



Staff Report

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Appeal Hearing Officer
From: Mayara Lima, Principal Planner
(801) 535-7118 or mayara.lima@slcgov.com
Date: February 13, 2019
Re: PLNHLC2019-00132- Minor Alteration

Appeal of Historic Landmark Commission Decision

PROPERTY ADDRESS: 171 W 300 N

PARCEL ID: 08-36-404-001

ZONING DISTRICT: RMF-35 Moderate Density Multi-Family Residential District & Capitol Hill
Local Historic Preservation Overlay District

ORDINANCE SECTIONS: Section 21A.34.020 (H Historic Preservation Overlay District)

APPELLANT: Property owner Preserve Partners INC

APPEAL ISSUES: Preserve Partners INC, property owner, is appealing the decision of the Historic Landmark Commission to deny a certificate of appropriateness for a Minor Alteration to retroactively approve paint that has already been applied to three facades of the building at 171 W 300 N. The appeal is based on the following issues:

1. Appellant's Argument Pertaining to "Organization of Title, Authority, Purpose and Intent" of Title 21A.
2. Appellant's Argument Pertaining to the Commission's "Creation, Jurisdiction and Authority".
3. Appellant's Argument Pertaining to the Design Guidelines.
4. Appellant's Argument Pertaining to the Cost of Removing Applied Paint.

Please see the City Attorney's brief, [Attachment B](#) of this document, for a response to the issues identified in this appeal.

STANDARDS OF REVIEW: As per the following City Code, the Appeal Hearing Officer's decision must be based on the record available to the Historic Landmark Commission at the time the original decision was made:

21A.16.030.E. Standard of Review:

2. An appeal from a decision of the historic landmark commission or planning commission shall be based on the record made below.

- a. No new evidence shall be heard by the appeals hearing officer unless such evidence was improperly excluded from consideration below.
- b. The appeals hearing officer shall review the decision based upon applicable standards and shall determine its correctness.
- c. The appeals hearing officer shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.

Also, whereas this is an appeal of a Historic Landmark Commission decision, no public hearing will be held and no public testimony will be received. (Section 21A.16.030.D.2)

BACKGROUND: The attached Historic Landmark Commission Staff Report and Memorandums provide the background on this project (see [Attachment C](#)).

HISTORIC LANDMARK COMMISSION'S DECISION: On June 6, 2019, the Historic Landmark Commission held a public hearing to consider the request. At that meeting, the Commission voted to table the matter in order to allow the applicant time to obtain a report, provided by a qualified contractor, showing the viability of removing the paint from the building.

On September 5, 2019, the Historic Landmark Commission held a second meeting and considered the report provided by the applicant. The report indicated that the paint could be removed and estimated the cost of the work. Due to a confusion with the public notices, the Commission voted to table the request and reopen the public hearing at a later date.

On October 3, 2019, the Historic Landmark Commission reopened the public hearing. Following testimony and discussion, the Commission made a decision consistent with the Staff Report and denied the certificate of appropriateness for a Minor Alteration to retroactively approve paint that has already been applied to three facades of the building.

NEXT STEPS: If the Appeals Hearing Officer upholds the Historic Landmark Commission decision, the Commission's decision will stand and a Certificate of Appropriateness for a Minor Alteration to retroactively approve paint that has already been applied to three facades of the building will not be issued.

If the Appeals Hearing Officer reverses the Historic Landmark Commission decision and finds that the request meet the standards of review, a Certificate of Appropriateness for a Minor Alteration to retroactively approve paint that has already been applied to three facades of the building will be issued.

A decision to uphold or reverse the Commission's decision may be appealed to 3rd District Court. An appeal to District Court must be filed within 30 days of the Appeal Hearing Officer's decision.

ATTACHMENTS:

- A. [Appeal Application](#)
- B. [Salt Lake City Attorney Response](#)
- C. [Historic Landmark Commission Staff Report and Memorandums](#)
- D. [Historic Landmark Commission Minutes](#)
- E. [Record of Decision Letter](#)
- F. [Standards for Minor Alterations](#)

ATTACHMENT A: Appeal Application



Appeal of a Decision

SALT LAKE CITY PLANNING

OFFICE USE ONLY

Project # Being Appealed: <i>PCNHLC 2019-00132</i>	Received By: <i>A. Anglin</i>	Date Received: <i>11/13/19</i>
Appealed decision made by:		
<input type="checkbox"/> Planning Commission	<input type="checkbox"/> Administrative Decision	<input checked="" type="checkbox"/> Historic Landmark Commission
Appeal will be forwarded to:		
<input type="checkbox"/> Planning Commission	<input type="checkbox"/> Appeal Hearing Officer	<input type="checkbox"/> Historic Landmark Commission
Project Name: <i>Appeal PCNHLC 2019-00132</i>		

PLEASE PROVIDE THE FOLLOWING INFORMATION

Decision Appealed: <i>PLNHLC 2019-00132</i>	
Address of Subject Property: <i>171 W. 300 N. Salt Lake City, UT 84103</i>	
Name of Appellant: <i>Preserve Partners, Inc</i>	Phone: [REDACTED]
Address of Appellant: <i>8833 So Redwood Rd STC</i>	
E-mail of Appellant: <i>MA@ascentlawfirm.com</i>	Cell/Fax: [REDACTED]
Name of Property Owner (if different from appellant): <i>N/A</i>	
E-mail of Property Owner: <i>N/A</i>	Phone: <i>N/A</i>
Appellant's Interest in Subject Property: <i>Owner</i>	

AVAILABLE CONSULTATION

Please call (801) 535-7700 if you have any questions regarding the requirements of this application.

APPEAL PERIODS

An appeal shall be submitted within ten (10) days of the decision.

REQUIRED FEE

Filing fee of \$259, plus additional fee for required public notices.
Additional fees for multiple

SIGNATURE

If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent: <i>Karen Bushman / authorized agent</i>	Date: <i>11/1/2019</i>
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SUBMITTAL REQUIREMENT

See Attached

A written description of the alleged error and the reason for this appeal.

WHERE TO FILE THE COMPLETE APPLICATION

<i>Mailing Address:</i> Planning Counter PO Box 145471 Salt Lake City, UT 84114	<i>In Person:</i> Planning Counter 451 South State Street, Room 215 Telephone: (801) 535-7700
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INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

_____ I acknowledge that Salt Lake City requires the items above to be submitted before my application can be processed. I understand that Planning will not accept my application unless all of the following items are included in the submittal package.

Additional Guidelines for Those Appealing a Planning Commission or Landmarks Commission Decision

A person who challenges a decision by the Planning Commission or the Landmarks Commission bears the burden of showing that the decision made by the commission was in error.

The hearing officer, according to state statute, must assume that the decision is correct and only reverse it if it is illegal or not supported by substantial evidence in the record.

“Substantial evidence” means information that is relevant to the decision and credible. Substantial evidence does not include public clamor and emotion. It involves facts and not mere speculation. A witness with particular expertise can provide substantial evidence, but conjecture and public opinion alone are not substantial evidence.

The “record” includes information, including the application by the person seeking approval, the staff report, the minutes of the meeting, and any information submitted to the commission by members of the public, the applicant or others, before the decision was made. It does not include facts or opinion, even expert opinion, expressed after the decision is made or which was not available to the commission at the time the decision was made.

A decision is “illegal” if it is contrary to local ordinance, state statute or case law, or federal law. An applicant is entitled to approval if the application complies with the law, so a person challenging a denial should show that the application complied with the law; a person challenging an approval should show that the application did not conform to the relevant law. Issues of legality are not restricted to the record of the decision, but the facts supporting or opposing the decision are limited to those in the record.

With regard to the factual information and evidence that supports a decision, the person bringing the appeal, according to a long line of decisions handed down by the Utah State Supreme Court and the Court of Appeals, has a burden to “marshal the evidence” and then to demonstrate that the evidence which has been marshaled is not sufficient to support the decision.

The appellant is therefore to:

1. Identify the alleged facts which are the basis for the decision, and any information available to the commission when the decision is made that supports the decision. Spell it out. For example, your statement might begin with: “The following information and evidence may have been relied upon by the Commission to support their decision . . .”
2. Show why that basis, including facts and opinion expressed to the commission is either irrelevant or not credible. Your next statement might begin with: “The information and evidence which may have been relied upon cannot sustain the decision because . . .”

Michael R. Anderson, JD (15440)
ASCENT LAW, LLC
8833 S. Redwood Road, Suite C
West Jordan, Utah 84088
Telephone: (801) 676-5506
Facsimile: (801) 676-5508
office@ascentlawfirm.com

Attorney for Preserve Partners

**BEFORE THE HISTORIC PLANNING COMMISSION
OF THE SALT LAKE CITY PLANNING AND ZONING DEPARTMENT
SALT LAKE CITY, STATE OF UTAH**

HISTORIC PLANNING COMMISSION,

Charging Authority,

vs.

PRESERVE PARTNERS,

Respondent.

**APPEAL OF THE HISTORIC
LANDMARK COMMISSION'S
DECISION DENYING MINOR
ALTERATION REQUEST OF
PRESERVE PARTNERS TO THE
MAYOR**

PLNHLC2019-00132

HLC Public Hearing: October 3, 2019

TO THE MAYOR OF SALT LAKE CITY: JACQUELINE M. BISKUPSKI

Salt Lake City Mayor
451 South State Street, Room 306
Post Office Box 145474
Salt Lake City, Utah 84414-5474

This is the Appeal of the Salt Lake City Historic Landmark Commission's October 4, 2019 denial of the Minor Alternation Request filed by Preserve Partners. A true and correct copy of the Record of Decision is attached hereto as Exhibit "A."

Preserve Partners, Respondent, by and through undersigned counsel, Michael R. Anderson, JD, of Ascent Law, LLC hereby submits this Appeal and this Memorandum of Law as to the

applicability of the city ordinances of Salt Lake City, State of Utah on the issue of the application of exterior paint to three sides of a brick building that is located in the Capitol Hill Historic District, which is also defined by the Corporation of Salt Lake City as a part of the city's H – Historic Preservation Overlay District. Based on the plain language of the law, the Salt Lake City Historic Landmark Commission has erred in denying Preserve Partner's Minor Alteration Request. Counsel for Respondent submits the following:

RELEVANT FACTS

1. The brick building, that is the subject of this inquiry, is part of the commercial/residential property known as the Arches Apartments with a designated location of: 171 West 300 North, Salt Lake City, Utah 84103. The building is located in the historic Capitol Hill Historic District; however, it is not registered as an historical landmark.
2. An application of exterior paint was applied to three sides of the exterior of a brick building that is part of the Arches Apartments, as part of the routine and necessary building maintenance, in order to preserve the building structure from the outside elements.
3. Sometime on or after the application of the exterior paint, Preserve Partners was notified by the Civil Enforcement Building Department of Salt Lake City, State of Utah that the application of the paint to the exterior three walls of the building was a violation of Title 21A of the City Ordinances of Salt Lake City, State of Utah ("SLC Code")
4. A representative of Preserve Partners contacted the Civil Enforcement Building Department about the violation and the representative was directed to the Salt Lake City Planning and Zoning Department for inquiry.

5. The representatives of Preserve Partners met with Mayara Lima, a representative from the Salt Lake City Planning and Zoning Department where they were informed by Ms. Lima that the paint had to be removed from the exterior three walls of the building or, as a second option, the matter be could escalated to the Historic Planning Commission (hereinafter referred to as the "HLC" or as the Historic Landmark Commission).
6. At some point, after the application of the exterior paint, the representatives from Preserve Partners were given a pamphlet or reference material so titled as "A Preservation handbook for Historic Residential Properties & Districts" which the HLC distributes.
7. The representatives of Preserve Partners chose to escalate the matter to the HLC. Since the first escalation to the HLC, there have been two public hearings, with the last being held on September 6, 2019 at which the HLC suspended the matter until a final public hearing, to be held on October 3, 2019.
8. Thus far, the HLC has requested Preserve Partners to remove the exterior paint from the three outside exterior walls, in which such would be an extreme costly endeavor for which Preserve Partners neither has the time nor the resources to expend.
9. Preserve Partners applied for a minor alteration for painted masonry at 171 West 300 North.
10. On October 4, 2019, the HLC issued a Record of Decision denying Preserve Partners application for a minor alternation for painted masonry at 171 West 300 North.
11. Preserve Partners has conducted legal research as to the applicability of Title 21A of the SLC Code on the issue of the exterior paint and the alleged violation and, based on the Code, the paint should be allowed as it fully and completely is in line with the general purpose and the zoning ordinances.

12. Based on the foregoing, counsel for Preserve Partners submits the following:

LEGAL ARGUMENT

I. TITLE 21A - ORGANIZATION OF TITLE, AUTHORITY, PURPOSE AND INTENT

The organization of title 21A as outlined in SLC Code 21A.04.010 establishes three types of zoning districts within the city limits with the third district being defined as the "overlay districts."

"Overlay districts consist of regulations that address specific subjects that may be applicable in a variety of areas in the city, such as historic areas or environmentally sensitive areas." SLC Code 21A.04.010:B

The authority of the city, as granted or designated by the State of Utah over such districts is defined in SLC Code 21A.02.20 which states as follows:

"The City Council of Salt Lake City adopts this title pursuant to the Municipal Land Use Development and Management Act, title 10, chapter 9, of the Utah Code Annotated or its successor, and such other authorities and provisions of Utah statutory and common law that are relevant and appropriate. (Ord. 26-95 §2(1-2), 1995)."

Title 21A.02.050:A outlines the applicability of the title and its subsequent chapters as follows:

"General Applicability: The provisions of this title shall apply to all of the land area within the corporate limits of Salt Lake City, as indicated on the zoning map as provided in chapter 21A.22 of this title. Except as expressly provided in this title, no development shall be undertaken without prior zoning approval pursuant to the provisions of this title."

The only types of real property to be had within the city limits and the title which may be found to be a total exception to the code to fall under other jurisdictional authorities include: 1). Properties of the State of Utah or Federal Government; 2). Utility Installations; 3). Railroad facilities and, 4).

School districts and charter schools. *See* SLC Code 21A.02.050:B and Utah Code Ann. § 10-9a-305 (1953, as amended)

Title 21A.02.030 of SLC Code outlines the purpose and the drafter's intent of this particular title as follows:

"The purpose of this title is to promote the health, safety, morals, convenience order, prosperity and welfare of the present and future inhabitants of Salt Lake City, to implement the adopted plans of the City, and to carry out the purposes of the Municipal Land Use Development and Management Act, title 10, chapter 9, of the Utah Code Annotated or its successor, and other relevant statutes. This title is, in addition, intended to: A. Lessen congestion in the streets or roads; B. Secure safety from fire and other dangers; C. Provide adequate light and air; D. Classify land uses and distribute land development and utilization; E. Protect the tax base; F. Secure economy in governmental expenditures; G. Foster the City's industrial, business, and residential development; and H. Protect the environment (Ord. 26-95 § 2(103), (1995). "

Based on the foregoing, Title 21A of the SLC Code, wherein the organization, authority, purpose and intent are outlined above, appears, as plainly written with the drafter's intent in mind, going to the plan language of the governing statute and city title, as a matter of law, to only apply to the original planning, development, further expansion, and structural modification of buildings and structures to be found within the city limits of Salt Lake City, State of Utah. So far, no reference is made to simple external improvements such as the simple application of an exterior paint, approved by the environmental protection agency ("EPA") to three outside walls of a brick building. Indeed such may not constitute "development" by the legal definition of the word and such act may not be found to have affected, in a substantial derogatory manner, the overlay district, or to be an impediment to the overlay district, or to be a direct violation of this title, so far as its purpose and intent have been defined. Preserving and protecting real property through standard maintenance does "promote the health, safety, morals, convenience, order, prosperity and welfare"

of the inhabitants of Salt Lake City as is the purpose of the code. Accordingly, the actions of Preserve Partners should be permitted.

