



# Staff Report

PLANNING DIVISION  
DEPARTMENT of COMMUNITY & NEIGHBORHOODS

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To: Salt Lake City Appeals Hearing Officer

From: David J. Gellner, AICP, Senior Planner – 385-226-3860 - [david.gellner@slcgov.com](mailto:david.gellner@slcgov.com)

Date: October 14, 2021 (hearing date)

Re: PLNAPP2021-00776 – Appeal of the Planning Commission Decision to Approve the Design Review Application for the 150 S Main Street Apartments (PLNPCM2021-00024)

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## APPEAL OF A PLANNING COMMISSION DECISION

**PROPERTY ADDRESS:** 136, 144 S Main & 158 S Main Street

**PARCELS:** 15-01-229-055, 15-01-229-068 and 15-01-229-070

**MASTER PLAN:** Downtown Plan (2016)

**ZONING DISTRICT:** D-1 – Central Business District

**COMMISSION HEARING DATE:** July 14, 2021

**APPELLANT:** J. Craig Smith and Emilee Gorham of Smith Hartvigsen, PLLC, Legal Counsel for the citizens and organizations listed in the Appeal Application.

**REQUEST:** Attached is the documentation for an appeal (PLNAPP2021-00776) regarding the decision of the Salt Lake City Planning Commission to approve a Design Review application (PLNPCM2021-00024) for the 150 S Main Street Apartments to be built at 144 S Main Street and portion of adjacent properties at 156 and 136 S Main Street. The appeal has been submitted by J. Craig Smith and Emilee Gorham of Smith Hartvigsen, PLLC on behalf of the individuals and organizations listed in Exhibit A of the Appeal Application which is included in Attachment B.

### BACKGROUND AND PROJECT DESCRIPTION:

The 150 S Main Street Apartments, was a proposal for a mixed-use residential apartment building to be located on the site of the vacant Utah Theater at 144 S Main Street and portions of adjacent properties at 156 and 136 S Main Street in the D-1 – Central Business District.

The Design Review application was submitted to the City on January 12, 2021. The proposed project is a 400-unit mixed-use residential apartment building that will include a mid-block walkway/plaza and a park amenity on the top of the parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on Main Street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment

and elevator overruns. The total height of the building will be approximately 392 feet. Mid-block buildings in excess of 100-feet tall in the D-1 zoning district may be approved through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being requested to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet. Details of the project are included in the Planning Commission Staff Report included in Attachment F.

On July 14, 2021 the Planning Commission heard and considered the proposal at a Public Hearing. Following presentations made by Staff and the applicant, and after taking public comment on the proposal, the Planning Commission voted 6-1 to approve the Design Review subject to certain conditions. The minutes of the Planning Commission meeting are included as Attachment E.

On July 26, 2021 the City received an application from J. Craig Smith and Emilee Gorham of Smith Hartvigsen, PLLC (Appellant) appealing the Planning Commission decision to approve the Design Review application.

**BASIS FOR APPEAL:**

This is an appeal of a Planning Commission decision; therefore, the Appeal Hearing Officer's decision must be made based on the existing public record. This is not a public hearing; no public testimony shall be taken.

The appellant's application and brief are included as Attachment B and the City Attorney's response to the appeal is included as Attachment C.

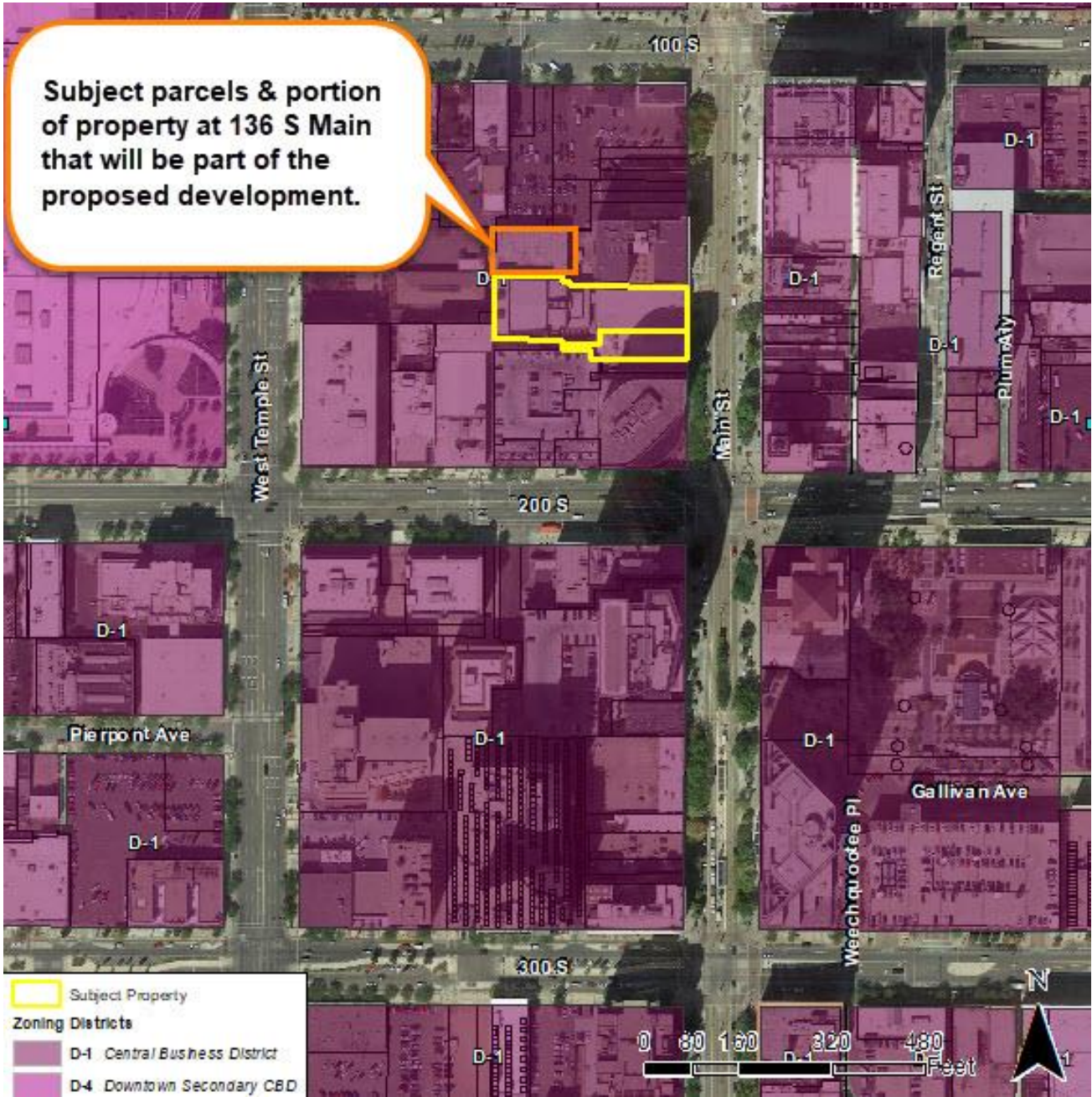
**ATTACHMENTS:**

- [A. Vicinity Map](#)
- [B. Appeal Application and Documentation](#)
- [C. Additional Appellant Information](#)
- [D. City Attorney's Brief](#)
- [E. Applicant's Brief](#)
- [F. Planning Commission Record of Decision](#)
- [G. Planning Commission Minutes](#)
- [H. Planning Commission Staff Report – 07/14/2021](#)
- [I. Additional Public Comments – Not Included in Staff Report](#)
- [J. Agenda, Notice & Mailing List for Commission hearing – 07/14/2021](#)
- [K. Public Outreach and Early Notification Items](#)

**NEXT STEPS:**

If the decision is upheld, the decision of the Planning Commission stands. If decision of the Planning Commission is not upheld, the matter could be remanded back to the Planning Commission. The decision made by the Appeal Hearing Officer can be appealed to the Third District Court within 30 days.





