-15, 2015; Ord. 54-14, 2014; Ord. 58-13, 2013; Ord. 74-12, 2012~~)

### **3. HISTORIC LANDMARK COMMISSION**

**E. Agenda & Minutes**

**August 3, 2017**

**SALT LAKE CITY HISTORIC LANDMARK COMMISSION MEETING AGENDA**  
**In Room 326 of the City & County Building 451 South State Street**  
**Thursday, August 3, 2017 at 5:30 pm**  
**(The order of the items may change at the Commission's discretion.)**

**DINNER – Will be served to the Historic Landmark Commissioners and Staff at 5:00 p.m. in Room 118 of the City and County Building.**

**HISTORIC LANDMARK COMMISSION MEETING WILL BEGIN AT 5:30 PM IN ROOM 326**

**Approval of the Minutes from July 6, 2017.**

**Report of the Chair and Vice Chair**

**Director's Report**

**Public Comments** - The Commission will hear public comments not pertaining to items listed on the agenda.

**Public Hearings**

1. **Amendments to the Local Historic District Demolition Process** - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traughber at (801)535-6184 or lex.traughber@slcgov.com.) Case number: **PLNPCM2009-00014**
2. **Amendments to the New Construction Standards for Local Historic Districts** - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801)535-7625 or Anthony.riederer@slcgov.com.) Case number: **PLNPCM2016-00905**

**Work Session**

3. **New Mixed Use Construction at approximately 563 E 600 South** - A Work Session with the Historic Landmark Commission and Kristen Clifford, the applicant representing the property owner (Ernesto Gutierrez), to discuss a proposal for New Construction of a mixed use building with ground-floor commercial and two upper stories containing 5 dwelling units. There is a historically contributing duplex on the subject property that will be retained as part of the overall proposed development. Because this is only a work session, a decision will not be made on the request at this meeting. The subject property is located in the R-MU-35 (Residential Mixed Use District) and the H (Historic Preservation Overlay) zoning district within Council district 4, represented by Derek Kitchen. (Staff contact: Amy Thompson (801)535-7281 or amy.thompson@slcgov.com.) Case number: **PLNHLC2017-00555**

4. **Salisbury Mansion at approximately 574 East 100 South** - The Historic Landmark Commission will hold a work session to provide preliminary feedback on a proposed project for an addition to the Salisbury Mansion which is a Salt Lake City Landmark Site and is located within the Central City Historic District. Because this is only a work session, a decision will not be made on the request at this meeting. The subject property is located in the RMF-45 (Moderate/High Density Multi-Family Residential District) and the H (Historic Preservation Overlay) zoning district within Council District 4, represented by Derek Kitchen. (Staff contact: Katia Pace at (801)535-6354 or [katia.pace@slcgov.com](mailto:katia.pace@slcgov.com).) Case number: **PLNHLC2017-00556**

#### **Other Business**

5. **Economic Review Panel** - Identify whom the Historic Landmark Commission wants to represent them on the Economic Review Panel for the Bishop Place Economic Hardship applications. (Staff contact: Anthony Riederer at (801) 535-7625 or [anthony.riederer@slcgov.com](mailto:anthony.riederer@slcgov.com).) Case number: PLNHLC2017-00017, -00016, -00019, -00025, -00029, -00030, -00026, -00024, -00020

***The next regular meeting of the Commission is scheduled for Thursday, September 7, 2017, unless a special meeting is scheduled prior to that date.***

*Appeal of Historic Landmark Commission Decision: Anyone aggrieved by the Historic Landmark Commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued.*

*The applicant may object to the decision of the Historic Landmark Commission by filing a written appeal with the appeals hearing officer or the mayor within thirty (30) calendar days following the date on which a record of decision is issued.*

*Files for agenda items are available in the Planning Division Offices, Room 406 of the City and County Building. **Please contact the staff planner for more information.** Visit the Historic Landmark Commission's website <http://www.slcgov.com/planning/planning-historic-landmark-commission-meetings> to obtain copies of the Historic Landmark Commission's agendas, staff reports, and minutes. Staff reports will be posted by the end of the business day on the Friday prior to the meeting and minutes will be posted by the end of the business day two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Historic Landmark Commission.*

*The City & County Building is an accessible facility. People with disabilities may make requests for reasonable accommodation, which may include alternate formats, interpreters, and other auxiliary aids and services. Please make requests at least two business days in advance. To make a request, please contact the Planning Office at (801)535-7757, or relay service 711.*

Cromer reviewed different cases that had applied for economic hardship and how different resolutions could have come about for each case to protect the historic structures.

Vice Chairperson Peters closed the Public Comment Period.

[5:39:10 PM](#)

**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number: PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The number of experts an applicant could have versus the city to argue a petition.
- The different process to approve, deny or move to economic hardship.
- How a demolition request tied into a reuse plan.
- If something was required to be constructed in order to receive a demolition approval.
- Were there situations where a building could be demolished and a park or public area be put in its place.
- The time limit requirement for reconstruction.
- The definition of willful neglect and how to clarify the language in the ordinance.
- The standards for adaptive reuse and how base zoning affected the reuse.
- The next steps for the proposal and the language for the motion.

**PUBLIC HEARING** [6:20:52 PM](#)

Vice Chairperson Peters opened the Public Hearing.

The following individuals spoke to the petitions: Ms. Cindy Cromer

The following comments were made:

- Pleased to see landscaping was removed as an approved reuse.
- It was unacceptable to demolish a historic structure for landscaping.
- An out of state person should be hired in lieu of the economic hardship panel.



- The special merit exception would not work for Salt Lake as the preservation in the city did not support it and it would open the door for demolition.

Vice Chairperson Peters closed the Public Hearing.

The Commission and Staff discussed the following:

- If a motion was needed for each change.
- If the special merit should be sent to the Mayor or left as suggested by Staff.
- The evidence to determine economic hardship and items that should be considered.

The Commissioners discussed the following:

- The definition of willful neglect.
- The Special Merit Exception and if it should be part of the petition.
- Changes to language regarding the balance of a mortgage in the economic hardship application.

#### **MOTION [6:30:29 PM](#)**

**Commissioner Richardson stated based on the analysis and findings listed in the Staff Report, testimony, the proposal presented, and the input received during the public hearing, he moved that the Historic Landmark Commission recommend the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission found that the proposed amendments complied with the review standards as demonstrated in Attachment B of the Staff Report dated July 6, 2017. With the two exceptions to strike (on page one) the final eight words under willful neglect, (leading to significant structural weakness, decay or deterioration). Strike (on page nine) item L.2.b.3, which discusses remaining balances on any mortgage etc.**

**\*\*\*\* For clarification purposes the proposed changes to the language in the ordinance would read as follows.**

Willful Neglect: The intentional absence of routine maintenance and repair of a building over time.

21A.34.020.L2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

- a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.
- b. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased,

(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,

The Commission discussed the language being removed under willful neglect.

**Commissioner Hyde seconded the motion. Commissioners, Hyde, Harding, Richardson and Stowell voted “aye”. Commissioner Adams voted “nay”. The motion passed 4-1.**

[6:33:27 PM](#)

**Amendments to the New Construction Standards for Local Historic Districts - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801)535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com).) Case number: PLNPCM2016-00905**

Mr. Anthony Riederer, Principal Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The process for determining how a project framed adjacent streets.
- The proposal to restrict building materials and why some materials were and were not preferred.

**PUBLIC HEARING [6:46:31 PM](#)**

Vice Chairperson Peters opened the Public Hearing, seeing no one wished to speak, Vice Chairperson Peters closed the Public Hearing.

The Commission and Staff discussed the following:

- Wording in the proposal under 1.c, the word “frame” was confusing and should be changed to “relates to” or “engages with the sidewalks”.
- The materials that should be restricted or reviewed on a case by case basis.

## **4. PLANNING COMMISSION**

**A. Staff Report**

**August 23, 2017**



# Memorandum

Planning Division  
Community and Neighborhoods

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**To:** Salt Lake City Planning Commissioners

**From:** Lex Traughber – Senior Planner

**Date:** August 23, 2017

**Re:** Amendments to the Local Historic District Demolition Process  
Petition PLNPCM2009-00014

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## **Background**

In 2009, a petition was initiated to review the City's regulations for demolition of landmark sites and contributing buildings/structures in local historic districts, as well as the economic hardship process. This petition was actively worked on by Planning Staff at that time and subsequently heard by the Historic Landmark Commission and the Planning Commission with positive recommendations given by both Commissions for City Council action. The petition was never transmitted to the City Council. The petition has remained in the Planning Division primarily due to the necessity to allocate time to other petitions and projects that are/were of greater priority.

Due to recent intense interest in the overall historic landmark processes by the State legislature and recent requests for demolition of contributing structures in a couple of the City's local historic districts, it has become evident that the overall demolition process is confusing and needs to be revised. Planning Staff has revised the ordinance to address concerns to render the demolition process more transparent and user friendly.

## **Historic Landmark Commission Action**

Planning Staff held a briefing with the Historic Landmark Commission on June 1, 2017, to discuss the proposed ordinance amendments. The Historic Landmark Commission then held a public hearing regarding the matter on July 6, 2017. The Commission tabled the item for further discussion until their August 2017 meeting. The staff report from the Historic Landmark Commission hearing is attached for review (Exhibit A).

At the HLC public hearing held on August 3, 2017, the HLC reviewed the proposed ordinance and voted to forward a positive recommendation on to the Planning Commission and the City Council for adoption. Please see the minutes from the meeting (Exhibit B) and the draft ordinance as revised (Exhibit E).

### **Planning Commission Action**

A briefing was held with the Planning Commission on July 12, 2017. The Planning Commission reviewed the draft of the proposed ordinance (dated July 6, 2017). Several questions were raised by members of the Planning Commission and a discussion took place regarding the proposed amendments with Staff. The minutes from this meeting are included for reference (Exhibit C).