II. THE HISTORIC LANDMARK COMMISSION – CREATION, JURISDICTION AND AUTHORITY

"Creation: The historic landmark commission was created pursuant to the enabling authority granted by the historic district act, section 11-18-1 et seq., of the Utah Code Annotated, 1953 (repealed), and continues under the authority of the land use development and management act, Utah code chapter 10-9a." SLC Code 21A.06.050:B

Section C of SLC Code 21A.06.050 outlines in detail the jurisdiction and authority of the Historic Landmark Commission as follows:

"Jurisdiction and Authority: The historic landmark commission shall: 1. Review and approve or deny an application for a certificate of appropriateness pursuant to the provisions of chapter 21A.34 of this title; 2. Participate in public education programs to increase public awareness of the value of historic, architectural and cultural preservation; 3. Review and approve or deny applications for the demolition of structures in the H historic preservation overlay district pursuant to chapter 21A.34 of this title; 4. Recommend to the planning commission the boundaries for the establishment of an H historic preservation overlay district and landmark sites; 5. Make recommendations when requested by the planning commission, the hearing officer or the city council, as appropriate, on applications for zoning amendments and conditional uses involving H historic preservation overlay districts and landmark sites; 6. Review and approve or deny certain special exceptions for properties located within an H historic preservation overlay district. The certain special exceptions are listed as follows: a. Building wall height; b. Accessory structure wall height; c. Accessory structure square footage; d. Fence height; e. Overall building and accessory structure height; f. Signs pursuant to section 21A.46.070 of this title; and g. Any modification to bulk and lot regulations of the underlying zoning district where it is found that the underlying zoning would not be compatible with the historic district and/or landmark site; 7. Make recommendations to the planning commission in connection with the preparation of the general plan of the city; and 8. Make recommendations to the City Council on policies and ordinances that may encourage preservation of buildings and related structures of historical and architectural significance.

In the Statement of Intent, under 21A.34.010 so titled General Provisions, under Overlay Districts, subsection A it states that "Whenever there is a conflict between the regulations of a base zoning district and those of an overlay district, the overlay district regulations shall control. It should also be noted that under Title 21A.04.020 so titled as INTERPRETATION, the word "shall" is indicated as being mandatory while the word "may" is permissive. Since it is permissive, the actions taken by Preserve Partners should be permitted here because it furthers the purpose of the Code, which is to "promote the health, safety, morals, convenience, order, prosperity and welfare" of the inhabitants of Salt Lake City

III. THE DESIGN GUIDELINES

Chapter 2 or Part II of the handbook which was presented to Preserve Partners by the HLC, almost as an afterthought, is titled as the "Design Guidelines." Under 21A.34.020, titled as the HISTORIC PRESERVATION OVERLAY DISTRICT, under subsection B, titled as Definitions, it states:

"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."

By definition a guideline is a statement or a plan by which to determine a course of action. A guideline aims to streamline a particular process according to a routine or sound practice. However, by definition following a guideline is never mandatory. Also, while it does state in under DESIGN GUIDELINES, that the city council of Salt Lake City has adopted such guidelines, it

does not necessarily state, by the plain language of the SLC Code, that the Design Guidelines are made part of the SLC Code where a violation may be found of the same by the routine maintenance of applying some exterior paint to the exterior three walls of a brick building located in the overlay district. Indeed, such seems to be an error in the interpretation of the law as the Salt Lake City Council has only adopted the guidelines.

All references to the SLC Code, going to the drafters intent indicates that these particular sections and subsections, to include those applicable to the overlay (historic) district were meant to apply only to the original planning, development, further expansion, and structural modification of buildings and structures. The Design Guidelines are just that, Design Guidelines, and, by such interpretation, are not mandatory. If the Design Guidelines were meant to be mandatory, then it is the city's responsibility to rewrite the law in a more definite and concise form so that the plain language of the code would indicate the mandatory intent of the Design Guidelines. However, as they now stand, according to the plain language of the SLC Code itself, the Design Guidelines may only be interpreted, as a matter of law, to not be mandatory.

It also should be noted that, according to the Design Guidelines, reasonable changes that meet current needs of properties located within the Historic Preservation Overlay District should and must be allowed for. This should include the exterior paint which has already been applied to the three exterior brick walls of the Arches Apartments.

IV. REMOVING THE PAINT WOULD BE COSTLY AND EXPENSIVE, AND, MOST LIKELY, WILL CAUSE FURTHER DAMAGE TO THE BUILDING

With regard to brick masonry, the Design Guidelines do state that "Masonry that was not painted traditionally should not be painted." While it would have been ideal for all of the departments and Preserve Partners to have had a little chat about the exterior paint before the

application thereof, what has been done has been done. Further, the plain language of the SLC Code is clear in the fact that the Design Guidelines are not mandatory, regardless of what each department within Salt Lake City Corporation is construing to be the actual law. Further, if the city is going to misinterpret the Design Guidelines as the law, then, by law, the city must allow for "reasonable changes that meet current needs of properties located within the Historic Preservation Overlay District." The three exterior walls of the Arches Apartments fall into this category and the city must allow for "reasonable change."

Three exterior brick walls needed painting, so they were painted with a high grade, EPA approved exterior paint as part of the regular maintenance of the property, largely conforming to the original design and color of the overall property, in order to protect, enhance and improve the overall value of the property. This paint does not destroy the look and feel of the area. This paint does not harm the porous bricks. This paint only improves the area, lives and those living in Salt Lake City. This specifically follows the Code's purpose. For the City to now require that the paint be removed would not only be excessively costly to harm the Respondent, but it would harm the city itself, making the city less beautiful and less than it should be contrary to the Code's purpose. Indeed, this does not allow for reasonable change, and may further damage the exterior walls to the point of degradation. This would end up contrary to the code's purpose. Brick is porous so paint typically will sink into all grooves of the surface. Brick cannot be scraped like wood and, instead, the paint must be stripped. Stripping the brick with a chemical substance will most likely be required where multiple applications of stripper and scrubbing could further degrade both the brick and masonry affecting the overall structure. Based on the foregoing, at this point, the city

council and members of the HLC, as a demonstration of "reasonableness" should allow for the paint already applied to the exterior walls to endure.

CONCLUSION

The applicable sections of the SLC Code, according to the plain language and the drafter's intent, do not state with certainty that the Design Guidelines are part of the SLC Code. The Design Guidelines have been adopted by the Salt Lake City Council and, by such, are adopted only and are not, by any legal standard, codified or made part of the code by reference as specifically stated or outlined. Guidelines, as they are such, are not to be interpreted as mandatory and they are, just simply that, guidelines only and, based on such, there has been no direct violation of the city code by Preserve Partners or otherwise. Still, the Design Guidelines as administered through the HLC as part of the Planning and Zoning Dept. of Salt Lake City Corp. to oversee the building, planning and modification to the buildings and existing structures located in the overlay district must allow for "reasonable change." Such reasonable change or reasonableness, if you will, would be to allow the exterior paint to endure as stripping the brick may cause the structure to disintegrate. Further, government cannot reasonably be meant to construe that a person may not paint the outside walls of a building which they own and be found in violation of the law where such intent was meant to improve, protect and add value to the property. Such oversteps the bounds of what the law is meant to do, which is not to constrict its citizens past the point of reasonable decision and, instead, "should promote the health, safety, morals, convenience order, prosperity and welfare of the present and future inhabitants of Salt Lake City" as the drafters intent of the SLC Code meant it to be so.

Accordingly, based on the foregoing, Respondent Preserve Partners appeals the decision of the Salt Lake City Historic Landmark Commission to allow a Minor Alteration for Painted Masonry at 171 West 300 North. Preserve Partners specifically requests that the Mayor overturn the decision of the Salt Lake City Historic Landmark Commission and approve the application. This will preserve and promote the health, safety, morals, and beauty of the City.

RESPECTFULLY SUBMITTED this 1st day of November, 2019.

ASCENT LAW, LLC

/s/ Michael Anderson
Attorney for Preserve Partners
Respondent

CERTIFICATE OF SERVICE

I hereby certify that on 1st day of November, 2019, a true and correct copy of the foregoing document was served to the persons and in the manner below:

Mayara Lima, Principal Planner
Planning Division – Salt Lake City
451 South State Street, Room 406
Post Office Box 145480
Salt Lake City, Utah 84114-5480

U.S. mail, first-class, postage prepaid
 Facsimile
 Electronic Filing
 Hand Delivery
 Overnight courier

Jacqueline M. Biskupski
Salt Lake City Mayor
451 South State Street, Room 306
Post Office Box 145474
Salt Lake City, Utah 84414-5474
mayor@slcgov.com

U.S. mail, first-class, postage prepaid
 Facsimile
 E-mail
 Hand Delivery
 Overnight courier

/s/ Janice Stucki

ATTACHMENT B: Salt Lake City Attorney Response

ADMINISTRATIVE HEARING OF A LAND USE APPEAL
(Case No. **PLNHLC2019-01035**)
(Appealing Petition No. PLNHLC2019-00132)
February 13, 2020

Appellant:	Preserve Partners
Decision-making entity:	Salt Lake City Historic Landmark Commission
Address Related to Appeal:	171 West 300 North Street
Request:	Appealing the historic landmark commission’s denial of a certificate of appropriateness for a minor alteration to paint three masonry façades of a multi-family structure.
Brief Prepared by:	Paul C. Nielson, Senior City Attorney

Historic Preservation Appeal Authority’s Jurisdiction and Authority

Salt Lake City Code Section 21A.16.020 allows a land use applicant who wishes to appeal a decision of the Salt Lake City Historic Landmark Commission the option of either having an appeals hearing officer or the city’s historic preservation appeal authority hear and decide the appeal. *Salt Lake City Code* Section 21A.06.080 establishes that the historic preservation appeal authority is the Salt Lake City Mayor. In this matter, Preserve Partners (“Appellant”) initially opted to have the historic preservation appeal authority hear and decide this matter, however, due to the timing of a change in mayoral administrations, Appellant subsequently opted to have the matter heard by an appeals hearing officer.

Standard of Review for Appeals to the Historic Preservation Appeal Authority

In accordance with Section 21A.16.030.A of the *Salt Lake City Code*, an appeal of the historic landmark commission “shall specify the decision appealed, the alleged error made in

connection with the decision being appealed, and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in District Court.” It is the appellant’s burden to prove that the decision made by the land use authority was erroneous. (Sec. 21A.16.030.F). Moreover, it is the appellant’s responsibility to marshal the evidence in this appeal. Carlsen v. City of Smithfield, 287 P.3d 440 (2012), State v. Nielsen, 326 P.3d 645 (Utah, 2014), and Hodgson v. Farmington City, 334 P.3d 484 (Utah App., 2014).

“The Appeals Hearing Officer or Historic Preservation Appeal Authority shall review the decision based upon applicable standards and shall determine its correctness.” (Sec. 21A.16.030.E.2.b). “The Appeals Hearing Officer or Historic Preservation Appeal Authority shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.” (Sec. 21A.16.030.E.2.c).

This case deals with application of Section 21A.34.020.G (Standards for Certificate of Appropriateness for Alteration of a Landmark Site or Contributing Structure Including New Construction of an Accessory Structure) of the *Salt Lake City Code*. Video of the commission’s June 6, 2019, September 5, 2019, and October 3, 2019 public meetings are part of the record of this matter and are found, respectively, at <https://www.youtube.com/watch?v=twccsthy9dg> (from 17:36 to 56:22), <https://www.youtube.com/watch?v=FRwzEymXaQ8&list=UUqynFcxRXAgQ7kBMVDaZt8A&index=44> (11:55 to 38:50), and <https://www.youtube.com/watch?v=p4Vr8GtIpaY&list=UUqynFcxRXAgQ7kBMVDaZt8A&index=37> (12:36 to 1:05:18).

Background

This matter was initially heard by the historic landmark commission on June 6, 2019 on a petition by Appellant for a certificate of appropriateness for a minor alteration to a contributing structure, namely to allow paint previously applied to the masonry of three façades of a multi-family dwelling located at 171 West 300 North Street (the “Property”).

Planning division staff prepared a report for the historic landmark commission’s June 6, 2019 meeting in which staff determined that the proposal to allow the painted masonry did not meet the standards for approving a certificate of appropriateness. (See Planning Division Staff Report Dated June 6, 2019).

At its June 6, 2019 meeting, the historic landmark commission heard presentations from planning division staff, the applicant, and received testimony from members of the public. Following these presentations and testimony, the commission voted to table the matter until they could receive additional information on the viability of removing the paint that had already been applied to the masonry. (See Video of June 6, 2019 Historic Landmark Commission Meeting at 53:19 to 56:22).

The commission held a public meeting on September 5, 2019, at which they received additional information regarding the removal of the paint applied to the masonry at the Property. Planning division staff prepared a report that included correspondence from Abstract Masonry Restoration, which indicated that it is possible to remove the paint, while preserving the integrity of the mortar, at a cost of \$58,280. (See Correspondence from Abstract Masonry Restoration dated August 6, 2019 and August 14, 2019 included in the Planning Division Staff Report dated September 5, 2019).

At the September 5, 2019 meeting, it was discovered that notice had been given that a public hearing would be held at the September 5, 2019 meeting, despite the agenda stating that there would be no public hearing on the matter. For that reason, the commission voted to postpone a decision on the matter until its October 3, 2019 meeting at which a public hearing would be held. (See Video of September 5, 2019 Historic Landmark Commission Meeting at 35:02 to 36:28).

At its October 3, 2019 public meeting, the historic landmark commission received additional presentations from planning division staff and the applicant, and reopened the public hearing. Following the presentations and testimony, the commission voted to deny the application based on the findings and rationale presented by planning division staff, as those findings were presented in the October 3, 2019 staff report (which report also included the June 6, 2019 and September 5, 2019 staff reports). (See Video of October 3, 2019 Historic Landmark Commission Meeting at 1:03:24 to 1:04:33).

On December 1, 2019, Appellant filed an appeal of the commission's decision denying Appellant's petition for a certificate of appropriateness for minor alteration to allow painted masonry on three façades of the multi-family structure on the Property.

Discussion

Appellant's appeal presents four arguments which seem to be: **1)** that Sections 21A.04.010 (Organization of Title), 21A.02.020 (Authority), 21A.02.050 (Applicability), and 21A.02.030 (Purpose and Intent) of the *Salt Lake City Code* do not regulate the application of paint to structures; **2)** that the Statement of Intent in Section 21A.34.010 pertaining to overlay districts should allow Appellant to paint the masonry of the multi-family structure on the

Property; 3) that the applicable design guidelines are not mandatory and, therefore, do not prohibit painting the subject masonry; and 4) that the cost of removing the applied paint is too high. These arguments are addressed below.

A. Appellant’s Argument Pertaining to “Organization of Title, Authority, Purpose and Intent” of Title 21A.

Appellant’s preliminary argument, as contained in Part I of its appeal brief is a collection of citations introductory provisions of Title 21A of the Salt Lake City Code that are a bit challenging to connect. The city believes that the intent of Appellant’s initial argument is, as stated on page 5 of its brief, that Title 21A only regulates certain structural development activity and does not regulate the application of paint to structural surfaces. (See Appellant’s Brief at p. 4-6)

This argument completely ignores that not only does Subsection 21A.34.020.G.7 specifically state that “[c]hemical or physical treatments...that cause damage to historic materials shall not be used”, but that the *Salt Lake City Code* regulates design throughout Title 21A, including the majority of Section 21A.34.020 and chapter (21A.37) specifically adopted for that purpose. Planning division staff specifically found that the proposal to allow the painted masonry did not comply with four of the relevant standards set forth in Subsection 21A.34.020.G. (See Planning Division Staff Report Dated June 6, 2019 at Attachment E).

Part I of Appellant’s brief misses the mark as it ignores the pertinent, substantive provisions of the city’s land use regulations. Accordingly, Appellant’s first argument fails to provide credible arguments and should be rejected.

B. Appellant’s Argument Pertaining to the Commission’s “Creation, Jurisdiction and Authority”.

Part II of Appellant’s brief is, frankly, difficult to comprehend. It cites Section 21A.06.050 of the *Salt Lake City Code*, which establishes the general “jurisdiction and authority” of the historic landmark commission and then jumps to intent language in Section 21A.34.010 regarding conflicts of law between overlay district regulations and those of the underlying zoning districts, and then jumps to the permissive and mandatory nature of “may” and “shall”, and then lands on the conclusion that because some unidentified provision is permissive, painting masonry is apparently consistent with Title 21A’s purpose statement. (See Appellant’s Brief at p. 6-7).