## **ATTACHMENT B: APPEAL APPLICATION & APPELLANT'S DOCUMENTATION**

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# Appeal of a Decision

SALT LAKE CITY PLANNING

## OFFICE USE ONLY

Project # Being Appealed:

PLNPCM2021-00024

Received By:

MM

Date Received:

July 26, 2021

Appealed decision made by:



Planning Commission



Administrative Decision



Historic Landmark Commission

Appeal will be forwarded to:



Planning Commission



Appeal Hearing Officer



Historic Landmark Commission

Project Name:

Appeal of PC Decision on 150 S Main Street Design Review Application

## PLEASE PROVIDE THE FOLLOWING INFORMATION

Decision Appealed:

Planning Commission Decision to Approve Design Review application PLNPCM2021-00024

Address of Subject Property:

approximately 136, 144 and 156 South Main Street, Salt Lake City, Utah

Name of Appellant:

See Attached Exhibit A (and Exhibit B for written description of error and reason for appeal)

Phone:

801-413-1600

Address of Appellant:

c/o Smith Hartvigsen, PLLC 257 E 200 S, Salt Lake City Utah

E-mail of Appellant:

egorham@shutah.law and jcsmith@shutah.law

Cell/Fax:

Name of Property Owner (if different from appellant):

N/A

E-mail of Property Owner:

N/A

Phone:

Appellant's Interest in Subject Property:

Neighboring Property Owners and Concerned Citizens of Salt Lake City

## 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.
- Applicant of an HLC decision being appealed can submit within thirty (30) days of a decision.

## REQUIRED FEE

- Filing fees must be submitted within the required appeal period.
- Filing fee of \$269, plus additional fees for required public notices and multiple hearings.

## SIGNATURE

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

Signature of Owner or Agent:

Emilee Gorham

Date:

07/26/2021

## SUBMITTAL REQUIREMENT



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

### WHERE TO FILE THE COMPLETE APPLICATION

*Mailing Address:* Planning Counter  
PO Box 145471  
Salt Lake City, UT 84114

*In Person:* Planning Counter  
451 South State Street, Room 215  
Telephone: (801) 535-7700

### INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

EG 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 . . .”

If the evidence supporting the decision is not marshaled and responded to, the hearing officer cannot grant your appeal. It may be wise to seek the advice of an attorney experienced in local land use regulation to assist you.

## **Exhibit A**

**The following adversely affected individuals and entities include owners or employees of nearby businesses on Main Street between 100 South and 200 South in Salt Lake City, Utah, individuals who live nearby, within six (6) block radius, and are adversely affected by the Decision of the Salt Lake City Planning Commission to Grant Approval of Design Review application PLNPCM2021-00024 for the 150 S Main Street Apartments development located at approximately 136, 144 and 156 South Main Street in the D-1 – Central Business District**

**Friends of the Utah Pantages Cinematic Theater, a Utah Nonprofit Corporation**

**Utah Pantages Cinematic Theater, LLC**

**Darby Bailey**

**Tye McDonough**

**Karel McDonough**

**Gregory McDonough**

**Michael Patton**

**Casey O'Brien McDonough**

**Ibrahima Fall**

**Tyler Green**

**Michael Vina**

**Collins Vina**

**Sarah Reiner**

**Jessica Nichols**

**J. Shane Franz**

**Sharon C. Franz**

**Anthony Godfrey**

**Brett Colvin**

## **Exhibit B**

### **Appellants' Written Statement of Alleged Error and Reason for Appeal of Planning Commission's Decision to Approve Hines Acquisitions, LLC Design Review Application (Petition PLNPCM2021-00024)**

Appellants, as set forth on **Exhibit A**, by and through their legal counsel, respectfully submit the following Written Statement in support of their appeal (“**Appeal**”) of Design Review Final Approval (“**Approval**”) by the Salt Lake City Planning Commission of the application designated as Petition PLNPCM2021-00024 (“**Application**”) by applicant Hines Acquisitions, LLC (“**Applicant**”) on July 14, 2021, to the Duly appointed Hearing Officer acting as the Land Use Appeal Authority of Salt Lake City pursuant to Chapter 21A.06 of the Salt Lake City Code.

#### **A. Land Use Appeals Hearing Officer's Jurisdiction and Authority**

The appeals hearing officer, established pursuant to Section 21A.06.040 of the Salt Lake City Code (the “**City Code**”), is the city's designated land use appeal authority (“**Appeal Authority**”) on appeals of planning commission decisions as provided in Chapter 21A.16 of the City Code.

Moreover, “[a]ny person adversely affected by any final decision made by the planning commission under this title may file a petition for review of the decision with the land use appeals authority within ten (10) days after the decision is rendered.” Section 20.48.120 of the City Code.

#### **B. Standard of Review for Appeals to the Hearing Officer**

In accordance with Section 21A.16.030.A of the City Code, an appeal made to the appeals hearing officer “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 incorrect. (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 shall “review the decision based upon applicable standards and shall determine its correctness” (Sec. 21A.16.030.E.2.b) and “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).

## **C. Background Facts**

### ***1. Design Review Application***

On January 11, 2021, Dwell Design Studio, on behalf of Hines Acquisitions, LLC, submitted a Design Review Application (“**Application**”) to the Salt Lake City Planning Division (“**Planning Division**”) for the “150 S Main Street Apartments,” a proposed project designated by the Planning Division as Petition PLNPCM2021-00024, to be located at approximately 150 South Main Street on the site of the historic Utah Pantages Theatre (“**Apartment**s”). The combined 0.89 acre (39,000 square feet) parcel where the Apartments are sought to be built is currently owned by the Redevelopment Agency of Salt Lake City and located in the D-1 – Central Business District. A copy of the Application is attached as **Attachment 1** and incorporated herein by this reference. No other applications have been submitted for the proposed Apartments. In addition to informing the applicant of each submittal requirement, the Application provides that “incomplete applications will not be accepted,” and the Applicant made the following acknowledgment: “I acknowledge that Salt Lake City requires the items above[, i.e., the Submittal Requirements,] 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.” *See* Application, page 2. Moreover, Salt Lake City directs applicants to review certain information prior to submitting a Design Review Application, including the following: “The purpose of the design review chapter is to: 1) establish a streamlined process and standards of review for minor modifications to applicable design standards, and 2) ensure high quality outcomes for larger developments that have a significant impact on the immediate neighborhood and the city. The design review process is not intended to be a means to simply obtain variances from zoning regulations” (emphasis added).<sup>1</sup>

However, development of “permitted uses” in the D-1 Central Business District, such as the proposed Apartments<sup>2</sup>, are subject to site review but do not go through any design review process; rather, design review is limited to conditional uses, which require their own application and are subject to separate procedures and a separate review process in addition to the design review process. *See* City Code 21A.30.010(B) and (C) (“Design review shall apply only to conditional uses in the D-1 and D-4 districts. In the D-1 district, the conditional use process is used to evaluate and resolve urban design issues related to the downtown area...The process for review of development proposals in the downtown districts is illustrated in the diagram set forth in section 21A.30.070 of this chapter. The specific procedures involving conditional use approval and site plan review are set forth in part V of this title. All proposed uses shall be subject to site

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<sup>1</sup>See Design Review Application, available at: <http://www.slcdocs.com/Planning/Applications/design%20review%20application.pdf>.

<sup>2</sup> See “Determination of Complete Application,” which indicates that the proposed Apartments are a permitted use, attached as **Attachment 2** and incorporated herein by this reference.