### **Request of Planning Commission**

At this time, Planning Staff requests that the Planning Commission review the proposed ordinance and hold a public hearing regarding the matter. Planning Staff requests that the Planning Commission forward a positive recommendation to the City Council to adopt the proposed amendments. A motion sheet is included for reference (Exhibit D).

### **Attachments**

Exhibit A – HLC staff report – July 6, 2017

Exhibit B – HLC Minutes – August 3, 2017

Exhibit C – PC Minutes – July 12, 2016

Exhibit D – Motion Sheet

Exhibit E – Proposed Ordinance Draft – August 23, 2017





# Staff Report

PLANNING DIVISION  
COMMUNITY & NEIGHBORHOODS

To: Salt Lake City Historic Landmark Commission  
From: Lex Traugher – Senior Planner  
(801) 535-6184 or lex.traugher@slcgov.com  
Date: July 6, 2017  
Re: Petition PLNPCM2009-00014, Local Historic District Demolition Process Text Amendment

## ZONING ORDINANCE TEXT AMENDMENT

**REQUEST:** A request by former Mayor Ralph Becker to amend certain sections of Title 21A (Zoning) of the Salt Lake City Code to amend and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide.

**RECOMMENDATION:** Planning Staff recommends that the Historic Landmark Commission forward a positive recommendation to the City Council regarding the amendments to sections 21A.34.020 and related provision in Title 21A-Zoning as proposed.

**MOTION:** Based on the analysis and findings listed in this staff report, testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments comply with the review standards as demonstrated in Attachment B of the staff report dated July 6, 2017.

**BACKGROUND AND PROJECT DESCRIPTION:** In 2009, a petition was initiated to review the City's regulations for demolition of landmark sites and contributing buildings in local historic districts, and the associated economic hardship process. The proposed modifications to the zoning ordinance were in response to a 1999 petition for amendments requested by the Planning Commission, a 2004 legislative action, the 2008 Citygate study of planning processes, and issues identified in the Community Preservation Plan. Primary issues identified at that time regarding the demolition and economic hardship provisions of the ordinance were:

- **Comments received during the development of the Community Preservation Plan suggested that the demolition provisions in the ordinance (including the economic hardship process) were too complex.**
- The standards for determination of economic hardship did not contribute to a clear and consistent process for landowners and applicants.
- Difficulty in balancing the goals of historic preservation with other goals of the City.
- **The economic hardship review panel's makeup of three people was/is difficult to achieve.** The three person panel is supposed to consist of a representative of the HLC, a representative of the applicant and a third party neutral expert. It is difficult to find a third party that meets the

qualifications and is also willing to volunteer their time to review large amounts of complicated documentation.

- **The three person economic review panel** was/is not a fair representation of either the applicant or the HLC, is a cumbersome process for everyone, and confusing to both the applicant and the public.

The petition was actively worked on by Planning Staff at that time and subsequently heard by the Historic Landmark Commission and the Planning Commission with positive recommendations given by both Commissions for City Council action. The petition was never transmitted to the City Council. The petition has remained in the Planning Division primarily due to the necessity to allocate time to other petitions and projects that were of greater priority.

At this time, due to recent intense interest in the overall historic landmark processes by the State legislature and **recent requests for demolition of contributing structures in a couple of the City's local historic districts**, it has become evident that the overall demolition and economic hardship processes remain confusing and need to be revised. Planning Staff has revised the ordinance to address concerns in order to render the demolition and economic hardship processes more transparent and user friendly.

**KEY ISSUES/DISCUSSION:** The key issues listed below have been identified through the analysis of the project, public input, and department review:

Issue 1. The current demolition regulations for landmark sites or contributing buildings and/or structures are too complex and confusing.

Proposed changes to address this issue:

- Change the order of the subsections in 21A.34.020 (H –Historic Preservation Overlay District) as related to demolition so that regulations follow the course of how processes actually occur. For example, the economic hardship process currently precedes the process for the issuance of a certificate of appropriateness for demolition, when these processes in practice are actually reversed. An applicant would apply for a certificate of appropriateness for demolition prior to applying for economic hardship if a demolition request was to be denied.
- **Elimination of standard “g” as currently outlined in the standards for approval for a certificate of appropriateness for demolition (Section 21A.34.020(L)(1)(g)).** Standard “g” currently states that a denial of a certificate of appropriateness for demolition would cause an economic hardship. This is being eliminated because there is a separate process to consider economic hardship that currently occurs after a decision for deferral or denial of demolition by the HLC. This standard has been very confusing for the public and for staff, and is in a redundant and illogical location.
- **Elimination of the requisite number of standards that the HLC must meet to make a decision for approval, deferral, or denial (Section 21A.34.020(L)(2)).** **Instead, the decision would be based on “substantially” meeting** the demolition standards as opposed to a decision based on meeting a specific number of standards. This change is consistent with how decisions are made for Conditional Uses, Planned Developments, and Conditional Building & Site Design review. Currently, a certificate of appropriateness would be approved if six (6) standards are met. If three (3) to five (5) standards are met, the HLC could defer a decision for up to a year pending a bona fide preservation effort by an applicant to save a building/structure. If two (2) or less standards are met then a demolition request would be denied. This system of achieving a specific number of standards is proposed to be eliminated.
- **Subsequent elimination of section 21A.34.020(M) that addresses a “Bona Fide Preservation Effort” should the** HLC defer a decision for a certificate of appropriateness when an applicant meets 3-5 of the standards for demolition. The requirement of an applicant to conduct a bona fide preservation effort has proven in the past to be ineffective in the preservation of the structure and some of the required bona fide efforts are not legally enforceable. In addition, an applicant has most likely pursued this effort prior to applying for demolition.



- Add additional definitions for terms used in the demolition ordinance to clarify language.

**2. The standards for determination of “Economic Hardship” as it relates to demolition requests** are not clear and are confusing for applicants.

Proposed changes to address this issue:

- Place the regulations for Economic Hardship after the regulations for Demolition as this is the order in which these processes would occur.
- An overhaul of the language in section 21A.34.020(K) to simplify and make more clear the regulations required for demonstration of economic hardship.
- Replace the set of required standards for economic hardship (21A.34.020(K)(2)), which is quite an extensive list of submittal items and therefore cumbersome and perhaps irrelevant for an applicant, with a list of items that an applicant may submit as evidence to demonstrate an economic hardship. It is incumbent upon an applicant to demonstrate an economic hardship and therefore an applicant should be able to submit documents that support their request as opposed to requiring a long list of submittal items that may or may not be relevant. A laundry list of evidence items has been proposed in the ordinance which an applicant may or may not choose to submit. This laundry list is not meant to be exhaustive. If other evidence items are relevant according to an applicant, then the proposed ordinance would encourage submittal of these items rather than limiting potential evidence items.
- Elimination of the current three-person economic review panel and replacement with an appointed qualified expert to decide economic hardship proposals. This expert would be appointed by the Planning Director. The current three-person economic review panel has proven problematic in the past for several reasons. First, it is difficult to find panelist. Second, because one panelist is appointed by the HLC, a second panelist appointed by the applicant, and a **third proposed by the HLC’s and the applicant’s panelists, the decision for economic hardship essentially falls upon the decision of the third panelist.**

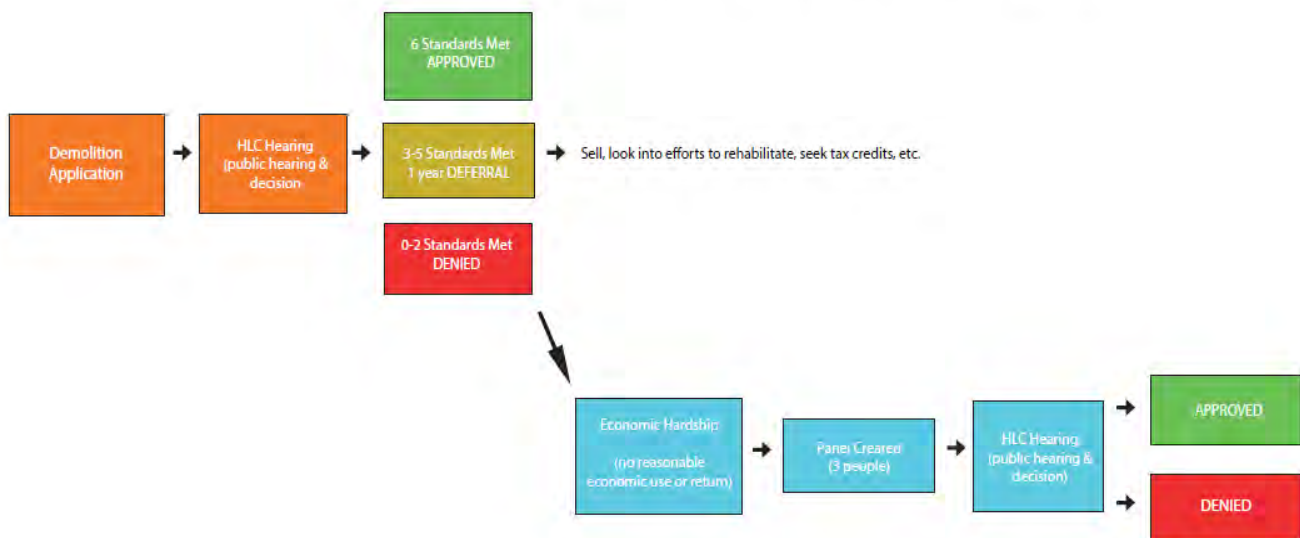
NEXT STEPS: The recommendation of the Historic Landmark Commission will be forwarded to the Planning Commission who will also make a recommendation to the City Council. Both the recommendation of the Historic Landmark Commission and the Planning Commission will be sent on to the City Council for a decision.