Appellant should, at the very least, clarify what this argument means. However, even if Even if Appellant can clarify this argument, it should be noted that, while the policy pronouncements found in purpose statements are often helpful in setting context of the substantive provisions of ordinances and may serve to clarify ambiguities, the Supreme Court of Utah, in Price Development Co. v. Orem City, 995 P.2d 1237 (Utah 2000) held that “a preamble is nothing more than a statement of policy which confers no substantive rights.” Id. at 1246.¹ That court further stated that “[w]hile some statutes have a policy section and some have a preamble, the effect to be given these provisions is the same: they provide guidance to the reader as to how the act should be enforced and interpreted, but they are not a substantive part of the statute.” Id. (citing Norman J. Singer, *Sutherland Statutory Construction* §§ 20.03, 20.12 (5th ed.

¹ Plaintiff’s claim that the legislative purpose statements (or “preambles”) preceding the substantive provisions of the Local Sales and Use Tax Act should be given equal weight as the substantive provisions was rejected by the court.

1993)). Thus, the Statement of Intent cited by Appellant should be considered as helpful guidance and not as a substantive requirement or standard.²

Whatever Appellant's second argument may be, it doesn't seem to address anything relevant to the applicable standards and should be rejected.

C. Appellant's Argument Pertaining to the Design Guidelines.

Appellant's third argument is that the Design Guidelines for Historic Apartment & Multifamily Buildings in Salt Lake City are not mandatory, and should, therefore, not be treated as mandatory. (See Appellant's Brief at p. 7-8). This argument would have the appeals hearing officer ignore the actual code standards relied upon by the planning division staff and the commission when it adopted staff's findings.

Staff's findings with respect to the applicable standards are found in Attachment E of the June 6, 2019 staff report, which conclude that the application failed to meet the standards set forth in Subsections 21A.34.020.G.2, 21A.34.020.G.5, 21A.34.020.G.7, and 21A.34.020.G.9 of the code. While it is true that the staff report cites the guidelines and it is also true that the guidelines do not stand on their own, the definition of "Design Guidelines" set forth in Subsection 21A.34.020.B of the code (as noted by Appellant on p. 7 of its brief) stated that the guidelines "provide guidance for the interpretation of the zoning ordinance standards." That is to say, the design guidelines inform the standards adopted in Section 21A.34.020. As part of the process of applying for a certificate of appropriateness, an applicant is required to provide "[a] narrative including a complete description of the project and how it meets review standards with citation of supporting adopted City design guidelines".

² Utah courts follow the same rules of statutory construction when interpreting local ordinances as they do when construing the meanings of state statutes. (*Thompson v. Logan City*, 221 P.3d 907, 911 (Ut. App. 2009) ("In interpreting the meaning of...[o]rdinance[s], we are guided by the standard rules of statutory construction.")).

It is clear that the guidelines are an aid to the standards of review. It is clear that the planning division staff findings adopted by the historic landmark commission were findings that the proposal did not meet all of the required standards set forth in Subsection 21A.34.020.G of the code, and that application of those standards was informed by, but not dependent upon, the design guidelines. And it is clear that Appellant did not address any of the standards in its appeal brief. Accordingly, Appellant's argument pertaining to design guidelines fails to meet the basic obligation to address the standards and what is in the record, and must be rejected.

D. Appellant's Argument Pertaining to the Cost of Removing Applied Paint.

Appellant's final argument is a mixture of arguments that contends, among other things, that the design guidelines are not mandatory, that the paint improves the look and value of the Property, that removing the paint will be difficult and may damage the structure, and that removing the paint will be "excessively costly". (See Appellant's Brief at p. 8-10).

None of these arguments nor any others that may reside in Part IV of Appellant's brief addresses a relevant standard of review. In fact, nowhere in Appellant's brief is there a citation to the standards of review for a certificate of appropriateness for a minor alteration to a contributing structure in the H Historic Preservation Overlay District, which are set forth in Subsection 21A.34.020.G of the *Salt Lake City Code*. Appellant's failure to cite, discuss, or even acknowledge the relevant standards in their brief is fatal to its appeal and requires the appeals hearing officer to deny the appeal. Moreover, Appellant has also not addressed any part of the record in any of its arguments. Rather, Appellant's arguments are merely conclusory statements loosely attached to code sections that are not on point. Despite the critical fact that Appellant bears the burden of proving that the historic landmark commission erred in its application of relevant standards to the facts in the record, Appellant has not once cited those standards and has

failed to identify an error committed by the commission in the application thereof. These failures render the appeal defective and leave the appeals hearing officer without any choice but to deny the appeal.

CONCLUSION

For all of the reasons stated above, Appellant's arguments must be rejected and the historic landmark commission's decision be upheld.

**ATTACHMENT C: Historic Landmark Commission Staff
Report and Memorandums**



MEMORANDUM

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Historic Landmark Commission

From: Mayara Lima, Principal Planner
(801) 535-7118 or mayara.lima@slcgov.com

Date: October 3, 2019

Re: Unfinished Business - PLNHLC2019-00132
Painted masonry facades at 171 W 300 N

ACTION REQUIRED: This item regarding a Minor Alteration to approve paint on three facades of the masonry building located at 171 W 300 N was tabled at the September 5, 2019 Historic Landmark Commission Meeting. The Historic Landmark Commission is the decision-making body on the matter and therefore, has the authority to approve or deny the certificate of appropriateness.

RECOMMENDATION: Based on the analysis and findings outlined in the June 6th staff report and discussion in the September 5th memorandum, Planning Staff's finds that the painting of the brick does not meet the applicable standards of approval. Therefore, Staff maintains the recommendation that the Commission deny the request.

BACKGROUND/DISCUSSION: Natalie Johnson, representing the property owner, has requested a certificate of appropriateness to approve paint applied to the brick on three facades of the masonry building located at 171 W 300 N. Because the paint work was carried out without a Certificate of Appropriateness, the subject property has an open enforcement case with the city.

On June 6, 2019, the Historic Landmark Commission heard the request and tabled it to allow the applicant time to obtain a paint removal report provided by a qualified contractor showing the viability of removing the paint from the building. The applicant provided the report, which showed that the paint can be successfully removed from the brick. On September 5, 2019, the Historic Landmark Commission considered the report, but tabled the request in order to reopen the public hearing.

Attachments:

- [September 5, 2019 Historic Landmark Commission Minutes](#)
- [September 5, 2019 Historic Landmark Commission Memorandum](#)

SALT LAKE CITY HISTORIC LANDMARK COMMISSION MEETING
City & County Building
451 South State Street, Room 326, Salt Lake City, Utah
September 5, 2019

A roll is being kept of all who attended the Historic Landmark Commission Meeting. The meeting was called to order at [5:31:54 PM](#). Audio recordings of the Historic Landmark Commission meetings are retained for a period of time.

Present for the Historic Landmark Commission meeting were: Vice Chairperson Robert Hyde; Commissioners Stanley Adams, Jessica Maw, Rocio Torres Mora, Victoria Petro – Eschler, David Richardson, Esther Stowell and Michael Vela. Chairperson Kenton Peters, and Commissioner Paul Svendsen were excused.

Planning Staff members present at the meeting were Wayne Mills, Planning Manager; Mayara Lima, Principal Planner; and Marlene Rankins, Administrative Secretary.

Field Trip

A field trip was held prior to the work session. Historic Landmark Commissioners present were: Jessica Maw, Rocio Torres Mora, Esther Stowell and Michael Vela. Staff members in attendance were Wayne Mills, and Mayara Lima.

- **171 W. 300 N.** – Staff summarized project. Commissioners asked about process. Staff explained that decisions must be based on adopted standards of review.

[5:43:57 PM](#)

Painted masonry facades at approximately 171 W 300 N - Natalie Johnson, representing the property owner, is requesting approval of paint on three facades of the masonry apartment building located at 171 W 300 N. This work has already been carried out without a Certificate of Appropriateness approval and is the subject of an open enforcement case. The matter is being referred to the Historic Landmark Commission for a decision because Staff finds that the work does not comply with standards of review and adversely affect the character and integrity of the building. This item was reviewed and tabled at the June 6, 2019 meeting. The subject property is within Council District 3, represented by Chris Wharton. Staff contact: Mayara Lima at (801)535-7118 or mayara.lima@slcgov.com. **Case number PLNHLC2019-00132.**

Mayara Lima, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Historic Landmark Commission deny the request.

The Commission and Staff discussed the following:

- Clarification as to whether the stone on the front façade is original
- Whether there has been other alternatives have been explored to remove the paint
- Bid to clean the building

James Tate and Chris Turner, applicants, provided a presentation along with further detailed information.

The Commission and Applicant discussed the following:

- What the applicant's proposal for preserving the actual integrity of the brick itself is
- Clarification as to whether there were other surrounding properties that have painted brick
- Clarification as to whether the applicant was aware of being in a historic district
- How the applicant's processes change in the future

Discussion was made regarding the confusion on whether the item was being heard as a public hearing.

MOTION [6:06:27 PM](#)

Commissioner Stowell stated, I move to table 171 W. 300 N. which is PLNHLC2019-00132 until next month to reopen the public hearing, due to confusion as to whether the public was notified on whether the item was to be heard as a public hearing or not.

Commissioner Adams seconded the motion. Commissioners Vela, Maw, Stowell, Adams, Richardson, Torres Mora and Petro-Eschler voted "Aye". Commissioner Richardson abstained. The motion passed 7-1.

The meeting adjourned at [6:10:22 PM](#)



MEMORANDUM

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Historic Landmark Commission

From: Mayara Lima, Principal Planner
(801) 535-7118 or mayara.lima@slcgov.com

Date: September 5, 2019

Re: Unfinished Business - PLNHLC2019-00132
Painted masonry facades at 171 W 300 N

ACTION REQUIRED: This item regarding a Minor Alteration to approve paint on three facades of the masonry building located at 171 W 300 N was tabled at the June 6, 2019 Historic Landmark Commission Meeting. The Historic Landmark Commission is the decision making body on the matter and therefore, has the authority to approve or deny the certificate of appropriateness.

RECOMMENDATION: Based on the analysis and findings outlined in the June 6th staff report, Planning **Staff's** finds that the painting of the brick does not meet the applicable standards of approval. Therefore, Staff maintains the recommendation that the Commission deny the request.

BACKGROUND/DISCUSSION: Natalie Johnson, representing the property owner, has requested a certificate of appropriateness to approve paint applied to the brick on three facades of the masonry building located at 171 W 300 N. Because the paint work was carried out without a Certificate of Appropriateness, the subject property has an open enforcement case with the city.

On June 6, 2019, the Historic Landmark Commission heard the request and tabled it to allow the applicant time to obtain a paint removal report provided by a qualified contractor showing the viability of removing the paint from the building. The report was to include the potential harm to the brick and stone, methodology of application, and test stripping results.

The applicant submitted a report provided by Abstract Masonry Restorations for the removal of paint applied to the brick. The report shows that the removal of paint is almost entirely possible, **although** *“a higher degree of effort and more resources than normal were required to successfully remove the paint due to the highly textured and “raked” texture of the brick”*.

The report does not mention any damages to the brick with the removal process but highlights that the process is more labor intensive than normal **because** *“the single greatest challenge is doing it without pitting or otherwise damaging the mortar”*. It further explains that:

*Some small areas of the mortar throughout this building is in a pre-existing state of distress. Because the mortar in these small areas is already loose and in a state of deterioration, it may be removed as part of the pressurized steam rinsing process. Therefore, very small areas of the mortar may need to be repointed following the paint **stripping process**. I don't anticipate this to be extensive.*

Along with the report, the applicant provided the contractor's bid to remove the paint applied to the brick. The bid states that:

Approximately 98% removal is expected. There may be some very small flecks of paint remaining in the deep recesses of the brick. These will hardly be noticeable.

The applicant also provided a letter changing their initial Minor Alteration request to approve only the paint applied to the brick. This differs from the initial request because it does not include the paint applied to the flagstone entrance accents.

After reviewing these documents, Staff maintains that the paint applied to the brick does not comply with standards of review and adversely affects the historic building. The subject property is considered contributing to the character and integrity of the Capitol Hill Local Historic District.

As discussed in June 6, 2019 Historic Landmark Commission Staff Report, masonry is one of the most important character-defining features of a historic building and brick apartments such as the subject property are an expression of the sequence of settlement and development in the city. Therefore, safeguarding the brick characteristics and ensuring its integrity in historic multifamily buildings is an important goal in historic preservation. **The city's adopted** Historic Apartment and Multi-Family Buildings Design Guidelines states that:

Painting the masonry should be avoided. Painting alters the architectural character, seals in moisture causing gradual damage to the walls and their thermal performance, and also builds in the recurring cost of periodic repainting.

Significance to the historic district

The Capitol Hill Local Historic District was established in 1984. Additional survey work was done in 2001 when the boundaries of the district were increased, and again in 2006 to document newly eligible resources. The subject building was built in 1951, during the contextual period of Adapting American Domestic Architecture, 1930-1961, and is identified as a contributing building in the 2006 survey.

The 2006 survey consisted of a Reconnaissance Level Survey (RLS) as well as an Intensive Level Survey (ILS) of 65 selected properties, which included the subject property. **As explained in the survey's 2006 Final Report:**

The goal of the ILS Work was to document the significance of these newly contributing resources in the local landmark district. As these resources come up for design review, the ILS documentation will aid planning staff and the HLC in understanding the historical contributions of these resources to the Capitol Hill community.

The ILS form of the property states the significance of this building to the Capitol Historic District:

The Jo An Apartments represent the physical transformation the building's west Capitol Hill neighborhood in the 1950s.(...) The Jo An Apartments was one of the earliest large-scale apartment blocks in the area. Although modern in appearance, the building was designed with many features (e.g. interior foyer and stairs) of an earlier generation of urban apartments in Salt Lake City.

Attachments:

- [June 6, 2019 Historic Landmark Commission Staff Report](#)
- [June 6, 2019 Historic Landmark Commission Minutes](#)

- [Paint Removal Report and Bid](#)
- [Applicant's letter](#)
- [ILS form of the property](#)



Staff Report

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Historic Landmark Commission
From: Mayara Lima, Principal Planner
(801) 535-7118 or mayara.lima@slcgov.com
Date: June 6, 2019
Re: PLNHLC2019-00132 – Painted masonry facades

Minor Alteration

PROPERTY ADDRESS: 171 W 300 N

PARCEL ID: 08-36-404-001

HISTORIC DISTRICT: Capitol Hill

ZONING DISTRICT: RMF-35 Moderate Density Multi-Family Residential District & H Historic Preservation Overlay District

DESIGN GUIDELINES: Historic Apartments and Multifamily Buildings Design Guidelines (Building Materials and Finishes)

REQUEST: This is a request by Natalie Johnson, representing the property owner, to approve paint on three facades of the masonry building located at 171 W 300 N. The matter is being referred to the Historic Landmark Commission for a decision because Staff concludes that the paint work already completed does not comply with standards of review and adversely affect the historic district. The building is considered contributing to the character and integrity of the Capitol Hill Local Historic District.

RECOMMENDATION: Based on the analysis and findings outlined in this staff report, it is Planning Staff's opinion that the proposed paint work does not meet the applicable standards of approval. Consequently, Staff recommends that the Commission deny the request.

ATTACHMENTS:

- A. [Site & Context Map](#)
- B. [Building Photographs](#)
- C. [Historic Survey Information](#)
- D. [Application Materials](#)
- E. [Analysis of Standards for Minor Alterations in a Historic District](#)
- F. [Applicable Design Guidelines](#)
- G. [Public Process and Comments](#)

BACKGROUND:

This property is currently in noncompliance with Salt Lake City regulations because the proposed paint work has already been carried out without the required Certificate of Appropriateness approval. Salt Lake City Civil Enforcement sent to the property owner a notice of violation in November 2018, which referenced section 21A.34.020E of the Zoning Ordinance. This section indicates that alterations to the



Image 3 – Building after paint was applied

SITE CONDITIONS & CONTEXT:

The subject property contains one historically contributing multifamily building. The Reconnaissance Level Survey (RLS) for the Capitol Hill Local Historic District indicates that the building was constructed in 1950 and is an example of Post-War Modern architecture style. The building is predominantly brick on all facades but contains stone around the entrances, and brick glass on the floors above the entrances.