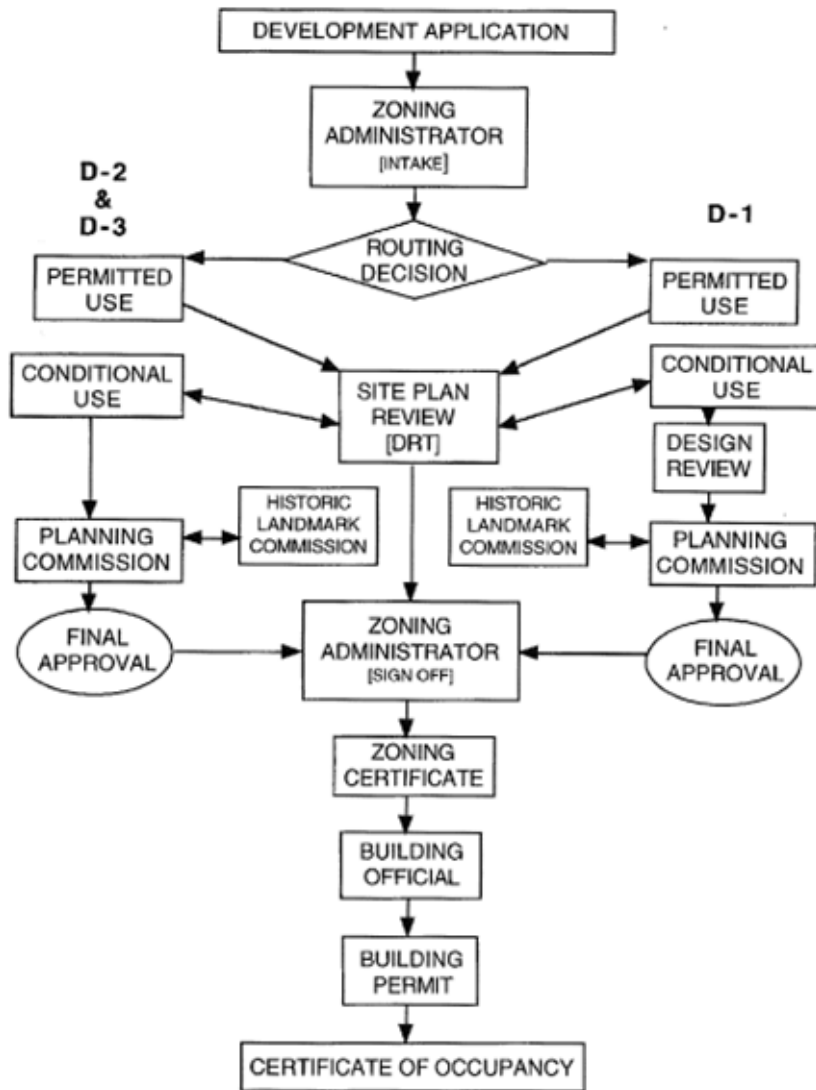
plan review. For conditional uses in the D-1 district, the petition will be forwarded to the planning commission for approval.”).<sup>3</sup>

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<sup>3</sup> See also City Code 21A.30.010(F) and (G) (“The uses specified as permitted uses in section 21A.33.050, "Table Of Permitted And Conditional Uses For Downtown Districts", of this title are permitted; provided, that they comply with all requirements of this chapter, the general standards set forth in part IV of this title, and all other applicable requirements of this title. The uses specified as conditional uses in section 21A.33.050, "Table Of Permitted And Conditional Uses For Downtown Districts", of this title, shall be permitted in the downtown districts provided they are approved pursuant to the standards and procedures for conditional uses set forth in chapter 21A.54 of this title, and comply with all other applicable requirements of this title, including the design review process established in this chapter.”); 21A.30.0209(B) (“Uses in the D-1 central business district as specified in section 21A.33.050, "Table Of Permitted And Conditional Uses For Downtown Districts", of this title, are permitted subject to the general provisions set forth in section 21A.30.010 of this chapter. In addition, all conditional uses in the D-1 district shall be subject to design evaluation and approval by the planning commission.”); Downtown Districts Approval Process Chart, below, and found in City Code Section 21A.30.070 (indicating that only conditional uses require planning commission approval through the Design Review process).

Moreover, the zoning regulations for the D-1 Central Business District include “Special Controls Over Mid Block Areas”, which apply to land located at the middle of blocks including the site of the proposed Apartments, such as the following Height Regulation: “No building shall be more than one hundred feet (100’) in height...” (the “**Height Regulation**”).<sup>4</sup> In addition,

#### DEVELOPMENT REVIEW STEPS FOR DOWNTOWN DISTRICTS



<sup>4</sup> See City Code 21A.30.020(F) (“1. Intent: Special controls shall apply to land located at the middle of blocks. Such controls are needed to establish coordinated levels of development intensity and to promote better pedestrian and vehicular circulation. 2. Area Of Applicability: The controls established under this subsection shall apply to: a. Buildings constructed after April 12, 1995; and b. All intervening land between block corner properties, as established in subsection E2 of this section. 3. Height Regulations: No building shall be more than one hundred feet (100’) in height; provided, that taller buildings may be authorized through the design review process, subject to the requirements of chapter 21A.59 of this title.”).

21A.37.060 provides a table of design standards, which is separate from the foregoing Height Regulation found in See City Code 21A.30.020(F).<sup>5</sup>

Thus, rather than submitting a development application, the Applicant skipped the City's development approval process and submitted a design review application.

## ***2. Planning Staff Review of Design Review Application***

Nevertheless, on January 21, 2021, the Design Review Application was assigned to the Salt Lake City ("City") Principal Planner, David J. Gellner, AICP. *See* Salt Lake City Citizen Access Portal Record, Processing Status (commenting: "Assigned to David Gellner for processing. Planner reviewing application for completeness and will contact RDA staff and consult with Molly Robinson, Planning Manager.").

As of February 3, 2021, David Gellner completed an initial review of the Application and determined that it was incomplete based on missing information and sent the review checklist<sup>6</sup> to the Applicant by email.<sup>7</sup>

Moreover, as of February 18, 2021, the Application was still incomplete. Likewise, the Application was incomplete as of March 2, 2021, and Mr. Gellner determined that he would discuss a "phased approval approach with the PC [i.e., the Planning Commission] in the absence of walkway and park details. On March 3, 2021, Mr. Gellner determined that the park and walkway are currently being discussed with the RDA and that he spoke with the Applicant about a "phased approach" to approval of the Application.

On March 8, 2021, Mr. Gellner declared: "Application now complete as noted in previous entry – for purposes of starting public engagement." Contrary to the City's requirements, Mr. Gellner processed the Application without receiving all of the items which were required to be submitted and commenced the 45-day public engagement process despite the Application's deficiencies.

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<sup>5</sup> *See* 21A.37.060 ("This section identifies each design standard and to which zoning districts the standard applies. If a box is checked, that standard is required. If a box is not checked, it is not required. If a specific dimension or detail of a design standard differs among zoning districts or differs from the definition, it will be indicated within the box. In cases when a dimension in this table conflicts with a dimension in the definition, the dimensions listed in the table supersede those in the definition.") and TABLE 21A.37.060.

<sup>6</sup> The "design review checklist" provides that incomplete design review applications are to be considered withdrawn and may not be processed for internal review. *See* Determination of Complete Application.

<sup>7</sup> *See* Citizen Access Portal Record Record, Processing Status (commenting: Planner has completed initial review of the application and determined it is incomplete based on missing information etc. As application is incomplete, routing to internal City departments and any community notices are on hold until the application is complete. The application review checklist was completed and a copy was sent to the applicant via email on 02/03/2021. A copy of the application checklist and email have been uploaded to Accela. Planner will contact applicant to set up a meeting to discuss checklist and missing items and advise further. The project manager Matthew Oxford noted that this project did not have a previous DRT meeting. That meeting has now been scheduled for 02/11/2021. Molly Robinson, Planning Manager will sit in on the meeting for the Planner.); Email from David Gellner to Matthew Oxford, attached as **Attachment 3** and incorporated herein by this reference.