ATTACHMENTS:

- A. Current Process Flowchart
- B. Analysis of Standards
- C. Public Process and Comments
- D. Proposed Text Amendments (Strike and Underline)

## ATTACHMENT A: CURRENT PROCESS FLOWCHART

### Demolition & Economic Hardship Process Contributing & Landmark Buildings



## ATTACHMENT B: ANALYSIS OF STANDARDS

### 21A.50.050: STANDARDS FOR GENERAL AMENDMENTS:

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard.

A. In making its decision concerning a proposed text amendment, the city council should consider the following factors:

Standard	Finding	Rationale
Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents	Complies	The proposed text revisions are for the purpose of maintaining, updating, and clarifying the Zoning Ordinance, and as such are consistent with adopted city planning documents.
Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance	Complies	The proposed text amendments further the specific purpose statement for the H Historic Preservation Overlay District located in Title 21A.34.020 of the Salt Lake City Zoning Ordinance.
Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards	Complies	The proposed text amendments are consistent with the purposes and provisions of applicable overlay zoning districts, and help to clarify and improve the provisions of the local historic district demolition process.
The extent to which a proposed text amendment implements best current, professional practices of urban planning and design	Complies	The framework and structure of Salt Lake <b>City's zoning regulations and development</b> standards are sound and do not require wholesale restructuring. However, at times code changes are processed due to land use policy changes adopted by the City or because of State enabling regulation changes. It is beneficial for Salt Lake City to make code revisions that lead to a greater ease of use and understanding. Clarifying the local historic district demolition process is consistent with best practices with regard to public process and transparency.

## ATTACHMENT C: PUBLIC PROCESS AND COMMENTS

### Public Notice, Meetings and Comments

The following is summary of the public notice that has occurred, as well a list of meetings that have been held, and other public input opportunities related to the proposed project.

#### Project Posted to City Websites:

- Citizen Access Portal/Accela – May 11, 2017.
- Open City Hall – May 19, 2017.

#### Notification of Recognized Organizations:

- All recognized organizations were sent notification of the proposal via email on May 8, 2017.

#### Meetings

- An Open House was held on May 22, 2017.
- HLC briefing and work session held on June 1, 2017 (Minutes are attached).

#### Notice of the public hearing for the proposal include:

- Newspaper notification on June 20, 2017.
- Agenda posted on the Planning Division and Utah Public Meeting Notice websites on June 23, 2017.

#### Public Comments:

- All written public comments as of the production and distribution of this staff report are included for review.
- All comments received via Open City Hall as of the production and distribution of this staff report are included for review.

# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

*Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.*

All Registered Statements sorted chronologically

As of June 22, 2017, 11:31 AM



*Open City Hall is not a certified voting system or ballot box. As with any public comment process, participation in Open City Hall is voluntary. The statements in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.*

# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

*Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.*

As of June 22, 2017, 11:31 AM, this forum had:

Attendees:	48
Registered Statements:	4
All Statements:	4
Minutes of Public Comment:	12

This topic started on May 12, 2017, 11:50 AM.

## Ordinance on Demolition of Landmark Sites or in Local Historic Districts

Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.

Carl Kibler inside Council District 4

June 8, 2017, 4:24 PM

I agree with the view that reducing decisions from 3 to 1 persons is a mistake. It makes that single person a lightning rod for all opinions - it makes it personal and subject to whim and pressure more than a panel of 3 would.

Rule streamlining looks good otherwise.

Personally, I like turnover and change in our neighborhoods and cities to let them adapt to the present. The label of 'historic' is far over-applied to lock neighborhoods into particular decades of construction.

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Name not shown inside Council District 7

June 8, 2017, 12:42 PM

I support every revision/change except the change from a multi-person panel to a single appointed position.

1 Supporter

---

Name not shown inside Council District 6

May 31, 2017, 9:13 PM

I do not agree with replacing a 3 person panel with one (1) person. That is placing too much power with one individual, not elected, to make a decision re: demolitions in Historic Districts.

I also do not support changes that would make it easier to demolish original historic structures. The point in establishing districts is to maintain that very essence, not destroy it.

---

Name not shown inside Council District 6

May 30, 2017, 8:17 AM

This seems like a sensible revision to a confusing process. Perhaps an additional public hearing process could also be included so that demolition of structures within historic districts could receive more input from the public.

1 Supporter

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**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact is Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was looking for comments and suggestions on the proposal.

The Commission and Staff discussed and stated the following:

- The legal definition of the term “substantially” and how it is applied in the demolition ordinance.
- Would strongly suggest a set number of the standards had to be met thus not leaving a developer to wonder how the Commission would determine the substantial compliance of a petition.
- Each case was different and there were different elements to consider.
- A definition was needed for the following:
  - Willful neglect.
  - An architect with expertise in rehabilitation of older buildings.
    - Link it to the park service's standards of qualifications.
  - Partial demolition
- The more you define the more tied down the Commission would become.
- The standard for regulatory takings and if it was the correct standard to apply to the demolition ordinance.
- How a taking was determined and the process to appeal a taking.
- The different ways to obtain a demolition.
- If the Historic Landmark Commission should be the body to determine economic hardship or if it should be removed from the ordinance.
- Removing the language regarding regulatory takings and tie the language to the standards of economic hardship.
- If there needed to be a difference stated between income and non- income generating property.
- The demolition standards for a non-contributing structure.
- The importance of keeping contributing property information up to date.
- Giving Staff the ability to approve all solar panel petitions and the pros and cons of doing so.
- Clarifying the meaning of a principal structure and principal building and how each was reviewed.
- Page 3:
  - H.3 - Clarification on the appeal period.



- Page 4:
  - Remove the appeal language and refer to the appeal section.
- The City's response to vacant non maintained buildings.
- How boarded buildings are regulated.
- Encouraged Staff to notify the Commission of boarded buildings in historic districts.
- If property owners were notified that willful neglect was not grounds for demolition when boarding letters are sent.
- Page 7:
  - Change the phrase adverse effect to state, would not create a material adverse effect.
  - Tie a demotion to engaging an implementation of the reuse plan.
- The certification of appropriateness for demolition should not be issued until an acceptable, consistent reuse plan was approved and building permits concurrent with the demolition plan were issued.
- Make the title for the post demolition/ reuse plan consistent throughout the plan.
- Clarify the language regarding willful or negligent in regards to deterioration.
- How to determine routine maintenance in relation to the status of the building.
- Page 9:
  - Reword the language regarding the condition of the property upon purchase.
  - Reword the language about conditions personal to the landowner.
- Page 10:
  - Remove the number of professionals required for testimony.
  - Indicate the required experience for the historic professional to be considered as versed in Historic Preservation.
  - Review the 120 day period for processing the application.
- Page 11:
  - Reword B. to say the appointed Planning Director's expert.
  - Address rentals and owner occupied buildings in the ordinance.
  - Review the language regarding reasonable rate of return.
- Page 13:
  - If bonding should be required and where it would fit in the process.
  - Who determined the level of historic documentation required prior to demolition?
  - Need to require photos to be sent to SHPO prior to demolition with a written history.
  - How to determine what buildings should have detailed documentation.

Staff will make the changes and bring the document back to the Commission for further review.

## Traughber, Lex

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**From:** Dave Alderman <  
**Sent:** Tuesday, May 23, 2017 9:20 AM  
**To:** Traughber, Lex  
**Subject:** Comments on Changes to the Historic District Demolition and New Construction Standards

Lex - Following up on our discussion yesterday at the Open House. Overall, both documents appear to be a good step to streamline some processes. Below are our comments.

### Demolition and New Construction Text

F.1.a.(3) - Partial demolition of a landmark or contributing structure should go to the HLC. Administrative approval of non-contributing or accessory structures is acceptable. But contributing structures should get a more detailed, public review.

Also, the solar panel wording needs to be consistent between the two documents. Installation of solar panels, except on the front of the house, should be handled administratively.

### New Construction Text

F.1.a.(6) - Construction of new one or two family dwellings should continue to be seen by the HLC. This allows for a more public process to allow the design to be fine-tuned to fit the neighborhood. If a substantial addition requires HLC review, then why shouldn't a complete new build?

### General

It's not addressed in either text amendment, but any requests for variances or special exceptions, such as height, setbacks, etc., should go to the HLC. And very few should be approved.

Thanks for the opportunity to provide our input.

Dave and Peg Alderman

## Traughber, Lex

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**From:** Oktay, Michaela  
**Sent:** Thursday, June 1, 2017 9:43 AM  
**To:** Poland, Michelle  
**Cc:** Norris, Nick; Coffey, Cheri; Traughber, Lex  
**Subject:** FW: tonight's HLC meeting

Michelle,

Can you please forward these comments to the HLC members.

Thanks.

**From:** Allen Roberts [mailto:[allen@crsa-us.com](mailto:allen@crsa-us.com)]  
**Sent:** Thursday, June 01, 2017 9:09 AM  
**To:** Oktay, Michaela <[Michaela.Oktay@slcgov.com](mailto:Michaela.Oktay@slcgov.com)>  
**Subject:** FW: tonight's HLC meeting

Michaela: Enclosed is an email I just sent to Doug White and Khosrow Semnani containing talking points to tonight's HLC meeting.

Do you know what the format will be for public input? Also, do you know where this item appears on the agenda? (I haven't seen the agenda.)

If there is no public input, then I would like my 5 points to be included as input into the official record, along with the written comments I made on the ordinance changes that I sent to you a couple of months ago.