The surrounding properties include structures from a variety of building periods and architectural styles. The majority are considered contributing to the historic district, and many are made of brick. [Attachment A](#) shows that several of the brick buildings located in the immediate surroundings of the subject property remain unpainted. Noteworthy is the apartment building directly across 300 N, which was also painted without approval and, like the subject property, is currently under enforcement.

KEY ISSUE:

Masonry that was not painted traditionally should not be painted

Masonry is one of the most important character-defining features of a historic building. The red color of the brick, and its contrast with the light color mortar, is a predominant element of this building. It reflects the traditional masonry construction of historic apartments buildings in the district and contributes to the historic character of the neighborhood. The flagstone in its natural sand color around the entrances provides the façade composition and detailing of the building, which adds to the character of this historic building.

Historic apartment buildings are important elements in creating and defining the sense of place of Salt Lake City's older neighborhoods and inner urban areas. Brick, often combined with natural stone, is the primary building materials on most historic apartments built across the city and it is an expression of the sequence of settlement and development in the city. Thus, safeguarding the masonry characteristics and ensuring its integrity in historic multifamily buildings is an important goal in historic preservation.

The City's adopted historic guidelines consistently discourages the use of paint on masonry that was not traditionally painted. The Historic Apartment and Multi-Family Buildings Design Guidelines addresses building materials and finishes in Chapter 2. Page 1 of that chapter states that:

Painting the masonry should be avoided. Painting alters the architectural character, seals in moisture causing gradual damage to the walls and their thermal performance, and also builds in the recurring cost of periodic repainting.

Additionally, [Attachment F](#) shows that the Residential Design Guidelines discourages the paint of masonry while providing specific guidelines for the preservation of the material.

NEXT STEPS:

If the request is denied by the HLC, the applicant will not be issued a COA and the property will continue to be in noncompliance with Salt Lake City. To bring the property into compliance, the applicant will have to apply for a Minor Alteration to remove the paint.

If the Commission disagrees with Staff's recommendation and the project is approved, the applicant would receive a COA to proceed with the project as represented in this Staff Report.


ATTACHMENT A: Site & Context Map



Brick Buildings:

-  Unpainted brick
-  Illegally painted brick
-  Painted brick

Other Buildings:

-  Not brick

ATTACHMENT B: Building Photographs



Image 5 – Historic photo of the building viewed from 300 North



Image 6 – Google street view from June 2016 shows the unpainted front (north) façade of the building



Image 7 - Google street view from June 2016 shows the unpainted east and north façades of the building



Image 8 - Google street view from June 2016 shows the unpainted west and south façades of the building



Image 9 – Current view of the building from 300 N shows the painted brick facades and painted stone entrances



Image 10 – Closer view of the east and north facades of the building after paint was applied



Image 11 – West façade of the building after paint was applied



Image 12 – The rear (south) façade was left unpainted



Image 13 – Closer view of the painted stone around the entrances

ATTACHMENT C: Historic Survey Information



257 N 200 West*
B



264 N 200 West*
D



265-267 N 200 West*
B



268 N 200 West*
A



270 N 200 West*
B



271-273 N 200 West*
B



279-281 N 200 West*
B

200 WEST



309-311 N 200 West
B



312-314 N 200 West
B



316-318 N 200 West
B

Architectural Survey Data for SALT LAKE CITY
Utah State Historic Preservation Office

Address/ Property Name	Eval./ Ht	OutB N/C	Yr.(s) Built	Materials	Styles	Plan (Type)/ Orig. Use	Survey Year RLS/ILS/Gen	Comments/ NR Status
257 N 200 WEST	B	0/0 2	1898	REGULAR BRICK	VICTORIAN ECLECTIC	SIDE PASSAGE/ENTRY SINGLE DWELLING	06	FLAT ROOF
264 N 200 WEST	D	0/0 2.5	1972	ALUM./VINYL SIDING	MODERN: OTHER	OTHER APT./HOTEL MULTIPLE DWELLING	06	
265 N 200 WEST	B	0/1 1.5	1954	STRIATED BRICK	POST-WWII: OTHER	DOUBLE HOUSE / MULTIPLE DWELLING	06	DOUBLE HOUSE TYPE B; 265-267
268 N 200 WEST	A	0/0 1.5	c. 1890	REGULAR BRICK SHINGLE SIDING	VICTORIAN ECLECTIC	SIDE PASSAGE/ENTRY SINGLE DWELLING	06	BEHIND 270 N
270 N 200 WEST	B	0/0 1.5	c. 1905	REGULAR BRICK	VICTORIAN ECLECTIC	CENTRAL BLK W/ PROJ SINGLE DWELLING	06	ON PARCEL WITH 268 N
271 N 200 WEST	B	0/1 1.5	1954	STRIATED BRICK	POST-WWII: OTHER	DOUBLE HOUSE / MULTIPLE DWELLING	06	DOUBLE HOUSE TYPE B; 271-273
279 N 200 WEST	B	0/0 1.5	1954	STRIATED BRICK	POST-WWII: OTHER	DOUBLE HOUSE / MULTIPLE DWELLING	06	DOUBLE HOUSE TYPE B; 279-281
309 N 200 WEST COX, ARSON E., HOUSE	B	0/1 1	c. 1914	REGULAR BRICK	BUNGALOW	DOUBLE HOUSE / MULTIPLE DWELLING	06 05	309-311 N; HISTORIC PORCH ENCLOSURE N05
312 N 200 WEST JONES DUPLEX	B	0/1 2	c. 1910	BRICK:OTHER/UNDEF. VENEER: OTHER	20TH C.: OTHER VICTORIAN: OTHER	OTHER APT./HOTEL MULTIPLE DWELLING	06 05	312-314 N; HISTORIC FAÇADE REMODEL c. 1930s-1950s N05
316 N 200 WEST JONES DUPLEX	B	0/1 2	c. 1910 c. 1937	BRICK:OTHER/UNDEF. VENEER: OTHER	20TH C.: OTHER VICTORIAN: OTHER	OTHER APT./HOTEL MULTIPLE DWELLING	06 05	316-318 N; HISTORIC FAÇADE REMODEL BLDG PERMIT CARD 1937 N05

?=approximate address

Evaluation Codes: A=eligible/architecturally significant B=⁴⁷eligible C=ineligible/alterd D=ineligible/out of period U=undetermined/lack of info X=demolished



60 W 300 North
B



72 W 300 North
B



80 W 300 North
A



87 W 300 North*
D



102-104 W 300 North
B



102? W 300 North
B



112 W 300 North
B



122 W 300 North
B



128 W 300 North
B



132-134 W 300 North
B



142-150 W 300 North
B



152 W 300 North
B

Architectural Survey Data for SALT LAKE CITY
Utah State Historic Preservation Office

Address/ Property Name	Eval/ Ht	OutB N/C	Yr.(s) Built	Materials	Styles	Plan (Type)/ Orig. Use	Survey Year RLS/ILS/Gen	Comments/ NR Status
60 W 300 NORTH	B	0/0	c. 1868	ADOBE: OTHER/UNDEF STUCCO/PLASTER DROP/NOVELTY SIDING	VICTORIAN: OTHER	CROSSWING	06	MODIFIED CROSS WING
72 W 300 NORTH	B	0/1	c. 1890	REGULAR BRICK	VICTORIAN ECLECTIC QUEEN ANNE	SINGLE DWELLING SIDE PASSAGE/ENTRY	05 06	N05
80 W 300 NORTH	A	0/1	1872	STUCCO/PLASTER ADOBE: OTHER/UNDEF	CLASSICAL: OTHER VERNACULAR	CENTRAL PASSAGE	06 83	SLC REGISTER
BEESLEY, EBENEZER, HOUSE		2				SINGLE DWELLING	79	NR05
87 W 300 NORTH VILLA GRANDA	D	1/0 4.5	1963	REGULAR BRICK	MODERN: OTHER	OTHER APT./HOTEL MULTIPLE DWELLING	06	NOW CAPITOL HILL CONDOS
? 102 W 300 NORTH	B	0/0	c. 1905	DROP/NOVELTY SIDING CLAPBOARD SIDING	VICTORIAN ECLECTIC	DOUBLE HOUSE /	06	102-104 W
102 W 300 NORTH	B	0/0	c. 1910	REGULAR BRICK	VICTORIAN: OTHER	DOUBLE HOUSE /	06	BEHIND 102-104 W; ADDRESS IS
ANDREW MORTENSON HOUSE		1				MULTIPLE DWELLING	05	102 REAR; FOURSQUARE DUPLEX N05
112 W 300 NORTH	B	0/0	c. 1884	ADOBE: OTHER/UNDEF STUCCO/PLASTER	VICTORIAN: OTHER	CROSSWING	06	
JAMES W. BROWN HOUSE		1				SINGLE DWELLING	05	N05
122 W 300 NORTH	B	1/0	c. 1900	REGULAR BRICK	VICTORIAN: OTHER	CROSSWING	06	WINDOW ALTERATIONS; NOW DUPLEX 120-122 W
128 W 300 NORTH	B	1/0	c. 1959 1953	STRIATED BRICK	POST-WWII: OTHER	SINGLE DWELLING OTHER LATE 20TH C.	86 06	N05 BELOW GRADE GARAGE
132 W 300 NORTH	B	0/0	1889	REGULAR BRICK	VICTORIAN: OTHER POST-WWII: OTHER	SINGLE DWELLING DOUBLE HOUSE /	05 06	3RD UNIT AT 304 N QUINCE ST; FAÇADE ALTERATIONS c. 1950
142 W 300 NORTH	B	0/0	c. 1960 c. 1911	REGULAR BRICK	VICTORIAN ECLECTIC GREEK REVIVAL	MULTIPLE DWELLING OTHER APT./HOTEL	06	N05 142-150 W 300 NORTH
STEWAR J. JENKINS HOUSE		1.5	c. 1936			MULTIPLE DWELLING	05	N05
152 W 300 NORTH JOSHUA R. WHITNEY HOUSE	B	0/0	c. 1888 c. 1953	REGULAR BRICK	VICTORIAN: OTHER	CROSSWING SINGLE DWELLING	06 05	1953 FAÇADE ALTERATIONS N05

?=approximate address

Evaluation Codes: A=eligible/architecturally significant B=eligible C=ineligible/alterd D=ineligible/out of period U=undetermined/lack of info X=demolished



158 W 300 North
D



160 W 300 North
B



163-165 W 300 North*
B



171-177 W 300 North*
B



180 W 300 North
B



180 W 300 North, (garage &
wall)



202 W 300 North
B



204-206 W 300 North
B



217-219 W 300 North*
B



218-220 W 300 North
B



225 W 300 North*
B



226 W 300 North
B

Architectural Survey Data for SALT LAKE CITY
Utah State Historic Preservation Office

Address/ Property Name	Eval/ Ht	OutB N/C	Yr.(s) Built	Materials	Styles	Plan (Type)/ Orig. Use	Survey Year RLS/ILS/Gen	Comments/ NR Status
158 W 300 NORTH	D	1/0	1977	REGULAR BRICK SHINGLE SIDING	MANSARD	OTHER APT./HOTEL	06	
		2				MULTIPLE DWELLING	05	N05
160 W 300 NORTH	B	0/1	1960	REGULAR BRICK ALUM./VINYL SIDING	POST-WWII: OTHER	OTHER APT./HOTEL	06	
		2				MULTIPLE DWELLING	05	N05
163 W 300 NORTH	B	0/0	c. 1900	STUCCO/PLASTER	VICTORIAN: OTHER	DOUBLE HOUSE / MULTIPLE DWELLING	06	DOUBLE HOUSE TYPE A; 163-165
		1.5						
171 W 300 NORTH	B	0/0	1950	REGULAR BRICK FLAGSTONE	POST-WAR MODERN	WALK-UP APT.	06	171-177 W
		2.5				MULTIPLE DWELLING		
180 W 300 NORTH	B	0/1	1953	STRIATED BRICK CONCRETE BLOCK	POST-WWII: OTHER	OTHER APT./HOTEL	06	aka 306 N 200 WEST (PARCEL ADDRESS)
		2				MULTIPLE DWELLING	05	N05
202 W 300 NORTH CHARLES D. HARDING	B	0/0	c. 1909	REGULAR BRICK	20TH C. COMMERCIAL	2-PART BLOCK GROCERY	06 05	NOW UTAH HUMANITIES COUNCIL N05
		2						
204 W 300 NORTH HEYSTECK DUPLEX	B	0/0	c. 1936	STRIATED BRICK	ENGLISH COTTAGE MINIMAL TRADITIONAL	DOUBLE HOUSE / MULTIPLE DWELLING	06 05	PERIOD COTTAGE DUPLEX; 204- 206 W N05
		1						
217 W 300 NORTH	B	0/1	1954	STRIATED BRICK	POST-WWII: OTHER	DOUBLE HOUSE / MULTIPLE DWELLING	06	DOUBLE HOUSE TYPE B; 217-219
		1.5						
218 W 300 NORTH WILLIAM T. EDWARD HOUSE	B	/	c. 1909	REGULAR BRICK	VICTORIAN: OTHER	DOUBLE HOUSE / MULTIPLE DWELLING	06 05	N05
		2						
225 W 300 NORTH	B	0/0	c. 1890	REGULAR BRICK	VICTORIAN ECLECTIC	CENTRAL BLK W/ PROJ SINGLE DWELLING	06	
		1.5						
226 W 300 NORTH WHITNEY, JOSHUA & EMMELINE,	B	0/0	1901	REGULAR BRICK	VICTORIAN ECLECTIC	CENTRAL BLK W/ PROJ SINGLE DWELLING	06 80	N05
		1						

?=approximate address

Evaluation Codes: A=eligible/architecturally significant B=eligible C=ineligible/alterd D=ineligible/out of period U=undetermined/lack of info X=demolished

ATTACHMENT D: Application Materials

The Arches North Apartments

171-177 W 300 N

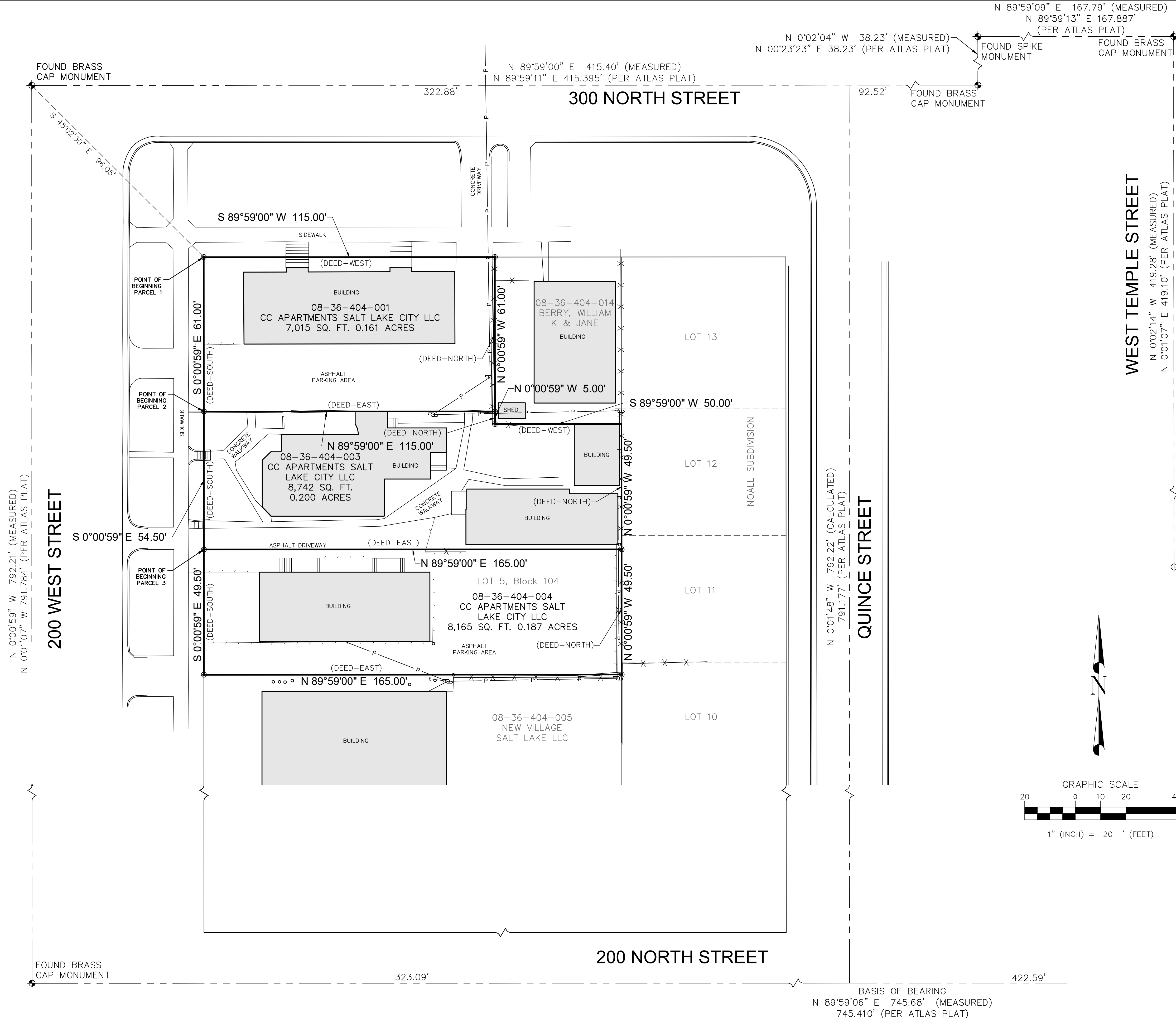
Salt Lake City, UT 84103

We are asking that we be able to leave the exterior paint on the three sides of the building that were painted. They were painted Sherwin Williams A-100 Color: Snowbound. Please note the following:

- We were unaware the building was a contributing building to the historic district.
- There is a building across the street that was painted the same way we painted ours (160 W 300 N). Built within 8 years of our building.
- The paint is superficial and could be removed in the future.