According to a public information sheet prepared by the Planning Division, the Application is characterized as a “Design Review for Building Height” and “the proposed project is for a 400-unit apartment building that will include 40 affordable, 355 market rate and 5 penthouse level housing units. The building will include a mid-block walkway and a park amenity on the separate parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on main street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be 392 feet. Buildings in excess of 100-feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being used to allow the residential lobby entrance to be set back 10-feet from Main Street. The zone specifies a maximum of 5-feet but this may be modified through the Design Review.” See Public Information Sheet, March 8, 2021, attached as **Attachment 4** and incorporated herein by this reference.

### ***3. Public Hearing & Application Approval***

A Planning Commission meeting and public hearing on the Application was held on July 14, 2021. Prior to the hearing, the Planning Commission received nearly 100 public comments on the proposed Apartments and was provided with a Staff Report prepared by Mr. Gellner, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/00024StaffReport.pdf>. The Staff Report included a recommendation to approve the “additional building height request”, reasoning that “The D-1 zoning district allows for a maximum building height of 100-feet by right in any mid-block location. Buildings in excess of 100-feet tall may be approved through the Design Review process. The proposed 31-story building will be approximately 392-feet tall. The building itself will be 368-feet tall with an addition 24-feet added for rooftop mechanical equipment and elevator overruns. The applicant is going through the Design Review process to request the additional building height as well as used to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet.”<sup>8</sup>

Moreover, in the Staff Report, Attachment D: Development Standards, the Height Regulation in D-1 is included as a Development/Zoning Standard. In summarizing the requirement, the Staff Report characterizes the requirement as follows: “Mid-block areas – maximum of 100 feet in height unless additional height is authorized through the Design Review process.” See Staff Report. Moreover, as indicated in the Salt Lake City Code and as referenced throughout the Applicant’s Narrative and in the Staff Report, Attachment E: Design Review Standards Analysis, Building Height is not a Design Standard and, thus, is not permitted to be modified by the Planning Commission.

A major problem with how the Hearing was conducted virtually is that a number of individuals, including Appellants, were unable to participate and make any comment. When they attempted to participate by connecting to Webex through the website link (i.e., <https://bit.ly/slc->

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<sup>8</sup> See Staff Report and Determination of Complete Application by Mr. Geller.

pc-07142021) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>, they were unable to connect and, thus, unable to participate and make comments. Accordingly, under Utah Code § 10-9a-707 the City's designation of the scope or review as the factual record is incomplete. See Declaration, attached as **Attachment 5**.

After taking some of the public comments at the July 14, 2021 public hearing, engaging in a discussion with the Applicant, receiving a letter from our office informing the Commission Members that they do not have the authority to waive or modify the Height Regulation and a letter from Parr Brown regarding preserving the Theater, the City Planning Commission made a motion to approve the Design Review request for additional height. *See* Record of Decision for Petition PLNPCM2021-00024<sup>9</sup>, attached as **Attachment 6** and incorporated herein by this reference. In making its decision, one Planning Commission member commented that the demolition of the Utah Pantages Theater is “not in the purview” of the Planning Commission. Another Planning Commission member commented that the Utah Pantages Theater is an “eyesore” and she wants to see the Theater replaced with “something ... that’s useful.”<sup>10</sup> Another Commissioner stated that she “wish[es] we could save the heritage, but that’s not what we’re voting on here tonight.” Likewise, another Commission declared that the demolition of and preservation of the Utah Pantages Theater “is not within our[, i.e., the Commission’s] purview.” The applicant, too, stated that restoring the Theater is “uneconomic” and would cost “a literal fortune.” In addition, Commissioner Sara Urquhart made a motion to approve the height increase “based on the findings and analysis in the staff report, discussions, and comments”; however, there is no evidence that the Commissioners reviewed the staff report, comments, letters, or materials submitted to the Commission. There is also no evidence that the Applicant submitted any other land use applications for the proposed Apartments.

## **D. Alleged Errors and Violations**

### **I. The Decision Is Arbitrary and Capricious, As It Is Not Supported by Substantial Evidence In The Record**

The appeals hearing officer must overturn a Planning Commission's decision if it is arbitrary and capricious (i.e., it is not supported by substantial evidence in the record)<sup>11</sup>.

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<sup>9</sup> See Record of Decision (stating: “The Planning Commission made specific findings related to the standards of review for Design Review as stated in Chapter 21A.59 of the Zoning Ordinance. The decision was also based on the purpose of the zoning ordinance, the purpose of the zoning district where the project is located, the information contained in the staff report, the project details provided by you, testimony from the public, and the discussion of the Planning Commission. Copies of this information are available online here: <https://www.slc.gov/planning/planning-commission-agendas-minutes/>”).

<sup>10</sup> July 14, 2021 Salt Lake City Planning Commission Meeting YouTube Video, available at: <https://www.youtube.com/watch?v=x9BiHLh9bMI>.

<sup>11</sup> *Carlsen v. Bd. of Adjustment of City of Smithfield*, 2012 UT App 260, ¶ 4, 287 P.3d 440, 444 (“[w]hen a land use decision is made as an exercise of administrative or quasi-judicial powers, ... such decisions are

The above-described information and evidence which may have been relied upon by the Commission to support their decision cannot sustain the Commission's decision to approve a height increase of the proposed Apartments because the Commission had no authority to grant the height increase. Even for variance requests, the Appeals Hearing Officer decides whether to approve such requests, and no such request has been submitted by the Applicant and thus was not before the Commission. In addition, special exception requests, as described above, are not allowed in the D-1 Central Business District. Even without any authority to modify or waive the Height Regulation, the Commission granted a height increase based on an incomplete design review application even though only conditional uses, not permitted uses such as the proposed Apartments, in the D-1 Central Business District are subject to design review.

Further, even if the Application was properly before the Planning Commission, which it was not, the Commission nevertheless based their decision on subjective criteria and personal opinions, as described above, and on a Staff Report of an incomplete Design Review application, omitted City Code provisions regarding the purpose for design review (i.e., to consider minor modifications to design standards), insufficient evidence of how a height increase complies with the City's 2016 Master Plan, available at <http://www.slcdocs.com/Planning/MasterPlansMaps/Downtown.pdf> and incorporated herein by this reference, and D-1 Central Business District, and misapplied law. Such information is: unreliable, as it omitted various applicable City Code provisions regarding the development approval process and which projects are subject to design review in the D-1 Central Business District; and irrelevant, as a design review application is the wrong information for the Commission to consider to determine whether to approve a height increase, and, even if it was relevant, only minor modifications may be made to design standards, not land use controls/regulations such as the Height Regulation.

For the foregoing reasons, the Commission's decision is arbitrary and capricious and must be overturned.

## **II. The Decision Is Illegal, As It Violates Various City and State Laws**

The appeals hearing officer must overturn a Planning Commission's decision if it is illegal (i.e., it violates, or is contrary to, city, state, or federal laws in effect when the decision was made). Here, the Commission's decision to approve the design review application for additional height of the proposed Apartments is illegal because it violates: various provisions of the City Code and State Code, and Utah law; and is contrary to the goals, objectives, and vision of the City's 2016 Master Plan.

### **a. The Commission Lacks Authority to Waive or Modify the Height Regulation in the D-1 Central Business District Zone**

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not arbitrary and capricious if they are supported by substantial evidence. Substantial evidence is that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion.”).