Thanks, as always. Allen

**Allen Roberts, FAIA**  
Senior Principal



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[allen@crsa-us.com](mailto:allen@crsa-us.com)

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**From:** Allen Roberts  
**Sent:** Thursday, June 01, 2017 9:03 AM  
**To:** Douglas White

**Cc:** Khosrow B. Semnani  
**Subject:** tonight's HLC meeting

Doug, Khos: Tonight at the SLC HLC meeting the HLC will be discussing the proposed changes to their HLC ordinance, including the demolition section. I sent them comments in writing a couple of months ago, but tonight would be a good opportunity to give your input in person. I don't know what the meeting format will be like an whether the public will be much of an opportunity to make comments (perhaps two minutes each?), but I think it will help to advance your project, especially if you comment on the demolition section. Also, let me know if you would like me to attend and make comments. If we are given only 2 minutes each, here are some of the most important comments I suggest we make:

- 1) The City needs to change its policy of saving its thousands of non-significant, contributory building by denying their demolition, especially where streetscapes have already been heavily compromised. Keeping the present the present policy is preventing many developments, especially needed housing projects, throughout the city's numerous historic district. Freezing these large areas against future development is an unwise, no-growth policy.
- 2) The demolition ordinance is one-sided, unbalanced and unfair, highly subjective in its administration as well as overly complex, cumbersome and difficult for applicants to deal with.
- 3) There are many legitimated reasons for approving the demolition of small numbers of the city's thousands of contributory buildings. The demolition ordinance should acknowledge this and be more balanced in its requirements. We specifically recommend these changes:
  - a. Clarify, simplify and upgrade the six-seven (or however many) criteria.
  - b. Require that only 3 or 4 of the criteria be met. Requiring 6 is one-sided and totally unbalanced.
  - c. Revise or eliminate the economic hardship requirement.
- 4) Reevaluate all of the city's historic districts and their boundaries and adjust them, bringing them up-to-date. Many of them are based on building surveys conducted as long as over 40 years ago. Many changes have occurred during those decades, including the demolition of historic buildings and the construction of new buildings.
- 5) When amending the district boundaries, use credible industry-standard guidelines for the creation of new boundaries.

Best regards, Allen

**Allen Roberts, FAIA**  
Senior Principal



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## Traughber, Lex

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**From:** Oktay, Michaela  
**Sent:** Thursday, June 1, 2017 11:07 AM  
**To:** Traughber, Lex  
**Subject:** FW: proposed new City Demolition Ordinance.

**From:** Allen Roberts [mailto:allen@crsa-us.com]  
**Sent:** Tuesday, March 21, 2017 11:00 AM  
**To:** Oktay, Michaela <Michaela.Oktay@slcgov.com>  
**Subject:** proposed new City Demolition Ordinance.

Michaela: Good morning and happy Spring.

I have taken some time this week to review the proposed revision/zoning text amendment of the City's Demolition Ordinance and have some comments on it:

- 1) I was hoping this would be a newly-conceived, re-thought-out ordinance but what I found is that it is a tweaking and reworking of parts of the existing ordinance. The problem with that is that the present ordinance is too long, complex, confusing and unbalanced/unfair for the average person to deal with. And the public shouldn't have to hire a team of architects, preservationists, attorneys, realtors, economists, etc. to apply for demolition.
- 2) I agree with the validity of the five problems listed on p. 3, although I'm not sure the new wording solves them all.
- 3) The main weakness or flaw in the ordinance is the absence of a "Special Merit" provision. Without it, the ordinance is unbalanced—in favor of preservation and against reasonably justified demolition. I see on p. 4 that Commission considered such a provision but decided not to include it (as you indicated to me might be the case). However, the few arguments made against Special Merit were one-sided and not a balanced weighing of pros and cons. (Special Merit would be just the right provision to help the Trolley Towers project, for example. Basically that is a very beneficial and worthwhile project being held hostage by four dwellings, two of which are severely structurally damaged and beyond repair, one of which was moved onto the site and placed on a newer, incompatibly high, concrete foundation, and one intact house which is surrounded by parking lots and is indistinguishable from thousands of other, similar cottages throughout the city. They are in a part of an historic district which should not be in the district (due to lack of streetscape integrity and lack of any concentration of historic structures) and therefore should not be protected as contributory structures within a district. The entire district is flawed because it was created as a two-block buffer for 600 East rather than for its inclusion of a concentration of significant and contributory buildings—which do not exist throughout many parts of the district. The district boundaries should be re-drawn using the industry standards for creating historic districts, not the non-conforming, over-reaching whim of a neighborhood group not familiar with preservation standards.) In short, the revised ordinance does not solve problems such as this one, in part due its lack of Special Merit. Put another way, if this ordinance had been in place, say in 1900, most of the city's most significant landmarks would not exist today because they would not have been allowed to replace buildings protected then.
- 4) The Economic Hardship provision is still too unreasonable if not Draconian for a typical citizen to deal with.
- 5) On the positive side, it is helpful and more fair for the applicant to have to meet fewer standards (4 or 5 of 6 instead of 6 of 6), so that's a step in the right direction, but having decisions deferred for up to one year is unfair (p.14). Some of the other waiting periods (90 and 100 days, etc.) are too long too.



- 6) The fees listed on page 21 are excessive. They are unjustifiably penalizing. What is the justification for these fees?
- 7) The requirements of part P., p. 21, are excessive, especially for contributory buildings of low/minimal significance. The rule should be: Significant buildings get lots of documentation; contributory building less documentation.
- 8) The requirement that the applicant submit and have approved architectural plans for the replacement project before demolition is granted is extraordinarily expensive, time-consuming and unfair to the applicant. As a preservationist, I do not like speculative demolition (like the Newhouse Hotel) or demolition by neglect (like the two collapsing houses Mr. Semnani bought on his parking lot property), but this particular requirement is truly unreasonable. There must be a better way to achieve its preservation goal without so severely burdening the applicant.
- 9) Overall, I think the City needs to re-think its policy of preserving all of the contributory buildings in all of its historic districts. Because there are now many districts, some of them quite large, there are thousands of these minimally significant buildings, yet they are holding up and even killing worthwhile projects and obstructing other City goals like providing more housing and reversing urban blight.
- 10) Finally, both the present and proposed demolition ordinance, as well as some related preservation ordinances and policies, are dangerous in that they are part of the reason being advanced to the State Legislature for passing laws prohibiting the creation of future historic districts. Think of the recent problems with the Harvard-Yale District. In Park City, for example, building owners and developers were so angry about the City's preservation policies and practices that the City totally did away with the City Landmarks Commission and its supporting documents, leaving it solely to the planning staff to deal with preservation issues. In summary, the new demo ordinance needs to be balanced, fair, reasonable, and accessible and easy to use for both the applicant and the planning staff

I have comments on some of the details in the specific language of the proposed ordinance but I'm still working through those and will try to get them in order later. Overall, though, speaking as a life-long, career preservationist who has served as chairman of three historic district commissions in Utah and designed hundreds of preservation projects throughout the West, I find both the present and proposed demolition ordinances to be, as I've said, too long, complex, confusing, unbalanced/one-sided, costly, unfair and based on faulty underlying resource data, such as the protection of historic districts created with faulty, non-standard boundaries, thereby protecting contributing structures which should not be granted protection, in the process delaying and sometimes killing highly worthwhile, Special Merit projects which would greatly benefit the city.

Sorry for be so negative, but the local preservation pendulum needs some re-tilting back to the middle. Thanks in advance for taking these observations and ideas into consideration as the demolition ordinance moves through City processes.

Allen

**Allen Roberts, FAIA**  
Senior Principal



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## Traughber, Lex

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**From:** Allen Roberts <allen@crsa-us.com>  
**Sent:** Thursday, June 1, 2017 4:10 PM  
**To:** Oktay, Michaela; Traughber, Lex  
**Subject:** one more item...

Michaela, Lex: One more item that should be on the earlier list I sent today:

I (and my various clients like Trolley Square and the Elks Club group) strongly recommend that the revised ordinance include a Special Merit provision in the demolition section. This will help prevent the disapproval to demolish a few non-significant, contributory buildings from stopping or delaying major projects of great merit from being built.

My definition of sacrifice is giving up something of lesser value to achieve something of greater value. A Special Merit provision would allow such justifiable sacrifices to occur.

Thanks again for including my input in the HLC discussion.

Allen

**Allen Roberts, FAIA**  
Senior Principal



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## ATTACHMENT D: PROPOSED TEXT AMENDMENTS



## **ZONING ORDINANCE CHAPTER 21A.34.020**

### **H – HISTORIC PRESERATION OVERLAY DISTRICT**

#### **B. Definitions**

Economic Hardship: Failure to issue a certification of appropriateness for the demolition of a landmark site or contributing principal building will deny the property owner all reasonable beneficial or economically viable use of the property without just compensation.

Wilful Neglect: The intentional absence of routine maintenance and repair of a building over time, leading to structural weakness, decay, or deterioration to the point where a building is beyond rehabilitation or adaptive reuse is no longer feasible.

#### **F. Procedure For Issuance Of Certificate Of Appropriateness:**

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

a. Types Of Construction: The following may be approved by administrative decision:

(1) Minor alteration of or addition to a landmark site or contributing principal building ~~site~~ and/or structure;

(2) Substantial alteration of or addition to a noncontributing site;

(3) Partial demolition of either a landmark site or a contributing principal building or structure;

(4) Demolition of an accessory building or structure;

(5) Demolition of a noncontributing building or structure; and

~~(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section [21A.40.190](#) of this title.~~

(6) Installation of solar energy collection systems pursuant to section [21A.40.190](#) of this title.

b. Submission Of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to chapter 21A.10 of this title, and shall forward the application for review and decision.

c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model, window frame sections and samples deemed necessary to consider the application properly and completely.

d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.

e. Notice ~~For~~ of Application For Demolition Of A Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

f. Standards ~~For~~ of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.

g. Review And Decision By The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

h. Referral Of Application By Planning Director To Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the H historic preservation overlay district, or the need for consultation for expertise regarding architectural, construction or preservation issues.