We would not intentionally alter the exterior of a historic building. We are currently doing renovations at the Hillcrest apartments in the Avenues. We have taken great care to restore the building historically.

Thank you for your consideration.



Surveyor's Certificate

I, Nathan B. Weber, certify that I am a Professional Land Surveyor as prescribed under the laws of the state of Utah and that I hold license no. 5152762. I further certify that a land survey was made of the property described below, and the findings of that survey are as shown hereon.

Deed Description
Book 10220 Page 8136

Parcel 1:(08-36-404-001)
Commencing at the Northwest corner of Lot 5, Block 104, Plat "A", Salt Lake City Survey, and running thence South 61 feet; thence East 115 feet; thence North 61 feet; thence West 115 feet to the point of beginning.

Parcel 2:(08-36-404-003)
Commencing at a point 61 feet from the Northwest corner of Lot 5, Block 104, Plat "A", Salt Lake City Survey, and running thence South 54.5 feet; thence East 10 rods; thence North 49.5 feet; thence West 50 feet; thence North 5 feet; thence West 115 feet to the point of beginning.

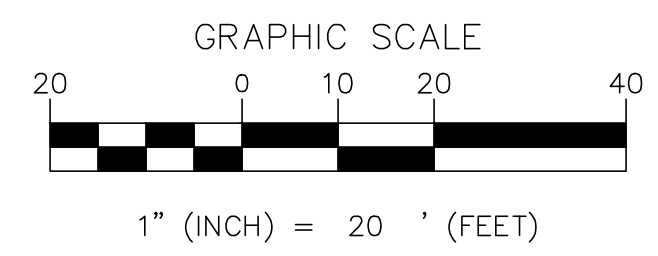
Parcel 3:(08-36-404-004)
Commencing at a point 7 rods from the Northwest corner of Lot 5, Block 104, Plat "A", Salt Lake City Survey, and running thence South 3 rods; thence East 10 rods; thence North 3 rods; thence West 10 rods to the point of beginning.

LEGEND

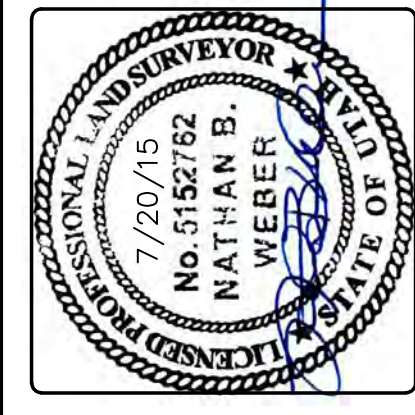
- ⦿ Power Pole
- ⊛ Light Pole
- Guy Wire
- ⦿ Bollard
- ⦿ Property Corner
- ⦿ Property Corner
- X — X — Fence Line
- / — / — Edge Of Asphalt
- — — — — Overhead Power Line
- — — — — Boundary Line
- — — — — Right-of-Way Line
- - - - - Adjoiner Line

WEST TEMPLE STREET
N 0°02'14" W 419.28' (MEASURED)
N 0°01'07" E 419.10' (PER ATLAS PLAT)

QUINCE STREET
N 0°01'48" W 792.22' (CALCULATED)
791.177' (PER ATLAS PLAT)



BY	REVISIONS	DATE



DIAMOND LAND SURVEYING, LLC
5243 South Greenpine Drive
Murray, Utah 84123
Phone: (801) 466-6032
office@diamondlandsurveying.com
www.diamondlandsurveying.com

BOUNDARY SURVEY
300 NORTH STREET
SALT LAKE CITY, UTAH

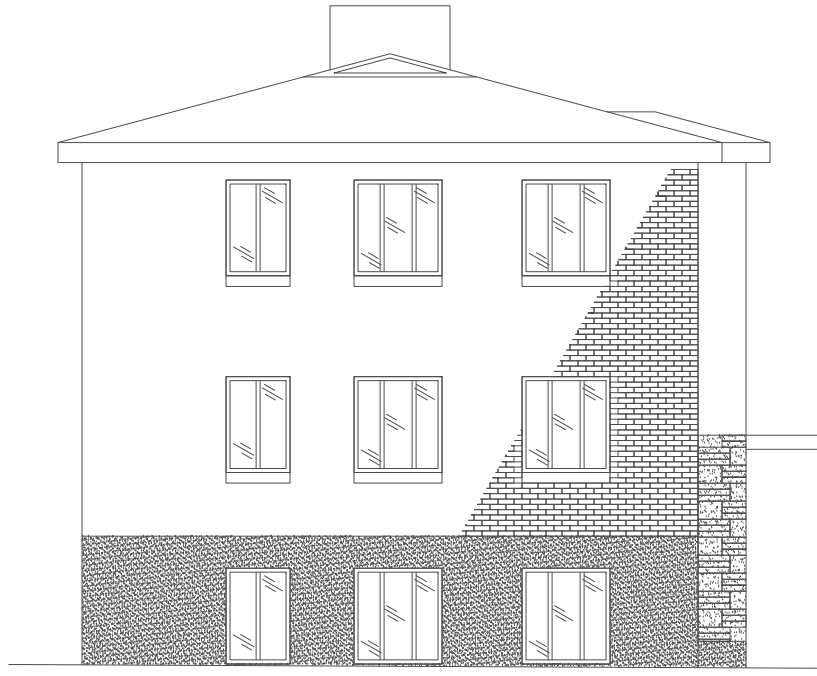
Chris Doerksen

Narrative:
The basis of bearing is North 89°59'06" East between found brass cap street monuments located in 200 North Street between 200 West Street and West Temple Street as shown.
The purpose of this survey is to retrace and monument the boundary of the above described property according to the official records and the location of pertinent existing improvements located on the ground.

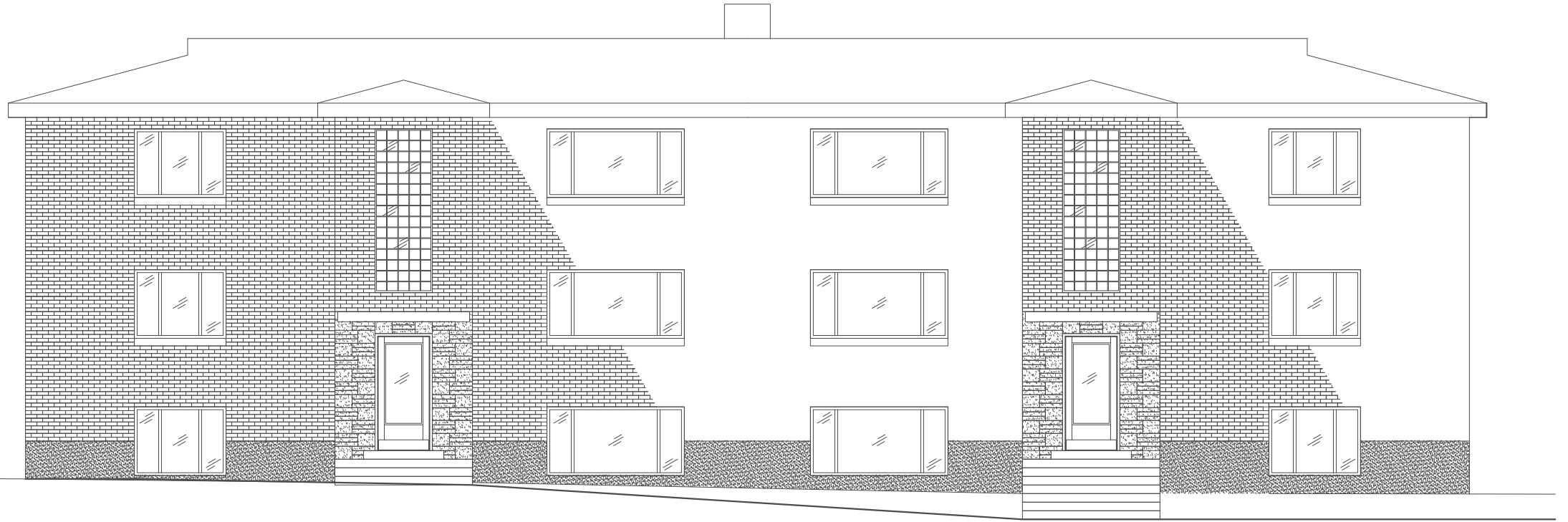
COPYRIGHT
ALL REPORTS, DESIGNS, FIELD DATA, FIELD NOTES, DRAWINGS, SPECIFICATIONS, CALCULATIONS, ESTIMATES OR ANY REPRESENTATION CONTAINED HEREON ARE THE SOLE PROPERTY OF DIAMOND DESIGN AND LAND SURVEYING UNLESS PREVIOUSLY ESTABLISHED BY PRECEDENCE OR WRITTEN AGREEMENT

DATE PLOTTED 7/20/15
JOB No. 15-088
SHEET

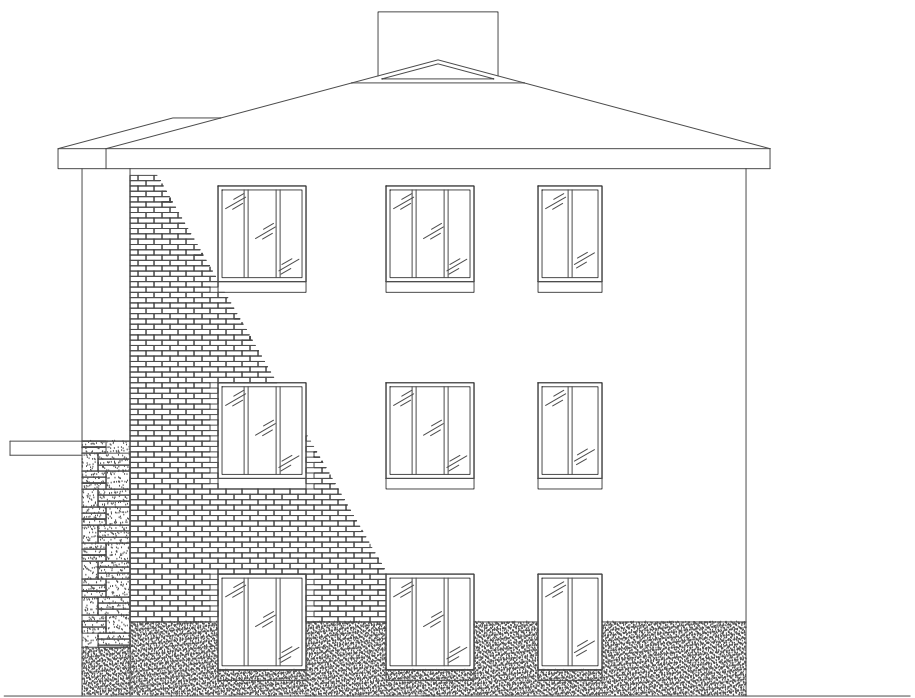
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 1 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN



WEST ELEVATION



NORTH ELEVATION



WEST ELEVATION

ATTACHMENT E: Analysis of Standards for Minor Alterations in a Historic District

H Historic Preservation Overlay District – Standards for Certificate of Appropriateness for Alteration of a Contributing Structure (21A.34.020.G)

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.

Standard	Analysis	Finding
<p>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;</p>	<p>The existing structure on site was constructed in 1950 as a multifamily dwelling. The applicant is proposing to continue using it as multifamily.</p>	<p>Complies</p>
<p>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;</p>	<p>Masonry is one of the most important character-defining features of a historic building, and the colors of the brick, stone and mortar are predominant elements of this building. The applied paint hides these features and damages the historic masonry walls.</p>	<p>Does not comply</p>
<p>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;</p>	<p>The proposed work does not involve such alterations.</p>	<p>Not applicable</p>
<p>4. Alterations or additions that have acquired historic significance in their own right shall be retained and preserved;</p>	<p>The proposed work does not involve such alterations.</p>	<p>Not applicable</p>

<p>5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;</p>	<p>The contrast between brick and mortar, and between brick and stone give this building its distinctive character. The applied paint hides these features and damages the historic masonry walls.</p>	<p>Does not comply</p>
<p>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;</p>	<p>The scope of work does not include the repair of any deteriorated architectural features.</p>	<p>Not applicable</p>
<p>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;</p>	<p>Paint is a physical treatment that could damage the historic brick and sandstone of this building.</p>	<p>Does not comply</p>
<p>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;</p>	<p>The proposed work does not involve such alterations.</p>	<p>Not applicable</p>

<p>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;</p>	<p>Paint cannot be easily removed from masonry, requiring professional expertise and extra care. Moreover, the moisture trapped underneath the paint will cause damages to the masonry overtime and shorten its lifespan.</p>	<p>Does not comply</p>
<p>10. Certain building materials are prohibited including the following:</p> <p>a. Aluminum, asbestos, or vinyl cladding when applied directly to an original or historic material.</p>	<p>The project does not involve the direct application of aluminum, asbestos, or vinyl cladding.</p>	<p>Complies</p>
<p>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.</p>	<p>The project does not involve changes to or any new signage.</p>	<p>Not applicable</p>

ATTACHMENT F: Applicable Design Guidelines

Design Guidelines for Historic Apartments and Multifamily Buildings in Salt Lake City, Chapter 2: Building Materials & Finishes and Design Guidelines for Historic Residential Properties & Districts in Salt Lake City, Chapter 2: Building Materials & Finishes are the relevant historic guidelines for this design review and are identified below for the Commission's reference.

[Historic Apartments and Multifamily Buildings in Salt Lake City, Chapter 2: Building Materials & Finishes](#)

Characteristic Materials

Traditional masonry construction is characteristic of the majority of historic apartment and multifamily buildings. Brick and stone, with occasional concrete and stucco, provide both the medium of construction and the medium of expression of architectural style, façade composition and detail. Individually, and in context, the creative visual expression of the city's historic apartment buildings are arguably the single most important element in creating and defining the sense of place associated with Salt Lake City's older neighborhoods and inner urban areas. Their rich palette of traditional materials is the essential foundation of this expression.