Only the City's Appeals Hearing Officer may modify or waive zoning requirements, such as the height requirement, through the variance process.<sup>12</sup> Under state law and the City Code, only the City Council<sup>13</sup>, as the legislative body, is authorized to waive or modify existing zoning regulations. Instead, the Commission is authorized to:

[a]ct as an advisory agency to the mayor; [m]ake investigations and reports on proposed subdivisions and in cases of subdivision amendments involving streets per chapter 20.28, article III of this title make recommendations to the city council as to their conformance to the master plan, zoning ordinances of the city, and other pertinent documents; and [a]pprove preliminary plats and, when requested by the mayor, report its actions and recommendations concerning the subdivision to the mayor.<sup>14</sup>

The Commission also has the following duties and powers:

[i]nitiate amendments to the text of this title and to the zoning map pursuant to the provisions of chapter 21A.50 of this title; [r]eview, evaluate and make recommendations to the City Council on proposed amendments to this title pursuant to the procedures and standards set forth in chapter 21A.50 of this title; [and r]eview, hear and decide applications for conditional uses, including planned developments, pursuant to the procedures and standards set forth in chapters 21A.54, "Conditional Uses", 21A.55, "Planned Developments", and 21A.59, "Design Review", of this title...<sup>15</sup>

Likewise, under the Utah Code, the City Council, as the City's legislative body authorized to weigh policy considerations, is the only body that may enact a land use regulation, which it may enact only by ordinance.<sup>16</sup> While the Commission is authorized to review and recommend certain land use regulations, including amendments to existing land use regulations, it must first hold a public hearing in accordance with Utah Code Section 10-9a-404 and it is not authorized to enact such land use regulations.<sup>17</sup> Legislative powers may only be exercised by the legislative body; any

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<sup>12</sup> See City Code Section 21A.18.020. ("As described in section 21A.06.040 of this title, the appeals hearing officer may grant variances from the provisions of this title only in compliance with the procedures set forth in section 21A.18.040 of this chapter and only in accordance with each of the standards enumerated in section 21A.18.060 of this chapter.").

<sup>13</sup> See City Code Section 21A.06.020(C) (stating that the City Council is authorized to "[c]onsider and adopt, reject or modify amendments to the text of this title and to the zoning map pursuant to the provisions of sections 21A.50.030 and 21A.50.040 of this title...").

<sup>14</sup> City Code Section 20.04.080: City Council Authority.

<sup>15</sup> City Code Section 21A.06.030: Planning Commission.

<sup>16</sup> See Utah Code Ann. § 10-9a-501(1); *see also id.*, §10-9a-501.

<sup>17</sup> See *id.*, § 10-9a-302.



attempt to delegate legislative powers to another body, such as the Commission in this situation, violates the Utah Constitution.<sup>18</sup>

While one may be tempted to compare the “design review process” to the conditional use process, this is an “apples to oranges” comparison. The conditional use process does not modify or waive the underlying zoning of the property, it only decides appropriate conditions for a use already approved in the zone. The design review process attempts to delegate to the Commission the power to modify or waive portions of the existing zoning. Creation and modification of zoning designations are purely legislative under Utah law and the Utah Constitution. Only legislative bodies may waive or modify zoning requirements.

**b. The Decision to Approve the Application was an Illegally Granted Variance**

Furthermore, a waiver or modification of a municipal land use ordinance, including, but not limited to, one that creates a case-specific exception to a land use ordinance, is a legislative act under Utah law that can only be accomplished by the legislative body of a municipality, including the City.<sup>19</sup> Moreover, legislative powers<sup>20</sup>, including, but not limited to, powers of zoning, cannot be delegated to other governmental bodies, including “quasi-judicial” bodies like the Commission.<sup>21</sup>

Utah land use law and the City Code also provide for “variances” to zoning in very narrowly defined situations when specific conditions are met.<sup>22</sup> State law requires that if a person or entity applies for a variance, a variance may be granted by an appeal authority, a quasi-judicial body, only if:

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<sup>18</sup> See *Salt Lake City v. Ohms*, 881 P.2d 844, 848 (Utah 1994) (holding that “[c]ore functions or powers of the various branches of government are clearly nondelegable under the Utah Constitution. See, e.g., *Sandy City v. Salt Lake County*, 827 P.2d 212, 221 (Utah 1992) (holding that legislative functions, such as powers of zoning and rezoning, cannot be delegated)”).

<sup>19</sup> *Wallingford v. Moab City*, 2020 UT App 12, ¶ 27, 459 P.3d 1039, 1048, *cert. denied*, 466 P.3d 1073 (Utah 2020).

<sup>20</sup> See *Baker v. Carlson*, 2018 UT 59, ¶ 14, 437 P.3d 333, 336 (noting that legislative power “is distinguishable from the executive—or administrative—power, which involves ... applying the law to particular individuals or groups based on individual facts and circumstances” and that “enactment of a broad zoning ordinance constitutes a legislative act, while application of that zoning ordinance to individuals *through conditional use permits or variances* would constitute an executive act.” (emphasis added).)

<sup>21</sup> See *W. Leather & Finding Co. v. State Tax Comm'n of Utah*, 87 Utah 227, 48 P.2d 526 (1935); *Bradley v. Payson City Corp.*, 2003 UT 16, ¶ 13, 70 P.3d 47, 51 (noting that “...a municipality has the authority to formulate and implement zoning policies as an exercise of legislative power, a municipality cannot thereafter delegate some portion of that authority to a board of adjustment because a board of adjustment is a quasi-judicial body designed only to correct specific zoning errors.”).

<sup>22</sup> See Utah Code Ann. § 10-9a-702(1) (providing that “[a]ny person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.”); City Code Chapter 21A.18.

(i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances; (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone; (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone; (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and (v) the spirit of the land use ordinance is observed and substantial justice done.<sup>23</sup>

For the foregoing reasons, the Commission's decision is illegal and must be overturned.

**c. The Commission's Decision Violates City Code Sections 21A.030.010 and 21A.030.020**

The Commission's decision to approve the Application violates Section 21A.30.010 of the City Code, which provides that downtown district regulations and controls are intended to foster the arts and entertainment and to help implement adopted plans.<sup>24</sup> Moreover, City Code Section 21A.30.010(C) provides for specific land use controls over certain geographical areas within the central business district, which apply to the proposed Apartments, including those controls found in City Code Section 21A.30.010(F) and (G) that apply to land located at the middle of blocks (i.e., land between block corner properties). City Code Section 21A.30.010(F) specifies the Height Regulation; by approving the design review Application for height increase to nearly four times the allowed height, the Commission's decision is in direct violation of City Code Section 21A.30.010(F). In addition, City Code Section 21A.30.010(G) requires buildings within the Main Street Retail Core, including the proposed Apartments, are required to use the first floor of the land for motion picture theaters, performing arts facilities, and retail or public service space.

The Commission's decision to approve the design review Application for a height increase also violates the purpose of City Code Section 21A.030.020(A), which, in addition to imposing land use controls, states that the D-1 central business district functions as the "...entertainment, cultural and tourist center of the region."<sup>25</sup> In addition, permitted uses, such as the proposed

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<sup>23</sup> Utah Code Ann. § 10-9a-702(2)(a).

<sup>24</sup> See City Code Section 21A.30.010(A) ("Statement Of Intent: The downtown districts are intended to provide use, bulk, urban design and other controls and regulations appropriate to the commercial core of the city and adjacent areas in order to enhance employment opportunities; to encourage the efficient use of land; to enhance property values; to improve the design quality of downtown areas; to create a unique downtown center which fosters the arts, entertainment, financial, office, retail and governmental activities; to provide safety and security; encourage permitted residential uses within the downtown area; and to help implement adopted plans.").

<sup>25</sup> City Code Section 21A.030.020(A).