2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only ~~be allowed to~~ be approved by the historic landmark commission subject to the following procedures:

a. Types Of Construction: The following shall be reviewed by the historic landmark commission:

- (1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ principal building;
- (2) New construction of principal building in H historic preservation overlay district;
- (3) Relocation of landmark site or contributing ~~site~~ principal building;
- (4) Demolition of landmark site or contributing ~~site~~ principal building;

(5) Applications for administrative approval referred by the planning director; and

~~(6) Installation of solar energy collection systems pursuant to section [21A.40.190](#) of this title.~~

(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section [21A.40.190](#) of this title.

b. Submission Of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F1b of this section.

c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

d. Materials Submitted With Application: The requirements for the materials to be submitted upon application for a certificate of appropriateness shall be the same as specified in subsection F1c of this section. Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to chapter 21A.10 of this title.

f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to chapter 21A.10 of this title.

g. Standards For Approval: The application shall be reviewed according to the standards set forth in subsections G through ~~L~~ K of this section, whichever are applicable.

h. Review And Decision By The Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, ~~within sixty (60) days following receipt of a completed application; except that a review and decision on an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) days following receipt of a completed application.~~

(1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection ~~L~~ K of this section, whichever are applicable.

(2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness. ~~A decision on an application for a certificate of appropriateness for demolition of a~~

~~contributing structure may be deferred for up to one year pursuant to subsections L and M of this section.~~

(3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing ~~structures~~ principal buildings shall not be issued until the appeal period has expired.

(4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.

~~i. Appeal Of Historic Landmark Commission Decisions To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized organization pursuant to [title 2, chapter 2.60](#) of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of chapter 21A.16 of this title.~~

~~j. Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~

~~k. Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~

~~K. Definition And Determination Of Economic Hardship: The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.~~

~~1. Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be submitted to the planning division. The application must include photographs, information pertaining to the historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.~~

~~2. Standards For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:~~

~~a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;~~

~~b. The current level of economic return on the property as considered in relation to the following:~~

~~(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;~~

~~(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;~~

~~(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;~~

~~(4) Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor;~~

~~(5) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property;~~

~~(6) The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed;~~

~~(7) Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and~~

~~(8) Any state or federal income tax returns on or relating to the property for the previous two (2) years;~~

~~c. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:~~

~~(1) Any real estate broker or firm engaged to sell or lease the property;~~

~~(2) Reasonableness of the price or rent sought by the applicant, and~~

~~(3) Any advertisements placed for the sale or rent of the property;~~

~~d. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:~~

~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~

~~(2) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations;~~

~~(3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use; and~~

~~(4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~

~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~

~~3. Procedure For Determination Of Economic Hardship: The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period.~~

~~a. Review Of Evidence: All of the evidence and documentation presented to the historic landmark commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting complying with the open meetings act to review the evidence of economic hardship in relation to the standards set forth in subsection K2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party; provided, that notice for such public hearing shall be in accordance with chapter 21A.10 of this title.~~

~~b. Report Of Economic Review Panel: Within forty five (45) days after the economic review panel is established, the panel shall complete an evaluation of economic hardship, applying the~~

standards set forth in subsection K2 of this section and shall forward a written report with its findings of fact and conclusions to the historic landmark commission.

~~c. Historic Landmark Commission Determination Of Economic Hardship: At the next regular historic landmark commission meeting following receipt of the report of the economic review panel, the historic landmark commission shall reconvene its public hearing to take final action on the application.~~

~~(1) Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~

~~(2) Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~

~~(3) Consistency With The Economic Review Panel Report: The historic landmark commission decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the historic landmark commission, the historic landmark commission finds by a vote of three-fourths ( $\frac{3}{4}$ ) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.~~

**L. K. Standards For Certificate Of Appropriateness For Demolition Of A Contributing Structure Principal Building In An H Historic Preservation Overlay District:** ~~In~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing ~~structure~~ principal building, the historic landmark commission shall determine whether the applicant has provided evidence that the project request substantially complies with the following standards:

1. Standards For Approval Of A Certificate Of Appropriateness For Demolition:

- a. The physical integrity of the site contributing principal building as defined in subsection C15b of this section is no longer evident;
- b. The streetscape within the context of the H historic preservation overlay district would not be negatively materially affected if the contributing principal building were to be demolished;
- c. The demolition would not create a material adversely ~~affect on~~ the ~~H historic preservation overlay district due to the surrounding noncontributing structures~~ concentration of historic resources used to define the boundaries or maintain the integrity of the district;
- d. The base zoning of the site ~~is incompatible with~~ does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;

~~e. The reuse plan is consistent with the standards outlined in subsection H of this section;~~

~~f. The site contributing principal building has not suffered from wilful neglect, as evidenced by the following:~~

~~(1) Wilful or negligent acts by the owner that have caused significant deteriorates deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,~~

~~(2) Failure to perform normal routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or~~

~~(3) Failure to diligently solicit and retain tenants, and~~

~~(4 3) Failure to secure and board the structure contributing principal building, if vacant, per section 18.64.045 of this title,; and~~

~~g. The denial of a certificate of appropriateness for demolition would cause an "economic hardship" as defined and determined pursuant to the provisions of subsection K of this section.~~

2. Historic Landmark Commission Determination Of Compliance With Standards Of Approval: ~~The historic landmark commission shall make a decision based upon compliance with the requisite number of standards in subsection L1 of this section as set forth below: If the Historic Landmark Commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the Historic Landmark Commission shall approve the request for a certificate of appropriateness for demolition. If the Historic Landmark Commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the Historic Landmark Commission shall deny the request for a certificate of appropriateness for demolition.~~

~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) of the standards are met, the historic landmark commission shall approve the certificate of appropriateness for demolition.~~

~~b. Denial Of Certificate Of Appropriateness For Demolition: Upon making findings that two (2) or less of the standards are met, the historic landmark commission shall deny the certificate of appropriateness for demolition.~~

~~c. Deferral Of Decision For Up To One Year: Upon making findings that three (3) to five (5) of the standards are met, the historic landmark commission shall defer a decision for up to one year during which the applicant must conduct a bona fide effort to preserve the site pursuant to subsection M of this section.~~



**K. L. Economic Hardship Exception:** Upon denial of a certificate of appropriateness for demolition of a landmark site or contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship.

1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.

2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.

b. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased.

(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years.

(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any.

(4) Real estate taxes for the previous three (3) years by the Salt Lake County assessor,

(5) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,

(6) The fair market value of the property taking into consideration the H historic preservation overlay district;

(7) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;

c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:

(1) Any real estate broker or firm engaged to sell or lease the property,

(2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and

(3) Any advertisements placed for the sale or rental of the property,

d. The feasibility of alternative uses for the property as considered in relation to the following:

(1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,

(2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,

(3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and

(4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.

e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

f. Description of past and current use.

g. An itemized report that identifies what is deficient if the building does not meet minimum City building code standards or violations of City code.

h. Consideration of conditional use options or special exceptions to alleviate hardship.

3. Procedure For Determination Of Economic Hardship: The Planning Director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the Historic Landmark Commission concerning the value of the property and whether or not the denial of demolition could result in the property owner being denied of all reasonable beneficial or economically viable use of the property without just compensation. The extent of the authority of the Planning Director's appointed qualified expert is limited to rendering advice and testimony to

the Historic Landmark Commission. The Planning Director's appointed qualified expert has no decision making capacity. The Planning Director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The Historic Landmark Commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the Planning Director's appointed qualified expert as necessary.

a. Review Of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the Planning Director's appointed qualified expert for determination of economic hardship after receipt of a complete application.

b. Finding Of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the Planning Director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

(1) For demolition of non-residential or multifamily property:

(a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

(2) For demolition of a residential property (single or two family):

(a) The contributing principal building cannot be put to any beneficial use in its present condition.

c. Certificate Of Appropriateness for Demolition: A certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to section 21A.10(D).

d. Denial Of Economic Hardship: If the historic landmark commission finds that the applicant has failed to prove an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

(1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.

(2) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~M. Bona Fide Preservation Effort: Upon the decision of the historic landmark commission to defer the decision of a certificate of appropriateness for demolition for up to one year, the applicant must undertake bona fide efforts to preserve the structure. The one year period shall begin only when the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions:~~

- ~~1. Marketing the property for sale or lease;~~
- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision for the certificate of appropriateness for demolition pursuant to subsection F2 of this section. The historic landmark commission shall approve the certificate of appropriateness for demolition and approve, approve with modifications or deny the certificate of appropriateness for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.~~

**M. Requirements for Certificate of Appropriateness for Demolition:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is to be replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H historic preservation overlay district standards for new construction,

2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.

3. Submittal of documentation to the Planning Division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.

a. Photographs. Digital or print photographs. Views should include:

(1) Exterior views;

(2) Close-ups of significant exterior features;

(3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.

b. Site plan showing the location of the building and site features.

**N. Revocation Of The Designation Of A Landmark Site:** If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition:~~ Prior to approval of any certificate of appropriateness for demolition the historic landmark commission shall review the postdemolition plans to assure that the plans comply with the standards of subsection H of this section. If the postdemolition plan is to landscape the site, a bond shall be required to ensure the completion of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.

~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and shall be sufficient to cover the estimated cost, to:~~  
~~a) restore the grade as required by [title 18](#) of this code; b) install an automatic sprinkling system; and c) revegetate and landscape as per the approved plan.~~

~~2. The bond shall require installation of landscaping and sprinklers within six (6) months, unless the owner has obtained a building permit and commenced construction of a building or structure on the site.~~

**Q. O. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous Structures Building:** A hazardous structure building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. Hazardous structures demolished under this section shall

~~comply with subsection P of this section.~~ Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision.

**~~R. P.~~ Expiration Of Approvals:** Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. (~~Ord. 67-16, 2016: Ord. 60-15, 2015: Ord. 54-14, 2014: Ord. 58-13, 2013: Ord. 74-12, 2012~~)



Cromer reviewed different cases that had applied for economic hardship and how different resolutions could have come about for each case to protect the historic structures.