Brick is the primary building material for the majority of historic apartment and multifamily buildings. This is usually combined with natural stone for parapets, gables, entrances, foundations, window sills and lintels, belt courses and other embellishments in the architectural composition. Concrete increasingly became an alternative to stone for particular elements and details as the twentieth century progressed. This palette provides a resilient construction medium which has inherently durable and energy management advantages in the extremes of the Utah climate.

Although requiring less regular maintenance, masonry is still vulnerable to deferred maintenance, which can expose the exterior of the building to water ingress and consequently also frost damage. The integrity of guttering and other water management elements, and the pointing of the masonry become important in maintaining the appearance, efficiency and longevity of a facade.

Painting the masonry should be avoided. Painting alters the architectural character, seals in moisture causing gradual damage to the walls and their thermal performance, and also builds in the recurring cost of periodic repainting. Where painting has been carried out in the past, and investment is available to strip the paint without damaging the masonry surface, the removal of paint is encouraged. It must be carried out with great care, however, to avoid permanent damage to the brickwork.

[Historic Residential Properties & Districts in Salt Lake City, Chapter 2: Building Materials & Finishes](#)

Masonry

2.2 Traditional masonry surfaces, features, details and textures should be retained.

- Regular maintenance will help to avoid undue deterioration in either structural integrity or appearance.

2.3 The traditional scale and character of masonry surfaces and architectural features should be retained.

- This includes original mortar joint characteristics such as profile, tooling, color, and dimensions.
- Retain bond or course patterns as an important character-defining aspects of traditional masonry.

2.6 Masonry that was not painted traditionally should not be painted.

- Brick has a hard outer layer, also known as the 'fire skin,' that protects it from moisture penetration and deterioration in harsh weather.
- Natural stone often has a similar hard protective surface created as the stone ages after being quarried and cut.
- Painting traditional masonry will obscure and may destroy its original character.
- Painting masonry can trap moisture that would otherwise naturally evaporate through the wall, not allowing it to "breathe" and causing extensive damage over time.

ATTACHMENT G: Public Process and Comments

The following is a list of public meetings that have been held, and other public input opportunities, related to this project:

Public Hearing Notice:

Notice of the public hearing for this project includes:

- Public hearing notice mailed on May 24, 2019.
- Public hearing notice posted on City and State websites on May 24, 2019.
- Sign posted on the property on May 24, 2019.

Public Comments:

One public comment was received via email and is included below. All other comments received after the publication of this staff report will be forwarded to the Commission.

From: [Anna Zumwalt](#)
To: [Lima, Mayara](#)
Subject: Case Number PLNHLC2019-00132
Date: Monday, April 22, 2019 5:38:53 PM

Dear Rep. Chris Wharton and contact Mayara Lima, and anyone else concerned,

I approve Natalie Johnson's painting of her masonry facades at 171 West 300 North. I'm glad she went ahead and started on her own accord without feeling obliged to jump through ridiculous hoops. It's my sincere hope she paints her apartment building whatever damn color she chooses! ...said with respect.

Thank you for asking my opinion on this matter.

Yours, respectfully,
Anna Zumwalt

SALT LAKE CITY HISTORIC LANDMARK COMMISSION MEETING
City & County Building
451 South State Street, Room 326, Salt Lake City, Utah
JUNE 6, 2019

A roll is being kept of all who attended the Historic Landmark Commission Meeting. The meeting was called to order at [5:33:53 PM](#). Audio recordings of the Historic Landmark Commission meetings are retained for a period of time.

Present for the Historic Landmark Commission meeting were: Chairperson Kenton Peters; Commissioners Stanley Adams, Thomas Brennan, Sheleigh Harding, Victoria Petro – Eschler, David Richardson, Charles Shepherd, Esther Stowell and Paul Svendsen.

Planning Staff members present at the meeting were Michaela Oktay, Planning Deputy Director; Paul Nielson, Attorney; John Anderson, Planning Manager; Mayara Lima, Principal Planner; Sara Javoronok, Senior Planner; and Marlene Rankins, Administrative Secretary.

Field Trip

A field trip was held prior to the work session. Historic Landmark Commissioners present were: Victoria Petro-Eschler, Esther Stowell, and Charles Shepherd. Staff member in attendance was Sara Javoronok.

- **55 N Virginia St** – Staff gave an overview of the proposal.
- **505 E South Temple** – Staff gave an overview of the proposal.
- **171 W 300 N** – Staff gave an overview of the proposal.

[5:42:22 PM](#)

Painted masonry facades at approximately 171 W 300 N - Natalie Johnson, representing the property owner, is requesting a certificate of appropriateness in order to approve paint on three facades of the masonry apartment building located on this site. This work has already been carried out without a Certificate of Appropriateness approval and is the subject of an open enforcement case. The matter is being referred to the Historic Landmark Commission for a final decision because Staff finds that the work does not comply with standards of review and adversely affect the character and integrity of the contributing building. The subject property is within the Capitol Hill Historic District and Council District 3, represented by Chris Wharton. (Staff contact: Mayara Lima at (801)535-7118 or mayara.lima@slcgov.com) **Case number PLNHLC2019-00132**

Mayara Lima, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Historic Landmark Commission deny the request.

The Commission and Staff discussed the following:

- Clarification as to possibility of harm to brick in removal process
- Code enforcement action
- Whether the building is a contributing building

Chris Turner and Natalie Johnson, Preserve Partners, provided a presentation and further details regarding the purpose of painting the building.

The Commission and Applicant discussed the following:

- Clarification with process and chemical used to test the paint strip
- Whether a contractor preformed test stripping
- Whether there was any test stripping done on the stone of the entrance of building
- Structure of building
- Sustainability; what is sustainable about painting brick
- How often is repainting necessary

PUBLIC HEARING [6:01:38 PM](#)

Chairperson Peters opened the Public Hearing;

Cindy Cromer – Stated it is essential to have test samples of paint stripping done by a highly qualified contractor on stone work.

Sarah Schultz – Stated she appreciated original brick and that the paint has changed the character of the building.

The applicant addressed the public concerns.

Seeing no one else wished to speak; Chairperson Peters closed the Public Hearing.

The Commission went into executive session and discussed the following:

- Whether a fine might be reasonable
- Issue with fairness; removal might not be effective
- Concern was raised with not seeking permission prior to painting the building
- Setting a precedent for approving work done without permission

MOTION [6:18:04 PM](#)

Commissioner Harding stated, in the case of PLNHLC2019-00132, I move that the Historic Landmark Commission table the appeal until more information about the viability of paint removal on the brick façade and also on the stone façade.

Commissioner Richardson provided a friendly amendment: That the report on viability of paint removal be done by a qualified masonry contractor. Commissioner Harding accepted the amendment.

Commissioner Shepherd added a second amendment: That the report include test stripping from the two masonry materials. Commissioner Harding accepted the second amendment.

Commissioner Adams seconded the motion. Commissioners Richardson, Shepherd, Brennan, Stowell, Petro-Eschler, Harding and Adams voted “Aye”. Commissioner Svendsen voted “Nay”. The motion passed 7-1.



EXPERTS AT CLEANING,
REPAIRING AND PRESERVING
HISTORIC MASONRY

Natalie Johnson
Project Manager
Preserve Partners
2019 Main Street, Suite 2
Salt Lake City, UT 84115
801.529.4302
natalie.johnson@preservepartners.com

Aug. 6, 2019

Natalie,

Thanks for the enlisting our services to determine the feasibility of removing the paint off the exterior brick and mortar surfaces at the historic Jo An Apartment building in Salt Lake City, Utah.

On July 1, 2019 we applied 2 different paint stripping products on the west facing brick and mortar wall of the building. The two products were Dumond Chemicals Peel Away 1 and ProSoCo Heavy Duty Paint Stripper. Both products are high ph and caustic. In order to prevent the products from drying out in the hot summer temperatures, both strippers were covered with plastic and tightly sealed around the perimeter with duct tape, and were let be for approximately 48 hours. The purpose of this dwell time is to maximize the effectiveness of the paint strippers in softening the layers of paint.

Following the 48 hour dwell time, we returned to the site, removed the plastic / duct tape covering and then gently scraped the paint strippers and softened paint off the wall. The purpose of the scraping is to capture as much of the paint and stripper as possible before rinsing. Then, using pressurized steam, we slowly and thoroughly rinsed the remaining stripper and softened paint off the wall. Waste water must be effectively contained and properly disposed of during the rinsing process. Following the initial rinsing, we then proceed to “touch-up” any remaining remnants of paint that were not yet successfully removed. We then applied an acidic solution to the masonry in order to thoroughly neutralize any remaining alkalinity in the masonry.

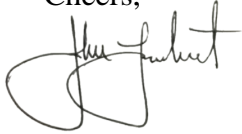
Because the paint was applied by spray application followed by back rolling, the paint was exceptionally well adhered to the masonry. A higher degree of effort and more resources than normal were required to successfully remove the paint due to the highly textured and “raked” texture of the brick.

The mortar between the brick on Jo An Apartments is substantially softer than the brick itself. *While the paint can be successfully removed, the single greatest challenge is doing it without pitting or otherwise damaging the mortar.* It is a slower, more labor intensive process than normal, but we were successful in doing so.

Some small areas of the mortar throughout this building is in a pre-existing state of distress. Because the mortar in these small areas is already loose and in a state of deterioration, it may be removed as part of the pressurized steam rinsing process. Therefore, very small areas of the mortar may need to be repointed following the paint stripping process. I don’t anticipate this to be extensive.

Hope this helps.

Cheers,

A handwritten signature in black ink, appearing to read "John Lambert". The signature is stylized with a large loop at the beginning and a long horizontal stroke at the end.

John Lambert
Founder / President
Abstract Masonry Restoration, Inc.
801.509.5099 cell
john@masonry-restoration.com



EXPERTS AT CLEANING,
REPAIRING AND PRESERVING
BRICK AND STONE

SERVICE PROPOSAL AND ACCEPTANCE

Proposal submitted to:

Natalie Johnson
Project Manager
Preserve Partners
2019 Main Street, Suite 2
Salt Lake City, UT 84115
801.529.4302
natalie.johnson@preservepartners.com

Aug. 14, 2019

The following services to be performed at:

The historic Jo An Apartments located at 171-177 South 300 North in Salt Lake City, UT

ABSTRACT MASONRY RESTORATION, INC., herein after referred to as Abstract, proposes to furnish materials and perform the labor necessary to:

1. Supply and build scaffolding around the perimeter of the north, east and west exterior walls. Attach scaffolding enclosure materials to the outside perimeter of the scaffolding. Dismantle the scaffolding at the end of the project and remove from the site.
2. Using specialty historic masonry paint stripping solutions, and pressurized steam/hot water, gently remove as much of the paint as possible off the exterior north, east and west brick and mortar walls and the roof top chimney. Approximately 98% removal is expected. There may be some very small flecks of paint remaining in the deep recesses of the brick. These will hardly be noticeable.
3. Following the removal of the paint, use specialty historic masonry cleaning solutions to further clean the masonry, and neutralize the alkalinity in the masonry.

The following are specifically excluded:

1. The cost of heating inside the scaffolding enclosure - if necessary.
2. Removal of landscaping / plant life next to the perimeter of the walls. Replanting and situating the landscaping / plant life after Abstract finishes their scope of work.
3. Anything not specifically included in the scope of work in this proposal is specifically excluded.

It is the responsibility of Preserve Partners to:

1. Provide full access to 2 working hose bib faucets capable of a minimum of 8 gallons of water each.
2. Provide electricity.
3. Provide access to an interior drain for disposal of the filtered and neutralized waste water.
4. Provide 1 on-site porta potty for the workmen.
5. Effectively communicate with the building occupants what to expect and what they need to do while the project is in process.

GENERAL AGREEMENTS AND UNDERSTANDINGS

- 1) This proposal is priced and based on the waste water being collected, filtered and neutralized and then being disposed of in an inlet to the sanitary sewer (not the storm drain) on the property or in the building. Therefore access to a drain on the interior of the building will be needed at all times.
- 2) On rare occasion, the drain pipes in a building may not be 100% free flowing and able to handle the disposal of the waste water. It is the customer's responsibility to make sure that all drain pipes in and outside of the building are completely free flowing and unclogged before and during the paint stripping operations. If a drain pipe becomes clogged during the paint stripping process, it is the responsibility of the customer to quickly get it unclogged at their own cost so the project can continue with out delay. The customer agrees to hold ABSTRACT harmless and not liable for any damage done to the property as a result of clogged drain pipes.
- 3) The customer agrees to provide no less than 2 working exterior hose bib faucets with a flow of no less than 8 gallons of water per minute each for the rinsing process.
- 4) A temporary electrical disconnect *may* be required when we are working around the electrical mast (if there is one) on the building. If needed ABSTRACT will arrange for this disconnect with the electrical company, and will correlate with the customer as to when it will be done so they can unplug computers, appliances and other potentially sensitive equipment in the building to protect them from potential power surges.
- 5) Due to the workmen foot traffic, the volume of water that is used, the waste water containment system, and the scaffolding that will extend out approximately 8 feet from the perimeter of the building, any plant life with in this area may not survive the paint stripping process. It is the responsibility of the customer to move, transplant, or relocate any and all plant life in this area.

- 6) Some of the non masonry surfaces, such as window and door frames, that are directly contiguous to the masonry to be stripped, may have a small amount of the paint stripped off of them. These surfaces will be masked with plastic and tape, but the stripper is designed to penetrate and often creeps behind the masking materials. The "touch up" painting of these surfaces that may be necessary after the stripping process is completed is excluded from the scope of this proposal.
- 7) In order to cover the window and other openings on the building, plastic may be stapled onto the wood frames (if any) around the openings. This will leave small staple holes in the wood frames after the staples are removed. It is beyond the scope of this proposal to repair these small holes.
- 8) The glass window surfaces will be rinsed with fresh clear water after the surrounding brick surfaces are cleaned. The detail "squeegee cleaning" of the windows is excluded from the scope of this proposal.
- 9) On older buildings such as this one, on occasion, some water from the stripping process may intrude into the interior of the building through cracks, voids, ineffective caulk, below grade foundations, window and door frames etc.. It is the responsibility of the customer to notify ABSTRACT in advance of areas where this may have occurred in the past. It is also the responsibility of the customer to move all item no less than 4 feet away from all windows and doors, and completely out of basement areas where the potential for water intrusion exists. The customer agrees to hold ABSTRACT harmless and not liable for any damage done to the property as a result of interior water intrusion.
- 10) The intent is to strip the paint and clean the underlying masonry using the gentlest means possible so as to not damage the historic masonry. Excessive water pressure and/or too concentrated stripping or cleaning solution could damage the masonry. Therefore, it is agreed and understood that the paint will be stripped, and /or the masonry will be cleaned only to the point that if greater water pressure and/or too concentrated stripping or cleaning solutions were used that it would pit, discolor or otherwise damage the masonry. This means that on occasion, there may be some areas on the building that are so severely stained that they will not clean up 100%.
- 11) On rare occasion, there may be plaster, cement, lime, caulk, tar, unusual paint or other similar materials under, or between the layers of paint, that the chemical paint stripper will not react upon or strip off. Removal of these materials are considered unforeseen conditions and are excluded and beyond the scope of this proposal. If they are discovered during the paint stripping process, ABSTRACT will inform the customer of such and perform some testing (at ABSTRACT'S expense and cost), in order to determine the most effective method of removing them, and then provide the customer with a cost proposal to do so.
- 12) On rare occasion, the brick, stone or mortar may contain soluble salts. As the masonry is drying out following the stripping and / or cleaning process, these salts may manifest themselves on the face of the masonry in the form of a white powdery substance commonly known as efflorescence. Removal of efflorescence is considered an unforeseen condition and is excluded and beyond the scope of this proposal. If efflorescence appears after the paint stripping and cleaning processes, ABSTRACT will inform the customer of such and perform some testing (at ABSTRACT'S expense and cost), in order to determine the most effective method of removing them, and then provide the customer with a cost proposal to do so.
- 13) This proposal is priced on the assumption that the masonry cleaning, paint stripping, repair and sealing will be scheduled by the customer to occur *before* any demolition, stucco work, window installation, gutter work, landscaping, painting, roofing or similar work is performed on the exterior surfaces of the building.
- 14) Due to the age and existing condition of the masonry, some of the existing unsound mortar may be fall out during the cleaning process. This proposal specifically excludes masonry repair, caulking and repointing
- 15) It is the responsibility of the building owner to obtain a building permit from the city.
- 16) Anything not specifically included in the above scope of work is specifically excluded.