Apartments, in the D-1 central business district are not subject to design evaluation and approval by the planning commission<sup>26</sup>; instead, the design review process is for conditional uses only.<sup>27</sup>

**d. The Commission's Decision Violates the Design Review Requirements of the City Code**

Even if the Applicant was required to go through the Design Review process to obtain a height increase for the proposed Apartments, which it is not, the Planning Commission reviewed an incomplete application for design review and modified a zoning requirement, not a design standard, in violation of the City Code. Even if the Application for the proposed Apartments was subject to design review, which it was not, the Planning Commission has no authority to modify a zoning regulation, such as the Height Regulation found in 21A.30.020 of the City Code, as the purpose of the design review process is to allow “minor modifications” to certain *design review standards*.<sup>28</sup>

**e. The Commission's Decision Violates the Uniform Operation of the Laws Clause of the Utah Constitution and Equal Protection Clause of the United States Constitution**

The Commission's decision to approve a design review application for a height increase violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and the Uniform Operation of Laws Clause Under Article I, section 24 of the Utah Constitution. *See* U.S. Const. amend. XIV, § 1; UTAH CONST. art. I. § 24; *Gallivan v. Walker*, 2002 UT 89, 54 P.3d 1069 (“... ‘uniform operation of the laws’ provision of State Constitution and Equal Protection Clause of Federal Constitution embody the same general principle: persons similarly situated should be treated similarly, and persons in different circumstances should not be treated as if their circumstances were the same.”). By disregarding City and State zoning requirements

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<sup>26</sup>See City Code Section 21A.030.020(B) (“Uses in the D-1 central business district as specified in section 21A.33.050, “Table Of Permitted And Conditional Uses For Downtown Districts”, of this title, are permitted subject to the general provisions set forth in section 21A.30.010 of this chapter. In addition, all conditional uses in the D-1 district shall be subject to design evaluation and approval by the planning commission.”).

<sup>27</sup> See City Code 21A.30.010(B) and (C) (“Design review shall apply only to conditional uses in the D-1 and D-4 districts. In the D-1 district, the conditional use process is used to evaluate and resolve urban design issues related to the downtown area...The process for review of development proposals in the downtown districts is illustrated in the diagram set forth in section 21A.30.070 of this chapter. The specific procedures involving conditional use approval and site plan review are set forth in part V of this title. All proposed uses shall be subject to site plan review. For conditional uses in the D-1 district, the petition will be forwarded to the planning commission for approval.” (emphasis added)).<sup>27</sup>

<sup>28</sup> See Design Review Application: Purpose & Intent of the Design Review Process, available at: <http://www.slcdocs.com/Planning/Applications/design%20review%20application.pdf> (explaining that “[t]he purpose of the design review chapter is to: 1) establish a streamlined process and standards of review for minor modifications to applicable design standards, and 2) ensure high quality outcomes for larger developments that have a significant impact on the immediate neighborhood and the city. *The design review process is not intended to be a means to simply obtain variances from zoning regulations.*” (emphasis added)).

and acting outside of the bounds of their authority, the Commission gave preferential treatment to the Applicant by approving an incomplete design review application for a height increase.

For the foregoing reasons, the Commission's decision is illegal and must be overturned.

**f. Approval Effectively Violates the Vision and Various Goals of the 2016 Master Plan**

The Commission's approval of a height increase violates various portions of the City's 2016 Master Plan.

First, the decision interferes with the character of Main Street as described in the Master Plan. Specifically, the Master Plan states: "Each street in the Central Business District will have its own unique character and form: ... Main Street – the premier shopping street and historic heart of Salt Lake City, a unique pedestrian ... experience with activated sidewalks, consistent paving on the sidewalks, and sidewalks that are not interrupted by driveways."<sup>29</sup>

Second, the Commission's decision violates the goals and initiatives of the Master Plan. Specifically, the Master Plan provides that "Downtown is the number one choice for true urban living in Utah – a unique option in the region" and supports the development of "'store front studios' that connect artists with street life and enable live/work unit development, *except on Main Street in the Central Business District.*" (emphasis added).<sup>30</sup> Further, the Master Plan provides that "increased residential density for better jobs – housing balance" shall be achieved by allowing "live/work units to fulfill ground floor retail/active use zoning requirements, except on Main Street in the Central Business District."<sup>31</sup>

Third, the Commission's decision violates the Master Plan's goal to preserve the historical landscape of the Central Business District; specifically, the Master Plan provides that "[t]all buildings on the corners with shorter buildings around them is an historical pattern designed to emphasize nodes at the intersection of Main Street" and that "[b]uilding height and massing is determined by the character of each District." Moreover, the Commission's decision to approve a height increase for the proposed Apartments violates another goal of the Master Plan, which is to repurpose the Utah Pantages Theater."

**CONCLUSION**

For the foregoing reasons, the Commission's decision is arbitrary and capricious, and illegal, and must be overturned.

Respectfully submitted this 26<sup>th</sup> day of July, 2021.

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<sup>29</sup> See Master Plan, page 92.

<sup>30</sup> *Id.*, page 41.

<sup>31</sup> *Id.*

**SMITH HARTVIGSEN, PLLC**

/s/ J. Craig Smith

J. Craig Smith

Emilee Gorham

## **Attachment 1**



# Design Review

SALT LAKE CITY PLANNING

## OFFICE USE ONLY

Project #:	Received By:	Date Received:	Zoning:
PLNPCM2021-00024	Online & MM	01-11-2021	D-1

Project Name: Main Street Apartments (150 S. Main Street)

## PLEASE PROVIDE THE FOLLOWING INFORMATION

Request:  
Main Street Apartment

Address of Subject Property:  
150 South Main Street

Name of Applicant: Matthew Oxford-Project Manager, Dwell Design Studio	Phone:
Address of Applicant: 360 West 300 South, Suite 120, Salt Lake City UT 84101	
E-mail of Applicant: moxford@dwelldesignstudio.com	Cell/Fax: 208-881-1606
Applicant's Interest in Subject Property: <input type="checkbox"/> Owner <input type="checkbox"/> Contractor <input checked="" type="checkbox"/> Architect <input type="checkbox"/> Other:	
Name of Property Owner (if different from applicant): Hines Acquisitions, LLC or assigns	
E-mail of Property Owner: Dusty.harris@hines.com; Daniel.Stephens@hines.com	Phone: 801-359-7522

- ➔ **Please note** that additional information may be required by the project planner to ensure adequate information is provided for staff analysis. All information required for staff analysis will be copied and made public, including professional architectural or engineering drawings, for the purposes of public review by any interested party.

## AVAILABLE CONSULTATION

- ➔ Planners are available for consultation prior to submitting this application. Please call (801) 535-7700 if you have any questions regarding the requirements of this application.

## 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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## REQUIRED FEE

- ➔ Filing fee of **\$794** plus **\$121** per acre in excess of (1) acre.  
➔ Plus additional fee for required public notices.

## SIGNATURE

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

Signature of Owner or Agent: 	Date: 01/11/2021
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## SUBMITTAL REQUIREMENTS

Staff Review

### 1. Project Description (please attach additional sheet)

- |                          |                                     |   |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Written description of your proposal.   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Type of construction and list the primary exterior construction materials.                        |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Number, size, and type of dwelling units in each building, and the overall dwelling unit density. |

### 2. Minimum Plan Requirements

- |                          |                                     |   |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | A digital (PDF) copy of each plan and elevation drawing.          |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | One 11 x 17 inch reduced copy of each plan and elevation drawing. |

### 3. Site Plan

- |                          |                                     |   |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Site plan (see <a href="#">Site Plan Requirements</a> flyer for further details). |
|--------------------------|-------------------------------------|---|

### 4. Elevation Drawing

- |                          |                                     |   |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Detailed elevation, sections and profile drawings with dimensions drawn to scale. |
|--------------------------|-------------------------------------|---|

### 5. Additional Requirements

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | All of the application information required for site plan review as identified in Section 21A.58 of this title.  |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Photos showing the facades of adjacent development, trees on the site, general streetscape character, and views to and from the site.  |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Demonstration of compliance with the purpose of the individual zoning district in written narrative and graphic images.  |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Demonstration of compliance with the purpose of the applicable design standards of the individual zoning district in written narrative, graphic images, and relevant calculations. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Demonstration of compliance with the applicable design review objectives (Section 21A.59.050) in written narrative, graphics, images, and relevant calculations.                   |

## INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

MSO 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.