Vice Chairperson Peters closed the Public Comment Period.

[5:39:10 PM](#)

**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number: PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The number of experts an applicant could have versus the city to argue a petition.
- The different process to approve, deny or move to economic hardship.
- How a demolition request tied into a reuse plan.
- If something was required to be constructed in order to receive a demolition approval.
- Were there situations where a building could be demolished and a park or public area be put in its place.
- The time limit requirement for reconstruction.
- The definition of willful neglect and how to clarify the language in the ordinance.
- The standards for adaptive reuse and how base zoning affected the reuse.
- The next steps for the proposal and the language for the motion.

**PUBLIC HEARING** [6:20:52 PM](#)

Vice Chairperson Peters opened the Public Hearing.

The following individuals spoke to the petitions: Ms. Cindy Cromer

The following comments were made:

- Pleased to see landscaping was removed as an approved reuse.
- It was unacceptable to demolish a historic structure for landscaping.
- An out of state person should be hired in lieu of the economic hardship panel.



- The special merit exception would not work for Salt Lake as the preservation in the city did not support it and it would open the door for demolition.

Vice Chairperson Peters closed the Public Hearing.

The Commission and Staff discussed the following:

- If a motion was needed for each change.
- If the special merit should be sent to the Mayor or left as suggested by Staff.
- The evidence to determine economic hardship and items that should be considered.

The Commissioners discussed the following:

- The definition of willful neglect.
- The Special Merit Exception and if it should be part of the petition.
- Changes to language regarding the balance of a mortgage in the economic hardship application.

#### **MOTION [6:30:29 PM](#)**

**Commissioner Richardson stated based on the analysis and findings listed in the Staff Report, testimony, the proposal presented, and the input received during the public hearing, he moved that the Historic Landmark Commission recommend the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission found that the proposed amendments complied with the review standards as demonstrated in Attachment B of the Staff Report dated July 6, 2017. With the two exceptions to strike (on page one) the final eight words under willful neglect, (leading to significant structural weakness, decay or deterioration). Strike (on page nine) item L.2.b.3, which discusses remaining balances on any mortgage etc.**

**\*\*\*\* For clarification purposes the proposed changes to the language in the ordinance would read as follows.**

Willful Neglect: The intentional absence of routine maintenance and repair of a building over time.

21A.34.020.L2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

- a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.
- b. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased,

(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,

The Commission discussed the language being removed under willful neglect.

**Commissioner Hyde seconded the motion. Commissioners, Hyde, Harding, Richardson and Stowell voted “aye”. Commissioner Adams voted “nay”. The motion passed 4-1.**

[6:33:27 PM](#)

**Amendments to the New Construction Standards for Local Historic Districts - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801)535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com).) Case number: PLNPCM2016-00905**

Mr. Anthony Riederer, Principal Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The process for determining how a project framed adjacent streets.
- The proposal to restrict building materials and why some materials were and were not preferred.

**PUBLIC HEARING [6:46:31 PM](#)**

Vice Chairperson Peters opened the Public Hearing, seeing no one wished to speak, Vice Chairperson Peters closed the Public Hearing.

The Commission and Staff discussed the following:

- Wording in the proposal under 1.c, the word “frame” was confusing and should be changed to “relates to” or “engages with the sidewalks”.
- The materials that should be restricted or reviewed on a case by case basis.



The Commission and Staff discussed the following:

- The applicant was required to supply the documentation required for the application.
- The process for review of the proposal for new construction in a historic district.
- The requirement of a 3D streetscape, and if it was onerous.
- The submission requirements and how they impacted the applicant.

## **PUBLIC HEARING**

Chairperson Lyon opened the Public Hearing, seeing no one wished to speak; Chairperson Lyon continued the Public Hearing.

The Commission and Staff discussed and stated the following:

- The two theories of new construction in historic districts and it how to address them in the proposal.
  - Staff explained that Salt Lake City's preservation policy encourages new projects to be reflections of their own time and not replicate historic buildings.
- Why certain materials were called out specifically.
- How to encourage more historic detailing in new construction.
- Why durability was called out in a preservation code and not in the general building requirements.

## **MOTION [8:25:39 PM](#)**

**Commissioner Scheer stated based on the information in the Staff Report, the information presented, and the input received during the public hearing, she moved that the Commission continue PLNPCM2016-00905 to a future meeting, pending action by the Historic Landmarks Commission. Commissioner Garcia seconded the motion. Commissioners Clark, Garcia, Bachman, Hoskins, Urquhart and Scheer voted "aye". The motion passed unanimously.**

## **[8:26:27 PM](#)**

**Amendments to the Local Historic District Demolition Process - A text amendment to amend certain sections of Title 21A (Zoning) of the Salt Lake City Code to amend and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number: PLNPCM2009-00014 (Legislative Matter)**

Mr. Lex Traughber, Senior Planner, reviewed the petition as outlined in the Staff Report (located in the case file). He stated Staff recommended that the Planning Commission continue the petition to a future meeting.

The Commission and Staff discussed the following:

- The economic hardship review panel and the number of members on the panel.
- The profession of the person that would review an economic hardship application.
- The criteria for reviewing economic hardship.
- The definition of economic hardship in the ordinance.
- Who determined if willful neglect of a building occurred and the repercussions of willful neglect.
- The issues with enforcing and proving willful neglect.

**PUBLIC HEARING [8:39:29 PM](#)**

Chairperson Lyon opened the Public Hearing, seeing no one wished to speak; Chairperson Lyon continued the Public Hearing.

**MOTION [8:39:33 PM](#)**

**Commissioner Clark stated based on the information in the Staff Report, the information presented, and the input received during the public hearing, he moved that the Commission continue PLNPCM2009-00014 to a future meeting, pending action by the Historic Landmarks Commission. Commissioner Hoskins seconded the motion. Commissioners Clark, Garcia, Bachman, Hoskins, Urquhart and Scheer voted “aye”. The motion passed unanimously.**

The meeting adjourned at [8:40:48 PM](#)



## **Motion Sheet for PLNPCM2009-00014 – Local Historic District Demolition Process Text Amendment**

### **Motion to approve:**

Based on the analysis and findings listed in this staff report, testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments comply with the review standards as demonstrated in Attachment B of the staff report dated July 6, 2017.

### **Motion to deny:**

Based on the testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council deny petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments do not comply with the review standards in Attachment B of the staff report dated July 6, 2017. (The Commission should list what standards, factors, etc. were considered to recommend denial if different from the analysis of standards outlined in the staff report).





## **ZONING ORDINANCE CHAPTER 21A.34.020**

### **H – HISTORIC PRESERATION OVERLAY DISTRICT**

#### **B. Definitions**

Economic Hardship: Denial of a property owner of all reasonable beneficial or economically viable use of a property without just compensation.

Wilful Neglect: The intentional absence of routine maintenance and repair of a building over time.

#### **F. Procedure For Issuance Of Certificate Of Appropriateness:**

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

a. Types Of Construction: The following may be approved by administrative decision:

- (1) Minor alteration of or addition to a landmark site or contributing site, building, and/or structure;
- (2) Substantial alteration of or addition to a noncontributing site;
- (3) Partial demolition of either a landmark site or a contributing principal building or structure;
- (4) Demolition of an accessory building or structure;
- (5) Demolition of a noncontributing building or structure; and
- ~~(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section [21A.40.190](#) of this title.~~

(6) Installation of solar energy collection systems pursuant to section [21A.40.190](#) of this title.

b. Submission Of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to chapter 21A.10 of this title, and shall forward the application for review and decision.

c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model,

window frame sections and samples deemed necessary to consider the application properly and completely.

d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.

e. Notice ~~For~~ of Application For Demolition Of A Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

f. Standards ~~For~~ of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.

g. Review And Decision By The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

h. Referral Of Application By Planning Director To Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the H historic preservation overlay district, or the need for consultation for expertise regarding architectural, construction or preservation issues.

2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only ~~be allowed to~~ be approved by the historic landmark commission subject to the following procedures:

a. Types Of Construction: The following shall be reviewed by the historic landmark commission:

(1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ site, building, and/or structure;

(2) New construction of principal building in H historic preservation overlay district;

(3) Relocation of landmark site or contributing ~~site~~ principal building;

(4) Demolition of landmark site or contributing ~~site~~ principal building;

(5) Applications for administrative approval referred by the planning director; and

~~(6) Installation of solar energy collection systems pursuant to section 21A.40.190 of this title.~~

(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section 21A.40.190 of this title.

b. Submission Of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F1b of this section.

c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

d. Materials Submitted With Application: The requirements for the materials to be submitted upon application for a certificate of appropriateness shall be the same as specified in subsection F1c of this section. Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to chapter 21A.10 of this title.

f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to chapter 21A.10 of this title.

g. Standards For Approval: The application shall be reviewed according to the standards set forth in subsections G through ~~L~~ K of this section, whichever are applicable.

h. Review And Decision By The Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, ~~within sixty (60) days following receipt of a completed application, except that a review and decision on an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) days following receipt of a completed application.~~

(1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection, if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection ~~L~~ K of this section, whichever are applicable.

(2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness. ~~A decision on an application for a certificate of appropriateness for demolition of a contributing structure may be deferred for up to one year pursuant to subsections L and M of this section.~~

(3) The decision of the historic landmark commission shall become effective at the time the decision is made. Demolition permits for landmark sites or contributing ~~structures~~ principal buildings shall not be issued until the appeal period has expired.

(4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.

i. ~~Appeal Of Historic Landmark Commission Decisions To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized organization pursuant to title 2, chapter 2.60 of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of chapter 21A.16 of this title.~~

j. ~~Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~

k. ~~Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~

K. ~~Definition And Determination Of Economic Hardship: The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.~~

1. ~~Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be~~

submitted to the planning division. The application must include photographs, information pertaining to the historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.