The above work is to be completed in a workmanlike manner for the sum of:

\$58,280

Payment(s) to be made as follows:

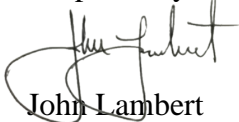
Progress payments equal to the total percentage of completion may be provided to the customer approximately every 2 - 3 weeks. Payment due in full within 14 days of invoice date.

If payment is not received by Abstract as indicated above, Abstract reserves the right to stop work.

Customer agrees to allow Abstract Masonry Restoration, Inc. to place a small yard sign containing their company logo and contact information etc. in the yard of the subject property while the work is being performed

This proposal may be withdrawn by Abstract Masonry Restoration, Inc. if not accepted within 14 days from the date of this proposal. If accepted by the customer after that date, the prices in this proposal are subject to increase due to potential increases in fuel, material, labor and / or other costs.

Respectfully submitted via email by:



John Lambert
Founder / President
Abstract Masonry Restoration, Inc.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are accepted. You are authorized to do the work as specified and payment(s) will be made as outlined above.

A penalty service charge or a finance charge of 2% per month, which is an annual rate of 24%, will be charged on the unpaid balance of all past due invoices. The minimum monthly charge is \$15.00. In addition, customer agrees to pay all costs incurred in collecting the unpaid balance, including court costs and attorney's fees.

Signature _____ Date _____



To Whom it May Concern,

Included with this statement is the feasibility report and bid to remove the exterior paint of our property, The Arches. John Lambert of Abstract Masonry Restoration describes a largely successful sample removal of the paint on a flat unobstructed surface. However, it is not without compromise to the brick, noting in his report that, “while the paint can be successfully removed, the single greatest challenge is doing it without pitting or otherwise damaging the mortar”. The bid shows the success as a 98% removal of the paint. This leaves 2% even through the most exhaustive effort by one of the most qualified masonry experts in the nation. The \$58,250 bid for removing will be financially taxing to the ownership leaving no funds to maintain the property on a whole. To put this bid into perspective, in the past 12 months, after paying only monthly bills and the mortgage, we have a gross profit of roughly \$15,000, more than \$43,000 short of the bid with no acceptable sources of credit to rely on. The “profit” does not include any non-routine maintenance that is required for the property.

Our mission is to improve the buildings we invest in and the lives of those who call our apartment buildings home. During our initial renovation at The Arches, we restored the original mailboxes, exterior lighting fixtures, along with keeping and restoring the front doors that we felt provided historical significance to the building. We are eager to begin restoration on three nationally registered historic buildings located downtown, The Lincoln Arms, The Bigelow, and The Chapman that will include both market rate and affordable units. This kind of penalty puts us at risk of losing investors, therefore the ability to complete these types projects despite a proven track record of proactively working with state and federal agencies involved in the preservation of historic properties.

In our previous hearing on this matter, we explained our misinterpretation of the historic district’s overlay guidelines as it relates to painting exteriors. We would like to restore historic components of the property, including the “Jo An” sign and the sandstone door surrounds as a means of curing this issue, as they bestow a sense of place to the neighborhood.

We would like to be part of the solution and play a part in spreading the word so that owners are aware of what they can and cannot do to their buildings. Possibly through some form of user-friendly online database or semi-annual letters reminding owners of their responsibilities as stewards of their buildings. We appreciate your time and look forward to resolving this in a positive manner for all of us dedicated to preserving a sense of place in the Salt Lake City community.

Sincerely,

Preserve Partners

2019 S Main St, Ste 2

Salt Lake City, UT 84115

HISTORIC SITE FORM

(10-91)

UTAH OFFICE OF PRESERVATION

1 IDENTIFICATION

Name of Property: Jo An Apartments
Address: 171-177 W. 300 North
City, County: Salt Lake City, Salt Lake County
Current Owner Name: Conference Center Apartments LLC
Current Owner Address: 239 E. South Temple, SLC, Utah 84111
Legal Description (include acreage): COM AT NW COR LOT 5 BLK 104 PLAT A SLC SUR S 61 FT E 115 FT N 61 FT; W 115 FT TO BEG. (0.16 ACRES)

2 STATUS/USE

Property Category: X building(s)
Evaluation: X eligible-contributing
Use: Original Use: Domestic - multiple dwelling
Current Use: Domestic - multiple dwelling

3 DOCUMENTATION

Photos: Dates: X prints: 2006
Research Sources (check all sources consulted, whether useful or not): X abstract of title, X tax card & photo, X city/county histories, X USHS Library, X USHS Preservation Files, X LDS Family History Library, X university library(ies): Marriott Library, University of Utah

Bibliographical References (books, articles, interviews, etc.)
Attach copies of all research notes, title searches, obituaries, and so forth.

[Ancestral File]. Available online at the Family Search website (www.familysearch.org).
Carter, Thomas and Peter Goss, Utah Historic Architecture, 1847-1940: A Guide, Salt Lake City, Utah: University of Utah Press, 1988.
Polk Directories, Salt Lake City, 1950-2003. Published by R.L. Polk & Co. Available at the Utah State Historical Society and the Marriott Library, University of Utah.
Salt Lake City Building Permit Cards and Register. Available at the Salt Lake City and Utah History Research Center.
[Salt Lake County Tax Assessor's Cards and Photographs]. Available at the Salt Lake County Archives.
[Salt Lake County Title Abstracts]. Available at the Salt Lake County Recorder's Office.
Salt Lake Tribune.
Sanborn Fire Insurance Maps for Salt Lake City, 1950, 1969, and 1986. Available at the Utah State Historical Society and the Marriott Library, University of Utah.
[Utah State Historical Society Burials Database]. Available online at Historical Society's website.

Researcher/Organization: Korral Broschinsky, Preservation Documentation Resource Date: 2006

4 ARCHITECTURAL DESCRIPTION

Building Style/Type: Modified Apartment Block A (Horizontal) / Modern No. Stories: 2.5

Foundation Material: Concrete Wall Material(s): Brick with flagstone accents

Additions: none minor major (describe below) Alterations: none minor major (describe below)

Number of associated outbuildings 0 and/or structures 0.

Briefly describe the principal building, additions or alterations and their dates, and associated outbuildings and structures. Use continuation sheets as necessary.

The Jo An Apartments block is a two and one-half story brick building located at 171-177 W. 300 North.¹ The 11-unit apartment block was built in 1951 and faces north at the corner of 300 North and 200 West. The building measures 82.5 feet by 30 feet. The wide façade is symmetrically with two projecting entrances. It is a modified version of the horizontal Apartment Block A, which is characterized by a wide primary elevation with multiple entrance, but only one unit deep.² The Jo An Apartments was designed and built by William G. Litchfield.

With flat planes and a low-slope hipped roof (covered in asphalt shingles) that appears nearly flat, the apartment block is Modern in style. The block sits on a concrete foundation. It is constructed of red striated brick laid in a running bond with flush (white-colored) mortar joints. The building's main decorative elements are found by the projecting entrances. The main floor of the entrance wings is faced with flagstone. The upper portion has an inset of glass block to light the stairwells. The original 3/4-glass doors with metal crossbars are still extant. There is a small metal cantilevered roof sheltering the concrete stoops and upper stairs. Wrought-iron rails are mounted on the steps. The windows are a combination of fixed and casements in aluminum frame. The lintels and sills are brick. The secondary elevations are relatively plain. There is a large centrally placed brick chimney stack.

On the interior, the Jo An Apartments has two entrance foyers and interior stairwells corridors similar to older apartment blocks (type A). The eleven units are divided between the three floors with a laundry room in the basement. There is a concrete parking area along the south property line. The front and side yards are landscaped with lawn and shrubbery. There are sidewalks leading to the two north entrances. There are two small trees flanking the east entrance, and mature deciduous trees in the parking strips. A notable feature of the property is the original neon, blade sign mounted to the southwest corner of the building.

The Jo An Apartments building is located just south of the National Register-listed *Capitol Hill Historic District*, and within the Salt Lake landmark *Capitol Hill Historic District*. The building was not considered an eligible building when the districts were established in 1982 and 1984 respectively. Since that time it has become a contributing building in its eclectic Salt Lake City neighborhood.

5 HISTORY

Architect/Builder: William G. Litchfield, builder

Date of Construction: 1951

Historic Themes: Mark themes related to this property with "S" or "C" (S = significant, C = contributing). (see instructions for details)

<input type="checkbox"/> Agriculture	<input type="checkbox"/> Economics	<input type="checkbox"/> Industry	<input type="checkbox"/> Politics/ Government
<input checked="" type="checkbox"/> Architecture	<input type="checkbox"/> Education	<input type="checkbox"/> Invention	<input type="checkbox"/> Religion
<input type="checkbox"/> Archeology	<input type="checkbox"/> Engineering	<input type="checkbox"/> Landscape Architecture	<input type="checkbox"/> Science
<input type="checkbox"/> Art	<input type="checkbox"/> Entertainment/ Recreation	<input type="checkbox"/> Law	<input checked="" type="checkbox"/> Social History
<input type="checkbox"/> Commerce	<input type="checkbox"/> Ethnic Heritage	<input type="checkbox"/> Literature	<input type="checkbox"/> Transportation
<input type="checkbox"/> Communications	<input type="checkbox"/> Exploration/ Settlement	<input type="checkbox"/> Maritime History	<input type="checkbox"/> Other
<input checked="" type="checkbox"/> Community Planning & Development	<input type="checkbox"/> Health/Medicine	<input type="checkbox"/> Military	
<input type="checkbox"/> Conservation		<input type="checkbox"/> Performing Arts	

¹ Today's 300 North was known as Second North or 2nd North until 1972.

² Thomas Carter and Peter Goss, *Utah Historic Architecture, 1847-1940: A Guide*, (Salt Lake City, Utah: University of Utah Press, 1988): 83.

5 HISTORY

Write a chronological history of the property, focusing primarily on the original or principal owners & significant events. Explain and justify any significant themes marked above. Use continuation sheets as necessary.

The land at the southwest corner of 300 North and Quince Street in Salt Lake City was part of the original holdings of pioneer George Morris. By the turn of the twentieth century the site of the future apartment building was an adobe house facing 200 West. The property was obtained by Joseph and Rose H. Baumgarten. Joseph Baumgarten, a real estate agent and developer, had the adobe house and outbuildings razed. He built a frame duplex in 1908 at the east end of the property (163-165 W. 300 North). The corner portion of the property remained empty for many years. Between 1935 and 1946, the property changed hands three times finally being acquired by Frank R. and Zella L. Roberts in August, 1946. On December 4, 1950, a Salt Lake City building permit was issued for the construction of a "three story brick (33-room) apartment and garage" to be built at an estimated cost of \$45,000.³ Zella Roberts' brother, William G. Litchfield was listed as both the co-owner and builder. Zella Matilda Litchfield and William Glenn Litchfield were born in Goshen, Utah, in 1885 and 1896 respectively. Zella and Frank E. Roberts were living in Salt Lake City, as the owners and managers of an apartment block by the 1930s. Zella R. Roberts took out a mortgage on the property in July 1951 for \$20,000.

The first occupants of the Jo An Apartments appear in the 1952 Polk directory for Salt Lake City. Twelve unit numbers were listed with two vacancies. The occupations of the husbands, except where noted, are given in parenthesis:

- 1) Gerald & Shirley C. Martin (research University of Utah)
- 2) Noel R. Young (student)
- 3) Hamilton G. & Edna S. Park (columnist)
- 4) Frank J. & Eva Florian (salesman, Addressograph Sales Agency)
- 5) Robert L. & Corrinne Mount (reporter, Tribune-Telegraph)
- 6) vacant
- 7) Clark & Helen E. Owen (salesman, A. J. Elggren & Sons Co., food brokers)
- 8) Dean & Norma J. PapaDakis (teacher, public school)
- 9) Max W. & Mary E. Happy (Mary worked at a Craven Confections)
- 10) Edison C. (Jr.) & Harriet L. Bricker (agent)
- 11) vacant
- 12) Anders Nielsen (salesman)

The residents include eight married couples and two single women. Their occupations represent the variety of employment available to working-class families living near downtown Salt Lake in the 1950s. Two have university connections, two were journalists, three were salesman, with one agent and one teacher. Only Mary Happy has a service industry job. The employment sample appears to be more "white-collar" than other renters in the area in older buildings.

The Jo An Apartments represent the physical transformation the building's west Capitol Hill neighborhood in the 1950s. While many older homes had been converted to rental units beginning in the 1920s, by the early 1950s, numerous older buildings were torn down to make way for residences designed specifically as multi-family housing. The Jo An Apartments was one of the earliest large-scale apartment blocks in the area. Although modern in appearance, the building was designed with many features (e.g. interior foyer and stairs) of an earlier generation of urban apartments in Salt Lake City.

³ The garage does not appear to have been constructed, probably because of the constricted site.

6 PHOTOGRAPH

2006, Camera facing southeast.



ATTACHMENT D: Historic Landmark Commission
Minutes

SALT LAKE CITY HISTORIC LANDMARK COMMISSION MEETING
City & County Building
451 South State Street, Room 326, Salt Lake City, Utah
October 3, 2019

A roll is being kept of all who attended the Historic Landmark Commission Meeting. The meeting was called to order at [5:34:50 PM](#). Audio recordings of the Historic Landmark Commission meetings are retained for a period of time.

Present for the Historic Landmark Commission meeting were: Chairperson Kenton Peters; Commissioners Stanley Adams, Jessica Maw, David Richardson, Esther Stowell, and Michael Vela. Commissioner Rocio Torres Mora was not present. Vice Chairperson Robert Hyde and Commissioners Paul Svendsen and Victoria Petro – Eschler were excused.

Planning staff present at the meeting were Nick Norris, Planning Director; Mayara Lima, Principal Planner; and Merili Carter, Administrative Secretary; and Paul Nielson, City Attorney.

Field Trip

A field trip was not held prior to the work session.

Commission Meeting Begins [5:34:50 PM](#)

Discussion to approve the September 5, 2019, MEETING MINUTES [5:35:23 PM](#)

PUBLIC HEARING for agenda item [5:37:41 PM](#)

- 1. Painted masonry facades at approximately 171 W 300 N** - Natalie Johnson, representing the property owner, is requesting approval of paint on three facades of the masonry apartment building located at 171 W 300 N. This work has already been carried out without a Certificate of Appropriateness approval and is the subject of an open enforcement case. The matter is being referred to the Historic Landmark Commission for a decision because Staff finds that the work does not comply with standards of review and adversely affect the character and integrity of the building. This item was reviewed and tabled at the September 5, 2019 meeting. The subject property is within Council District 3, represented by Chris Wharton. Staff contact: Mayara Lima at (801)535-7118 or mayara.lima@slcgov.com. **Case number PLNHLC2019-00132**

Mayara Lima, Principal Planner, provided a brief introduction and an overview of the case with no new information about the property located at 171 W 300 N given the commission had already discussed this case at two previous Historic Landmark Commission meetings; June 6, 2019 and September 5, 2019. Nick Norris, Planning Director, also stepped in and provided information when needed.

The Commission and staff discussed the following [5:39:10 PM](#):

- Mayara Lima, Principal Planner, discussed with the commission that painting the brick does not conform to the standards of review for a certificate of approval.

Applicant presentation and explanation [5:39:52 PM](#):

Chris Turner and James Tate with Preserve Partners (applicant) provided a presentation and discussed the following:

- They specialize in renovation of historic properties. Gave examples.
- They are preservationist.
- They utilize the federal historic tax credits.
- They provide affordable housing to help meet the city's current need.
- They did not know they needed a permit for this project.
- They canvased the neighborhood and have seen other painted properties. They found 10 properties locally and 59 properties in the overlay district that have been painted. They provided a list of the properties.
- They understand they made a mistake with this property; however, the flagstone on the exterior of the building was painted prior to purchasing the property.
- They have plans to restore the vintage sign attached to the building.
- They consulted with five contractors about the paint removal. Only one contractor said they can do paint removal.
- They met with Abstract Masonry, who verified that they can do paint removal. The earliest they can remove the paint is in May 2020; however, Abstract said they will not take on the liability of removing the paint from around the entrances due to the possibility of a tenant touching an area that has been chemically treated to remove the paint.
- Applicant says they are now in a position where they cannot find anybody to remove the paint.
- The estimate from Abstract Masonry came in at \$60,000 for removing the paint from only the brick (not the flagstone).
- The applicant says that spending the \$60,000 will put the property into bankruptcy.
- The applicant would like the City to forgive and fine instead of requiring removal.