## **Attachment 2**



# Determination of Complete Application

PLANNING DIVISION  
DEPARTMENT *of* COMMUNITY *and* NEIGHBORHOODS

Zoning District: D-1 – Central Business District

Applicant: Matthew Oxford, Dwell Design Studio for Hines Acquisitions, LLC

File Number: **Design Review Application PLNPCM2021-00024**

Project Address: **150 South Main Street**

Note: Project is on 2 parcels, one addressed as 144 South Main and the other reference as 158 S Main Street

Application Date: 01/11/2021 – Assigned to Planner 01/21/2021

Review Date: 02/03/2021

Reviewed by: David J. Gellner, Principal Planner

Application Complete: ☐ Yes ☒ No: see attached for more information

Review for Completeness: An application will be considered complete when all submittal requirements have been submitted and when required information complies with the applicable zoning requirements.

An X in a box indicates whether a standard is complied with. For a standard to be checked, each standard in that specific section must be complied with. Each section should be marked as either yes (complies) or no (does not comply). If a section is not applicable, the not applicable box should be checked. If a specific standard within each section is not applicable, indicate no applicable in the “notes” column. In the comment section, list any additional information that may be relevant and what the applicant needs to do to demonstrate a standard is complied with.

Once an application is deemed complete, it will be processed. An applicant with an incomplete application will be provided with this list and given 30 days to provide missing information or correct plans that do not comply with the standards. If the information is not provided within 30 days, the application will be considered withdrawn and no refunds will be given as directed by city ordinance. Refunds will only be considered if the wrong application has been submitted or if the application has not been reviewed for completeness.

**Please Note:** This preliminary zoning review checklist is intended to provide a determination if your application can be considered complete for the purposes of starting the City’s internal review process. Please note that additional items may be identified through a more thorough zoning review and by other reviewing parties during the City’s review process. This includes items identified at the DRT meeting discussed in this document. Those items may require you to submit more detailed information and/or follow additional approval processes.

## Proposed Land Use

☒ Permitted    ☐ Conditional    ☐ Not Allowed    ☐ Not Listed/Defined

Comments: The proposed use for apartments with ground floor retail are permitted uses in the zone. Up to 100 feet would be allowed by right in a mid-block location. The applicant is going through the design review process for a building that is 392 feet tall. This includes the elevator overruns. Buildings in the D-1 are allowed up to 375 feet on corners.

## Base District Zoning Standards: 21A.30.010 & 21A.30.020 – D-1 Central Business District

☒ Applicable    ☐ Not Applicable

Are applicable standards complied with?  
Standards not complied with:

☐ Complies

☒ Does Not Comply

- 21A.030.020.D.6 – Landscaping
  - **Comments:** Project must conform to the special landscape requirements applicable to the D-1 Central Business District as contained in chapter 21A.48 of this title

**Note:** Additional comments on the landscaping requirements are included elsewhere in this document.

## Overlay Zoning District Standards 21A.34.110

☒ Applicable    ☐ Not Applicable

Are applicable standards complied with?

☒ Complies

☐ Does Not Comply

Standards not complied with:

- The proposed use is located in the DMSC Downtown Main Street Core Overlay District. This overlay does not impose additional standards beyond those found elsewhere in the zoning code.

## 21A.36 General Provisions

☒ Applicable ☐ Not Applicable

Are applicable standards complied with? ☒ Complies ☐ Does Not Comply

## 21A.37 Design Standards

☒ Applicable ☐ Not Applicable

Are applicable standards complied with? ☒ Complies ☐ Does Not Comply

Standards not complied with:

- **21A.37.060.C1**

**Comments:** As this proposal is in the Main Street retail core, it requires the ground floor glass to be at least 60% of the street facing elevation. The Zoning Ordinance (21A.37.050.C.1) defines the placement and location of the glass and how that is measured and how far into the building the transparency must extend. The plans do not provide details that show compliance with this standard and how the glass is being measured or other detailed calculations.

## 21A.44 Off Street Parking

☒ Applicable ☐ Not Applicable

Are applicable standards complied with? ☐ Complies ☒ Does Not Comply

Standards not complied with:

- D-1 Parking requirements are Residential: 1/2 space per dwelling unit Commercial: No spaces required up to 25,000 square feet usable floor area. 1 space per 1,000 usable square feet over 25,000 square feet thereafter.
  - Comments: Plans indicate that the garage will provide 261 stalls with 60 of those being shared with the Kearns Building. The parking appears adequate but details on EV and ADA stalls are required. Note: The Transportation Division may have additional comments when the project is reviewed by their office.
- 21A.44.050.B.2
  - Comments: Development requires minimum 1 stall per 25 for electric vehicles. Please add or show the required EV stalls.

- 21A.44.050.B.2.c
  - Comments: Please provide bike parking at a rate of at least 5% provided parking stalls. Bike parking should be included on plans and in narrative.

## 21A.46 - Signs

☒Applicable      ☐Not Applicable

Are applicable standards complied with?      ☐Complies      ☒Unclear

- 21A.46.110 – Sign Regulations for Downtown Districts
  - Comments: The submitted drawings did not include details on any signs. Signs must conform to the provisions of 21A.46.110 in terms of placement, size, type and other regulations. Sign permits will be required at the point of building permits.

## 21A.48 Landscaping and Buffers

☒Applicable      ☐Not Applicable

Are applicable standards complied with?      ☐Complies      ☒Does Not Comply

Standards not complied with:

- **21A.48.100 – Special Landscape Requirements**

D. D-1 Central Business District And D-4 Downtown Secondary Central Business District:

The submitted plans refer to “see landscape drawings” but no landscape plans or drawings were submitted with the application. Some trees are shown on the renderings, but these appear to be conceptual.

- 21A.48.050.B.10
  - Comments: Please contact Urban Forestry in regards to preservation of existing park strip trees, or approval of proposed trees – Rick Nelson (801-972-7839). Comments from Urban Forestry are included on the City Review comments document.
- 21A.48.055
  - Comments: Water efficiency plan will need to be submitted with building permit application.

## 21A.58 Site Plan Requirements

☒ Applicable

☐ Not Applicable

Is all required information shown on site plan? ☐ Complies

☒ Does Not Comply

Missing requirements:

- Please refer to Chapter 21A.58 for the full list of Site Plan requirements.
- Chapter 21A.58 also references the City's DRT – Development Review Team meetings and process. Please schedule a meeting with the City's DRT to review this project for additional requirements. The Planner assigned can help to facilitate this.
- 21A.58.060.I
  - Comments: Plans will need to show electric utilities, including placement of transformers which are required to be on private property. Please contact Jeffrey Barret with Pacificorp for sizing and review ([Jeffrey.barrett@pacificorp.com](mailto:Jeffrey.barrett@pacificorp.com)) additional standards for ground mounted utility boxes can be found in 21A.40.160

## 21A.59 Design Review Requirements

☒ Applicable

☐ Not Applicable

Are applicable standards complied with?

☐ Complies

☒ See Note and Comments Below

**Note:** This project is going through the Design Review process due to the height on the interior of a downtown block. Please review the Design Review Standards found in Chapter 21A.59.050 to ensure that the submitted Narrative and Design Review responses follow those standards and address all the requirements as outlined in Chapter 21A.59. Per 21A.59.030(B) – evidence of includes photos of existing conditions and surrounding context, written narrative, graphic images and relevant calculations. Please be sure to look at the Design Review standards in 21A.59.050 to make sure that your narrative addresses all those points. Standards D & G are most relevant to taller or larger buildings.

**Planner Comments:** For your Design Review narrative, we always advise applicants to “tell the story” of their project. Your narrative should be telling the story and vision of the project and articulating the design considerations and thought process that went into the proposed project design. What is happening at the ground level and how the building interfaces with the public sidewalk is something that is an important consideration and something to articulate. It is the responsibility of the applicant to demonstrate that all the Design Review standards are being met and to “tell the story and vision” of the project to the Planning Commission who will be the decision-making body on the proposal. The PC will need to be comfortable that the standards have been met in order to approve the development.