~~2. Standards For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:~~

~~a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;~~

~~b. The current level of economic return on the property as considered in relation to the following:~~

~~(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;~~

~~(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;~~

~~(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;~~

~~(4) Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor;~~

~~(5) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property;~~

~~(6) The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed;~~

~~(7) Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and~~

~~(8) Any state or federal income tax returns on or relating to the property for the previous two (2) years;~~

~~c. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:~~

~~(1) Any real estate broker or firm engaged to sell or lease the property;~~

~~(2) Reasonableness of the price or rent sought by the applicant, and~~

~~(3) Any advertisements placed for the sale or rent of the property;~~

~~d. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:~~

~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~

~~(2) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations;~~

~~(3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use; and~~

~~(4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~

~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~

~~3. Procedure For Determination Of Economic Hardship: The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period.~~

~~a. Review Of Evidence: All of the evidence and documentation presented to the historic landmark commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting complying with the open meetings act to review the evidence of economic hardship in relation to the standards set forth in subsection K2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party; provided, that notice for such public hearing shall be in accordance with chapter 21A.10 of this title.~~

~~b. Report Of Economic Review Panel: Within forty five (45) days after the economic review panel is established, the panel shall complete an evaluation of economic hardship, applying the standards set forth in subsection K2 of this section and shall forward a written report with its findings of fact and conclusions to the historic landmark commission.~~

~~c. Historic Landmark Commission Determination Of Economic Hardship: At the next regular historic landmark commission meeting following receipt of the report of the economic review panel, the historic landmark commission shall reconvene its public hearing to take final action on the application.~~

~~(1) Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~

~~(2) Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~

~~(3) Consistency With The Economic Review Panel Report: The historic landmark commission decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the historic landmark commission, the historic landmark commission finds by a vote of three fourths ( $\frac{3}{4}$ ) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.~~

**J. Standards For Certificate Of Appropriateness For Demolition Of Landmark Site:** In considering an application for a certificate of appropriateness for demolition of a landmark site, the historic landmark commission shall only approve the application upon finding that the project fully complies with one of the following standards:

1. The demolition is required to alleviate a threat to public health and safety pursuant to subsection Q O of this section; or
2. The demolition is required to rectify a condition of "economic hardship", as defined and determined A determination of economic hardship has been granted by the Historic Landmark Commission pursuant to the provisions of subsection K L of this section.

**L. K. Standards For Certificate Of Appropriateness For Demolition Of A Contributing Structure Principal Building In An H Historic Preservation Overlay District:** ~~In~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing structure principal building, the historic landmark commission shall determine whether the project request substantially complies with the following standards:

1. Standards For Approval Of A Certificate Of Appropriateness For Demolition:

- a. The ~~physical~~ integrity of the site as defined in subsection C15b of this section is no longer evident;

b. The streetscape within the context of the H historic preservation overlay district would not be negatively materially affected if the contributing principal building were to be demolished;

c. The demolition would not create a material adversely affect on the H historic preservation overlay district due to the surrounding noncontributing structures concentration of historic resources used to define the boundaries or maintain the integrity of the district;

d. The base zoning of the site ~~is incompatible with~~ does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;

e. ~~The reuse plan is consistent with the standards outlined in subsection H of this section~~;

~~f-e.~~ The site contributing principal building has not suffered from wilful neglect, as evidenced by the following:

(1) ~~Wilful or negligent acts by the owner that have caused significant deteriorates~~ deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,

(2) ~~Failure to perform normal routine and appropriate maintenance and repairs to~~ maintain the structural integrity of the contributing principal building, or

(3) ~~Failure to diligently solicit and retain tenants, and~~

(4 ~~3~~) ~~Failure to secure and board the structure contributing principal building, if vacant, per section 18.64.045 of this title,; and~~

~~g. The denial of a certificate of appropriateness for demolition would cause an "economic hardship" as defined and determined pursuant to the provisions of subsection K of this section.~~

2. Historic Landmark Commission Determination Of Compliance With Standards Of Approval: ~~The historic landmark commission shall make a decision based upon compliance with the requisite number of standards in subsection L1 of this section as set forth below: If the historic landmark commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the historic landmark commission shall approve the request for a certificate of appropriateness for demolition. If the historic landmark commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the historic landmark commission shall deny the request for a certificate of appropriateness for demolition.~~



~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) of the standards are met, the historic landmark commission shall approve the certificate of appropriateness for demolition.~~

~~b. Denial Of Certificate Of Appropriateness For Demolition: Upon making findings that two (2) or less of the standards are met, the historic landmark commission shall deny the certificate of appropriateness for demolition.~~

~~c. Deferral Of Decision For Up To One Year: Upon making findings that three (3) to five (5) of the standards are met, the historic landmark commission shall defer a decision for up to one year during which the applicant must conduct a bona fide effort to preserve the site pursuant to subsection M of this section.~~

**K. L. Economic Hardship Determination:** Upon denial of a certificate of appropriateness for demolition of a contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship. In the case of a landmark site, an application for determination of economic hardship can be submitted at any time as necessary to meet the standard of subsection J2 of this section.

1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.

2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.

b. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased.

(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years.

(3) Real estate taxes for the previous three (3) years by the Salt Lake County assessor,

(4) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property,

(5) The fair market value of the property taking into consideration the H historic preservation overlay district;

(6) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;

c. The marketability of the property for sale or lease, as determined by any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:

(1) Any real estate broker or firm engaged to sell or lease the property,

(2) Reasonableness of the price in terms of fair market value or rent sought by the applicant, and

(3) Any advertisements placed for the sale or rental of the property,

d. The feasibility of alternative uses for the property as considered in relation to the following:

(1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,

(2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,

(3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and

(4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.

e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

f. Description of past and current use.

g. An itemized report that identifies what is deficient if the building does not meet minimum City building code standards or violations of City code.

h. Consideration of map amendment, conditional use, special exception or other land use processes to alleviate hardship

3. Procedure For Determination Of Economic Hardship: The planning director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the historic landmark commission concerning the value of the property and whether or not the denial of demolition could result in an economic hardship. The extent of the authority of the planning director's appointed qualified expert is limited to rendering advice and testimony to the historic landmark commission. The planning director's appointed qualified expert has no decision making capacity. The planning director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The historic landmark commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the planning director's appointed qualified expert as necessary.

a. Review of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the planning director's appointed qualified expert for determination of economic hardship after receipt of a complete application.

b. Finding of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the planning director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

(1) For demolition of non-residential or multifamily property:

(a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

(2) For demolition of a residential property (single or two family):

(a) The contributing principal building cannot be put to any beneficial use in its present condition.

c. Certificate of Appropriateness for Demolition: If the historic landmark commission finds an economic hardship, a certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to section 21A.10D.

d. Denial of Economic Hardship: If the historic landmark commission does not find an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

(1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.

(2) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~M. Bona Fide Preservation Effort: Upon the decision of the historic landmark commission to defer the decision of a certificate of appropriateness for demolition for up to one year, the applicant must undertake bona fide efforts to preserve the structure. The one year period shall begin only when the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions:~~

- ~~1. Marketing the property for sale or lease;~~
- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision for the certificate of appropriateness for demolition pursuant to subsection F2 of this section. The historic landmark commission shall approve the certificate of appropriateness for demolition and approve, approve with modifications or deny the certificate of appropriateness for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide~~

~~archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.~~

**M. Requirements for Certificate of Appropriateness for Demolition:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is to be replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H historic preservation overlay district standards for new construction,
2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.
3. Submittal of documentation to the planning division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.
  - a. Photographs. Digital or print photographs. Views should include:
    - (1) Exterior views;
    - (2) Close-ups of significant exterior features;
    - (3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.
  - b. Site plan showing the location of the building and site features.

**N. Revocation of the Designation of a Landmark Site:** If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition: Prior to approval of any certificate of appropriateness for demolition the historic landmark commission shall review the postdemolition plans to assure that the plans comply with the standards of subsection H of this section. If the postdemolition plan is to landscape the site, a bond shall be required to ensure the completion of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.~~

- ~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and shall be sufficient to cover the estimated cost, to:~~
  - ~~a) restore the grade as required by [title 18](#) of this code;~~
  - ~~b) install an automatic sprinkling system;~~
  - ~~and c) revegetate and landscape as per the approved plan.~~

~~2. The bond shall require installation of landscaping and sprinklers within six (6) months, unless the owner has obtained a building permit and commenced construction of a building or structure on the site.~~

**Q. O. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous**

**Structures Buildings:** A hazardous ~~structure~~ building shall be exempt from the provisions governing demolition if the building official determines, in writing, that the building currently is an imminent hazard to public safety. ~~Hazardous structures demolished under this section shall comply with subsection P of this section.~~ Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision.

**R. P. Expiration Of Approvals:** Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. ~~(Ord. 67-16, 2016; Ord. 60-15, 2015; Ord. 54-14, 2014; Ord. 58-13, 2013; Ord. 74-12, 2012)~~

## **4. PLANNING COMMISSION**

### **B. Agenda & Minutes**

**August 23, 2017**

# AMENDED SALT LAKE CITY PLANNING COMMISSION MEETING AGENDA

In Room 326 of the City & County Building  
451 South State Street

Wednesday, August 23, 2017, at 5:30 p.m.

(The order of the items may change at the Commission's discretion)

**FIELD TRIP** - The field trip is scheduled to leave at 4:00 p.m.

**DINNER** - Dinner will be served to the Planning Commissioners and Staff at 5:00 p.m. in Room 118 of the City and County Building. During the dinner break, the Planning Commission may receive training on city planning related topics, including the role and function of the Planning Commission.