The Commission and the applicant discussed the following:

- Code interpretation / honest mistake / misunderstanding
- The design guidelines of the historical overlay district
- Applicant claimed there is too much ambiguity, a lack of accessibility and public transparency for information about the historic overlay districts in the City.

The Commission, the applicant, and staff discussed the following:

- Principal Planner Lima discussed:
 - that the project does not meet design guidelines
 - painting brick does not meet the standards of review in the zoning code (21A.34.020.G)
 - zoning ordinance is available online to the public
- Director Norris discussed that the standards of review identify that chemical/physical treatments that damage the exterior of the building do not comply; painting brick does cause damage.
- Commission and applicant discussed the damage paint will cause brick.
- Applicant said they will be bankrupt if they need to remove the paint.
- Applicant said that they did not do a great amount of research on this property-for this project because they believed that painting the exterior of a building would not require a permit.
 - The applicant says they had no knowledge they were in a historic overlay district.
- Director Norris discussed the accessibility of records that will show a property owner if they are in a historic district and if they have a contributing building e.g. online accessibility, title searches, and deed records.
- Applicant claimed they did not know their building is a contributing building in a historical district.

PUBLIC COMMENTS for Case number PLNHLC2019-00132 [6:03:45 PM](#)

Minta Brandon, board member of the Capital Hill Community Council and a resident of the Marmalade District expressed that she is shocked to hear that the applicants did not know the historical status of their building, she expressed it is hard to believe the applicant's claims of ignorance given how many properties they own. She feels that the applicant was in a hurry and was motivated by money. Brandon also expressed the importance of preservation and the importance of not painting brick. Brandon firmly believes that the applicant knew the historical status of the building and how easy it is to search the city records. She discussed the measures she has taken to preserve her building and the importance of preservation.

Matt Blunt, local resident/neighbor to applicant's building discussed how hard it was for him to know that his building is in a historic district. He said he only found out when he went to build a shed. He discussed the county rules. He discussed his experience calling Salt Lake City and how the City staffer he spoke to initially thought it was okay for him to build the shed, but then at the end of the call the City staffer realized Mr. Blunt is in a historic district. Mr. Blunt believes that a property owner can easily believe their building is not historical. He also expressed how much he likes the paint on the applicant's building and how it is raising the bar for the entire neighborhood.

Cindy Cromer discussed that she initially thought that prohibiting paint on the rear façade and requiring paint removal on the sandstone would be enough; however, with this new information she now believes that because the paint can be removed successfully, and the cost is reasonable that the paint should be removed. Speaking as a property owner herself, she does not believe removing the paint will put the building into bankruptcy and that the claim is hyperbole. She feels that if the applicant is financially strained, they can remove the paint in phases, and that the expense of removal should be tax deductible for a property management/landlord situation. She requested the commission require removal of all of the paint with a timeline that allows the developers to maintain financial stability so the neighborhood can have the building that they use to have. Ms. Cromer expressed the historical significance of the building's midcentury/post war build date and architecture. Ms. Cromer finds it hard to believe that the property owners are able to utilize federal historic tax credits for their renovation, but missed that their building is a contributing building in a historic overlay district of Salt Lake City.

Israel Erekson, local resident/neighbor of the applicant's property expressed that the historic district rules have prevented many property owners from renovating their buildings. He believes that the applicant did make a mistake, and also believes that it is a matter of opinion that paint damages brick. He did a good amount of research and could not find a definitive consensus that painting brick will damage the brick. He found that it is recommended that brick not be painted, but that if one must paint brick that a vapor permeable paint can be used. Mr. Erekson understands that

it is hard for property owners to know their building is in a historic district and that when pulling a permit for his building, it took City staffers a while to notice he was in a historic district. Mr. Erekson expressed his desire to preserve things; however, in some instance's preservation is not the best choice for that building, especially when discussing cosmetic changes.

Applicant returned to respond to public comments [6:17:27 PM](#)

Applicant affirmed that they are in the business of preservation, and that due to not needing a permit to paint, the applicant did not do much research and therefore did not become aware of their building's historical status; had they known, they would not have painted the building. Their only intent was to refresh the building. Applicant discussed their renovation processes on their other properties and reaffirmed that they made a mistake with this property and will never make that mistake again.

Director Norris and applicant discussed [6:19:09 PM](#)

- The building was painted in the spring 2019
- Director Norris said "you mentioned that you did not know you were in a historical district..."
 - Applicant said they did not know they were not allowed to paint the building.
- Director Norris asked if they knew they were in a historic district
 - Applicant said "no"
- Director Norris discussed BLD2018-01291 (application for the same property, different project, pulled 02/06/2018 prior to painting): the application indicates that the property is in a historic district. Director Norris asked if the applicant had somebody pull the application for them; the City's records indicate that it was pulled by MWR Construction and Natalie Johnson. Director Norris asked the applicant if they authorized her to pull the permit for them. The applicant said that their general contractor pulled the permit and that Natalie Johnson works for MWR. The applicant said he would not have knowledge of the specifics of the permit. The applicant said they authorized MWR to pull a permit because they were doing renovations and they needed a permit. The applicant said they permit everything they do unlike most people.

Executive Session [6:21:22 PM](#)

Commission discussed that they have heard enough information on the case. The commission discussed the challenge of precedence. Commission discussed the possibility of the case being an honest mistake and the economic impact of removing the paint. Commission discussed focusing on what the guidelines are and what preservation is. Commission discussed the effects of painting brick. Commission discussed asking for the removal in phases and having staff monitor that.

MOTION to deny COA made [5:28:23 PM](#)

Commissioner Stowell moved: Based on the information listed in the staff report, the information presented, and the input received during the public hearing, I move that the Commission deny the

request for a Certificate of Appropriateness for the painted masonry facades at 171 W 300 N, as presented in petition PLNHLC2019-00132.

Commissioner Maw seconded the motion.

Commissioner Adams voted “against”.

Chairperson Peters and Commissioners Richardson and Vela voted “Aye”.

The motion to deny passed [6:29:30 PM](#)

Chairperson Peters then advised the applicant to work with City staff if they wish to appeal.

SALT LAKE CITY HISTORIC LANDMARK COMMISSION MEETING
City & County Building
451 South State Street, Room 326, Salt Lake City, Utah
September 5, 2019

A roll is being kept of all who attended the Historic Landmark Commission Meeting. The meeting was called to order at [5:31:54 PM](#). Audio recordings of the Historic Landmark Commission meetings are retained for a period of time.

Present for the Historic Landmark Commission meeting were: Vice Chairperson Robert Hyde; Commissioners Stanley Adams, Jessica Maw, Rocio Torres Mora, Victoria Petro – Eschler, David Richardson, Esther Stowell and Michael Vela. Chairperson Kenton Peters, and Commissioner Paul Svendsen were excused.

Planning Staff members present at the meeting were Wayne Mills, Planning Manager; Mayara Lima, Principal Planner; and Marlene Rankins, Administrative Secretary.

Field Trip

A field trip was held prior to the work session. Historic Landmark Commissioners present were: Jessica Maw, Rocio Torres Mora, Esther Stowell and Michael Vela. Staff members in attendance were Wayne Mills, and Mayara Lima.

- **171 W. 300 N.** – Staff summarized project. Commissioners asked about process. Staff explained that decisions must be based on adopted standards of review.

[5:43:57 PM](#)

Painted masonry facades at approximately 171 W 300 N - Natalie Johnson, representing the property owner, is requesting approval of paint on three facades of the masonry apartment building located at 171 W 300 N. This work has already been carried out without a Certificate of Appropriateness approval and is the subject of an open enforcement case. The matter is being referred to the Historic Landmark Commission for a decision because Staff finds that the work does not comply with standards of review and adversely affect the character and integrity of the building. This item was reviewed and tabled at the June 6, 2019 meeting. The subject property is within Council District 3, represented by Chris Wharton. Staff contact: Mayara Lima at (801)535-7118 or mayara.lima@slcgov.com. **Case number PLNHLC2019-00132.**

Mayara Lima, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Historic Landmark Commission deny the request.

The Commission and Staff discussed the following:

- Clarification as to whether the stone on the front façade is original
- Whether there has been other alternatives have been explored to remove the paint
- Bid to clean the building

James Tate and Chris Turner, applicants, provided a presentation along with further detailed information.

The Commission and Applicant discussed the following:

- What the applicant's proposal for preserving the actual integrity of the brick itself is
- Clarification as to whether there were other surrounding properties that have painted brick
- Clarification as to whether the applicant was aware of being in a historic district
- How the applicant's processes change in the future

Discussion was made regarding the confusion on whether the item was being heard as a public hearing.

MOTION [6:06:27 PM](#)

Commissioner Stowell stated, I move to table 171 W. 300 N. which is PLNHLC2019-00132 until next month to reopen the public hearing, due to confusion as to whether the public was notified on whether the item was to be heard as a public hearing or not.

Commissioner Adams seconded the motion. Commissioners Vela, Maw, Stowell, Adams, Richardson, Torres Mora and Petro-Eschler voted "Aye". Commissioner Richardson abstained. The motion passed 7-1.

The meeting adjourned at [6:10:22 PM](#)

SALT LAKE CITY HISTORIC LANDMARK COMMISSION MEETING
City & County Building
451 South State Street, Room 326, Salt Lake City, Utah
JUNE 6, 2019

A roll is being kept of all who attended the Historic Landmark Commission Meeting. The meeting was called to order at [5:33:53 PM](#). Audio recordings of the Historic Landmark Commission meetings are retained for a period of time.

Present for the Historic Landmark Commission meeting were: Chairperson Kenton Peters; Commissioners Stanley Adams, Thomas Brennan, Sheleigh Harding, Victoria Petro – Eschler, David Richardson, Charles Shepherd, Esther Stowell and Paul Svendsen.

Planning Staff members present at the meeting were Michaela Oktay, Planning Deputy Director; Paul Nielson, Attorney; John Anderson, Planning Manager; Mayara Lima, Principal Planner; Sara Javoronok, Senior Planner; and Marlene Rankins, Administrative Secretary.

Field Trip

A field trip was held prior to the work session. Historic Landmark Commissioners present were: Victoria Petro-Eschler, Esther Stowell, and Charles Shepherd. Staff member in attendance was Sara Javoronok.

- **55 N Virginia St** – Staff gave an overview of the proposal.
- **505 E South Temple** – Staff gave an overview of the proposal.
- **171 W 300 N** – Staff gave an overview of the proposal.

[5:42:22 PM](#)

Painted masonry facades at approximately 171 W 300 N - Natalie Johnson, representing the property owner, is requesting a certificate of appropriateness in order to approve paint on three facades of the masonry apartment building located on this site. This work has already been carried out without a Certificate of Appropriateness approval and is the subject of an open enforcement case. The matter is being referred to the Historic Landmark Commission for a final decision because Staff finds that the work does not comply with standards of review and adversely affect the character and integrity of the contributing building. The subject property is within the Capitol Hill Historic District and Council District 3, represented by Chris Wharton. (Staff contact: Mayara Lima at (801)535-7118 or mayara.lima@slcgov.com) **Case number PLNHLC2019-00132**

Mayara Lima, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Historic Landmark Commission deny the request.

The Commission and Staff discussed the following:

- Clarification as to possibility of harm to brick in removal process
- Code enforcement action
- Whether the building is a contributing building

Chris Turner and Natalie Johnson, Preserve Partners, provided a presentation and further details regarding the purpose of painting the building.

The Commission and Applicant discussed the following:

- Clarification with process and chemical used to test the paint strip
- Whether a contractor preformed test stripping
- Whether there was any test stripping done on the stone of the entrance of building
- Structure of building
- Sustainability; what is sustainable about painting brick
- How often is repainting necessary

PUBLIC HEARING [6:01:38 PM](#)

Chairperson Peters opened the Public Hearing;

Cindy Cromer – Stated it is essential to have test samples of paint stripping done by a highly qualified contractor on stone work.

Sarah Schultz – Stated she appreciated original brick and that the paint has changed the character of the building.

The applicant addressed the public concerns.

Seeing no one else wished to speak; Chairperson Peters closed the Public Hearing.

The Commission went into executive session and discussed the following:

- Whether a fine might be reasonable
- Issue with fairness; removal might not be effective
- Concern was raised with not seeking permission prior to painting the building
- Setting a precedent for approving work done without permission

MOTION [6:18:04 PM](#)

Commissioner Harding stated, in the case of PLNHLC2019-00132, I move that the Historic Landmark Commission table the appeal until more information about the viability of paint removal on the brick façade and also on the stone façade.

Commissioner Richardson provided a friendly amendment: That the report on viability of paint removal be done by a qualified masonry contractor. Commissioner Harding accepted the amendment.

Commissioner Shepherd added a second amendment: That the report include test stripping from the two masonry materials. Commissioner Harding accepted the second amendment.

Commissioner Adams seconded the motion. Commissioners Richardson, Shepherd, Brennan, Stowell, Petro-Eschler, Harding and Adams voted “Aye”. Commissioner Svendsen voted “Nay”. The motion passed 7-1.

ATTACHMENT E: Record of Decision Letter

JACQUELINE M. BISKUPSKI
Mayor



DEPARTMENT of COMMUNITY
and NEIGHBORHOODS
PLANNING DIVISION

October 4, 2019

Natalie Johnson
2019 S Main Street Ste 2
Salt Lake City, UT 84115

Re: RECORD OF DECISION PLNHLC2019-00132: MINOR ALTERATION FOR PAINTED MASONRY
AT 171 W 300 N

Dear Mrs. Johnson,

This letter serves as the Record of Decision relative to the following petition:

- **PLNHLC2019-00132** – Request for a Certificate of Appropriateness (COA) for a Minor Alteration to approve paint applied to three facades of the masonry building.

On **October 3, 2019**, the Salt Lake City Historic Landmark Commission denied the Minor Alteration request. The decision of the Historic Landmark Commission was based on the analysis and findings listed in the staff report and memorandums, as well as the testimony presented during the meeting.

The decision considers the general purpose of the zoning ordinance as well as the purpose of the zoning districts where the proposal is located. The purpose of the 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.*

The decision of the Historic Landmark Commission is located on the Planning Division's website at: <http://www.slcdocs.com/Planning/HLC/2019/HLC10.03.19ROD.pdf>

The minutes of the Historic Landmark Commission meeting are tentatively scheduled to be adopted on November 7, 2019. Copies of the adopted minutes will be posted on the Planning Division's website the day after they are adopted at: <https://www.slc.gov/boards/historic-landmark-commission-agendas-minutes/>

This Record of Decision is provided to you indicating the date, the action taken, to approve the request, the pertinent appeal periods; and, to what body an appeal can be made.

Appeal by the Applicant

There is a 30-day period in which the applicant may appeal the Historic Landmark Commission's decision. The applicant has the option of appealing to either the Appeals Hearing Officer **or** to the Mayor, who serves as Salt Lake City's Historic Preservation Appeal Authority. Any appeal by the applicant, including the filing fee, must be filed by the close of business on **November 4, 2019**.

Appeal by an Affected Party

There is a 10-day appeal period in which any party entitled to appeal can appeal the Historic Landmark Commission's decisions to the city's Appeals Hearing Officer. This appeal period is required in the City's Zoning Ordinance and allows time for any affected party to protest the approval, if they so choose. Any appeal, including the filing fee, must be filed by the close of business on **October 14, 2019**.

If you have any further questions about the Planning Division's processes, please contact me at (801) 535-7118 or by e-mail at mayara.lima@slcgov.com. It was a pleasure working with you.

Sincerely,



Mayara Lima
Principal Planner

cc: Case file PLNHLC2019-00132

ATTACHMENT F: Standards for Minor Alterations

21A.34.020G

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.