## **PLANNING COMMISSION MEETING WILL BEGIN AT 5:30 PM IN ROOM 326**

**APPROVAL OF MINUTES FOR AUGUST 9, 2017**

**REPORT OF THE CHAIR AND VICE CHAIR**

**REPORT OF THE DIRECTOR**

## **PUBLIC HEARINGS**

1. **Meadowlark Elementary Rezone at approximately 505 N. Morton Drive** - Tyler Barnes, on behalf of Salt Lake City School District, has requested a zoning map amendment to rezone the parcel at the above listed address from R-1-5,000: Single-Family Residential to PL: Public Lands. Meadowlark Elementary School intends on using this parcel to expand/reconfigure the existing entrance on the east side of the school's site and would like to rezone the parcel to keep the zoning consistent. The rest of the school's site is also zoned Public Lands and the expansion of the entrance is a part of the school's larger project to rebuild the school. The subject property is located within Council District 1, represented by James Rogers. (Staff Contact: Lauren Parisi, Associate Planner, at (801)535-7226 or lauren.parisi@slcgov.com.) Case Number: **PLNPCM2017-00429 (Legislative Matter)**
2. **Centro Civico Senior Housing – Planned Development & Conditional Building and Site Design Review at approximately 145 South 600 West** - Centro Civico Mexicano is requesting to build the Centro Civico Senior Housing project at the above listed address. The proposed 6-story, 61-unit apartment building would be located on a 0.38 acre (16,500 square foot) vacant parcel in the G-MU – Gateway-Mixed Use zoning district. The project would be the first phase of a larger mixed-use project to be built at this location. The G-MU zoning district requires Planned Development approval for all new principal buildings and uses. In addition, Conditional Building and Site Design Review (CBSDR) approval is requested to address some design aspects of the building. The property is located within Council District 4, represented by Derek Kitchen. (Staff contact: David J. Gellner at (801)535-6107 or david.gellner@slcgov.com.) Case Number: **PLNSUB2017-00370 & PLNPCM2017-00525 (Administrative Matter)**
3. **Proshield Planned Development at approximately 206 N 200 West Street** - Kevin Horn, project architect, on behalf of Proshield Insurance Group, property owner, is requesting approval of a planned development at the above listed address. The property, which is zoned CN District and within a Historic Preservation 

<b>POSTPONED</b>
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 corner parcel that contains a vacant building on approximately 0.26 of the property, the applicant intends to construct a mixed-use development with seven residential apartments and one commercial office on the property. The property is located within Council District 3, represented by Stan Penfold. (Staff contact: Michael Maloy, Senior Planner, at (801)535-7118 or michael.maloy@slcgov.com.) Case Number: **PLNSUB2017-00435 (Administrative Matter)**



4. **Goldman Sachs Childcare Conditional Building and Site Design at approximately 421 S Main St.** - Goldman Sachs is renovating an existing commercial structure located at the above listed address into a childcare facility for their downtown employees. The project generally meets the standards of the Zoning Ordinance but has requested relief through the Conditional Building and Site Design process to add a privacy film on the Main Street windows. This would reduce the amount of transparent glass from the required 60 percent to 40 percent. The subject property is located in the D-1 Central Business District and in City Council District 4 represented by Derek Kitchen. (Staff contact: John Anderson at (801) 535-7214 or [john.anderson@slcgov.com](mailto:john.anderson@slcgov.com).) Case Number: **PLNPCM2017-00414 (Administrative Matter)**
5. **Zoning Amendment at approximately 63 (65) South 900 East** - Jon C. Jones is requesting to amend the zoning map at the above listed address to match the adjacent zoning at 63 South 900 East. The entire City Zoning Code was rewritten in 1995 and new zoning districts and maps were created to reflect the City's policy. The landlocked parcel (65 South 900 East) is zoned R-2 Residential. The street fronting parcel (63 South 900 East) is zoned RMF-30. Both lots are used to accommodate a Boarding House. This proposal is to provide the same zoning (RMF-30) on both lots. The petitioner plans on remodeling and upgrading the existing Boarding House. The subject property is within Council District 4 represented by Derek Kitchen. (Staff Contact: Doug Dansie at (801)535-6182 or [doug.dansie@slcgov.com](mailto:doug.dansie@slcgov.com) or Amy Thompson at (801)535-7281 or [amy.thompson@slcgov.com](mailto:amy.thompson@slcgov.com).) Case Number: **~~PLNSUB2017-00361~~ PLNPCM2017-00361 (Legislative Matter)**
6. **Amendments to the Local Historic District Demolition Process** - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traugher at (801)535-6184 or [lex.traugher@slcgov.com](mailto:lex.traugher@slcgov.com).) Case number: **PLNPCM2009-00014 (Legislative Matter)**
7. **Amendments to the New Construction Standards for Local Historic Districts** - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801)535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com).) Case number: **PLNPCM2016-00905 (Legislative Matter)**

### **Work Session**

8. **Conditional Building and Site Design Review for Portions of Block 67 at approximately 100/200 South and 200/300 West** - Dave Abraham of The Richie Group, is requesting to amend the zoning map at 230 W 200 South to rezone the parcel from D-4 to D-1; a conditional use application for a commercial parking structure at 131 S 300 West; a planned development of multiple buildings across both 131 S 300 West and 230 West 200 South (the northwest corner and the southeast corners of block 67), and conditional Building and Site Design Review to modify design requirements. The subject property is within Council District 4 represented by Derek Kitchen. (Staff Contact: Doug Dansie at (801)535-6182 or [doug.dansie@slcgov.com](mailto:doug.dansie@slcgov.com) or Molly Robinson at (801)535-7261 or [molly.robinson@slcgov.com](mailto:molly.robinson@slcgov.com)) Case Numbers: **PLNSUB2017-0000418, PLNPCM2017-00419 and PLNPCM2017-00420), PLNPCM2017-00448 (Administrative Matter)**

*The files for the above items are available in the Planning Division offices, room 406 of the City and County Building. Please contact the staff planner for information, Visit the Planning Division's website at [www.slcgov.com /planning](http://www.slcgov.com/planning) for copies of the Planning Commission agendas, staff reports, and minutes. Staff Reports will be posted the Friday prior to the meeting and minutes will be posted two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Planning Commission. Planning Commission Meetings may be watched live on SLCTV Channel 17; past meetings are recorded and archived, and may be viewed at [www.slctv.com](http://www.slctv.com).*

*The City & County Building is an accessible facility. People with disabilities may make requests for reasonable accommodation, which may include alternate formats, interpreters, and other auxiliary aids and services. Please make requests at least two business days in advance. To make a request, please contact the Planning Office at 801-535-7757, or relay service 711.*

Cromer reviewed different cases that had applied for economic hardship and how different resolutions could have come about for each case to protect the historic structures.

Vice Chairperson Peters closed the Public Comment Period.

[5:39:10 PM](#)

**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number: PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The number of experts an applicant could have versus the city to argue a petition.
- The different process to approve, deny or move to economic hardship.
- How a demolition request tied into a reuse plan.
- If something was required to be constructed in order to receive a demolition approval.
- Were there situations where a building could be demolished and a park or public area be put in its place.
- The time limit requirement for reconstruction.
- The definition of willful neglect and how to clarify the language in the ordinance.
- The standards for adaptive reuse and how base zoning affected the reuse.
- The next steps for the proposal and the language for the motion.

**PUBLIC HEARING** [6:20:52 PM](#)

Vice Chairperson Peters opened the Public Hearing.

The following individuals spoke to the petitions: Ms. Cindy Cromer

The following comments were made:

- Pleased to see landscaping was removed as an approved reuse.
- It was unacceptable to demolish a historic structure for landscaping.
- An out of state person should be hired in lieu of the economic hardship panel.

- The special merit exception would not work for Salt Lake as the preservation in the city did not support it and it would open the door for demolition.

Vice Chairperson Peters closed the Public Hearing.

The Commission and Staff discussed the following:

- If a motion was needed for each change.
- If the special merit should be sent to the Mayor or left as suggested by Staff.
- The evidence to determine economic hardship and items that should be considered.

The Commissioners discussed the following:

- The definition of willful neglect.
- The Special Merit Exception and if it should be part of the petition.
- Changes to language regarding the balance of a mortgage in the economic hardship application.

#### **MOTION [6:30:29 PM](#)**

**Commissioner Richardson stated based on the analysis and findings listed in the Staff Report, testimony, the proposal presented, and the input received during the public hearing, he moved that the Historic Landmark Commission recommend the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission found that the proposed amendments complied with the review standards as demonstrated in Attachment B of the Staff Report dated July 6, 2017. With the two exceptions to strike (on page one) the final eight words under willful neglect, (leading to significant structural weakness, decay or deterioration). Strike (on page nine) item L.2.b.3, which discusses remaining balances on any mortgage etc.**

**\*\*\*\* For clarification purposes the proposed changes to the language in the ordinance would read as follows.**

Willful Neglect: The intentional absence of routine maintenance and repair of a building over time.

21A.34.020.L2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

- a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.
- b. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between applicant, and the person from whom the property was purchased,

(2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,

The Commission discussed the language being removed under willful neglect.

**Commissioner Hyde seconded the motion. Commissioners, Hyde, Harding, Richardson and Stowell voted “aye”. Commissioner Adams voted “nay”. The motion passed 4-1.**

[6:33:27 PM](#)

**Amendments to the New Construction Standards for Local Historic Districts - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801)535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com).) Case number: PLNPCM2016-00905**

Mr. Anthony Riederer, Principal Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The process for determining how a project framed adjacent streets.
- The proposal to restrict building materials and why some materials were and were not preferred.

**PUBLIC HEARING** [6:46:31 PM](#)

Vice Chairperson Peters opened the Public Hearing, seeing no one wished to speak, Vice Chairperson Peters closed the Public Hearing.

The Commission and Staff discussed the following:

- Wording in the proposal under 1.c, the word “frame” was confusing and should be changed to “relates to” or “engages with the sidewalks”.
- The materials that should be restricted or reviewed on a case by case basis.