The submitted documents 1) Design Review Responses, and 2) Design Presentation, (both documents dated 01-07-2021) generally address the standards and provide some project context but are somewhat difficult to follow as they are separate. As such, it is hard to tell if the standards are all being addressed. A combined document that includes graphics and other details to demonstrate context, vision, how standards are being met and how everything comes together is suggested. I have some recent examples of narratives from larger scale downtown projects that did a very good job of articulating the vision and can send those to you. **Please contact me about this issue if you have questions or want additional direction on this item.**



## **Other Miscellaneous Comments or Issues Identified**

The following elements and public benefits were required on the project per the RDA agreement:

- Affordable Housing – 10% of housing units at 60-80% AMI
- Midblock Walkway – privately maintained, publicly accessible midblock walkway between 12 and 40 feet wide and approximately 200-220 feet land.
- Historic Repurposing of theater elements.

While the midblock walkway and repurposed elements are not strict zoning requirements, their inclusion and placement could in turn impact the placement of building elements and other design features. As the project and site plan is being reviewed by the Planning Commission, once approved, the scope of modifications allowed is minimal and may require additional action by the Planning Commission. As such, details on these elements and how they interact with the overall project will be discussed by the Planning Commission. Details on these elements were not provided with the Planning application.

The City has Design Guidelines for Mid-Block Walkways that were developed in conjunction with the Salt Lake City RDA as part of the Downtown Plan process. Please refer to the guidelines in relation to the walkway and provide details with the application materials.

## **Lot Consolidation Required**

The proposed development would be located on two (2) parcels in the D-1 zoning district as referenced below:

1. 144 South Main Street – Parcel ID: 15-01-229-068-0000
2. 158 South Main Street (referred to as 156 South Main Street in some City documents).  
Parcel: 15-01-229-070-0000

A parcel consolidation will be required at the time of Building Permits. The consolidation application will be filed with the Planning Division through in accordance with the Subdivision process outlined in Title 20 of City Code. The consolidated parcel must be recorded with the Salt Lake County Recorder's Office. Approval of the consolidation is at the administrative level by Planning Staff and will not require a Public Hearing with the Planning Commission. Your assigned Planner can further advise you and help you file the appropriate applications.

### **Attachment 3**

## Gellner, David

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**From:** Gellner, David  
**Sent:** Thursday, February 18, 2021 5:09 PM  
**To:** Matthew Oxford  
**Subject:** Follow-Up on 150 S Main Street Application - PLNPCM2021-00024

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Matthew,

I'm touching base on your application and previous message about the checklist I sent on 02/03/2021 and the incomplete application status. Your application is currently on hold pending the receipt of several items identified in the checklist. We can schedule a call to go over those if needed but here is a quick list taken from the checklist:

- Landscaping and landscape plans.
- Details on glass measurements and how measured
- Off street parking details.
- Signs
- Site plan requirements
- Design Review requirements – suggestions on narrative

**In terms of the mid-block walkway and park/open space that we've had some back and forth on, we had some further internal discussion today and this is what we are suggesting as a possible course of action that may solve the concerns on your end (owners) about publicly releasing those details that are being negotiated with the RDA and so that we can keep things moving:**

- Since those things are required based on the contract with the RDA, we could move forward with the PC and include a potential condition on those items being finalized and agreed to with the final details either be delegated to staff or brought back to the Planning Commission for final approval.

That does open the door to potentially having to go back to the PC for a second meeting to finalize those details so I want to make sure you and the owners are aware of that up front. There is also the possibility that the PC will not feel comfortable in separating out those elements and how they interact with the rest of the project design until they see them. In that case, they could table the application pending an understanding of those details. Again, just preparing you for those possibilities if we proceed with those details missing.

In terms of next steps, we are about halfway through the 30-day notice to correct application deficiencies. Based on the checklist date of February 3, 2021 that period would end on about March 8<sup>th</sup>. The DRT meeting that took place on 02/11/2021 that Molly attended may have brought up some other issues that will impact the design and that should be integrated into the revised plans etc. As I mentioned above, any further processing is on hold until the application is complete. This includes any required public notices. The 45-day public comment period will start once the application is complete. Likewise with internal City department reviews and holding an open house for the project. Those timelines and items happen after we have a complete application, so the sooner things get turned around on your end the better. Once the revised items are submitted and we can verify that the application is complete, we will start the required 45-day public engagement period and the other items I mentioned above.

As I mentioned above, if you have any questions and/or would find a call helpful, please let me know. I'm happy to schedule a video or audio call and provide further guidance to help move things forward. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Principal Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860

Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)

[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)

[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

**PLEASE NOTE:** OUR OFFICE IS WORKING REMOTELY FOR THE FORESEEABLE FUTURE

**DISCLAIMER:** The Planning Division strives to give the best customer service possible and to respond to questions as accurately as possible based upon the information provided. However, answers given at the counter and/or prior to application are not binding and they are not a substitute for formal Final Action, which may only occur in response to a complete application to the Planning Division. Those relying on verbal input or preliminary written feedback do so at their own risk and do not vest any property with development rights.

---

**From:** Matthew Oxford <moxford@dwelldesignstudio.com>

**Sent:** Tuesday, February 16, 2021 7:20 PM

**To:** Gellner, David <David.Gellner@slcgov.com>

**Subject:** (EXTERNAL) RE: Got Your Call - I was Out of Office

Hi David, thanks for the message. After I called, I realized you were probably closed yesterday.

The reason for my call is the mid-block alley and park that will top our parking structure. Hines (the project owner) has asked we defer on submitting anything regarding these elements as they are still working with the RDA for design and programming. Ideally, we would have this in our presentation. I was hoping for advice as to how we go about making those items separate. Our presentation will show these areas, for size and shape, but not give any detail.

Thank you,

**Matthew Oxford**

Project Manager



**dwell design studio, llc**

360 West 300 South  
Suite 102  
Salt Lake City, UT 84101  
[d] 385-273-1032  
[c] 208-881-1606

[moxford@dwelldesignstudio.com](mailto:moxford@dwelldesignstudio.com)

[www.dwelldesignstudio.com](http://www.dwelldesignstudio.com)

---

**From:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>

**Sent:** Tuesday, February 16, 2021 2:09 PM

To: Matthew Oxford <[moxford@dwelldesignstudio.com](mailto:moxford@dwelldesignstudio.com)>

Subject: Got Your Call - I was Out of Office

Matthew,

Just listened to your voicemail from yesterday. We were closed yesterday and I was out of the office until this afternoon. Doing some catch up but will try you back this afternoon, probably after 3:00. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Principal Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860

Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)

[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)

[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

**PLEASE NOTE:** OUR OFFICE IS WORKING REMOTLEY FOR THE FORESEEABLE FUTURE

**DISCLAIMER:** *The Planning Division strives to give the best customer service possible and to respond to questions as accurately as possible based upon the information provided. However, answers given at the counter and/or prior to application are not binding and they are not a substitute for formal Final Action, which may only occur in response to a complete application to the Planning Division. Those relying on verbal input or preliminary written feedback do so at their own risk and do not vest any property with development rights.*

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This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message and are hereby notified that any disclosure, copying, or distribution of this message, or the taking of any action based on it, is strictly prohibited

## **Attachment 4**

**Salt Lake City Planning Division - Public Information Sheet**  
**Design Review for Building Height – PLNPCM2021-00024**  
**150 S Main Street Apartments**



**Request Type:** Design Review for Building Height  
**Location:** 150 S Main Street  
**Zone:** D-1 – Central Business District

Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 150 S. Main Street on the site of the Utah Theatre. The combined 0.89 acre (39,000 square feet) parcel is owned by the Redevelopment Agency of Salt Lake City and is located in the D-1 – Central Business District.

The proposed project is for a 400-unit apartment building that will include 40 affordable, 355 market rate and 5 penthouse level housing units. The building will include a mid-block walkway and a park amenity on the separate parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on main street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be 392 feet.

Buildings in excess of 100-feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being used to allow the residential lobby entrance to be set back 10-feet from Main Street. The zone specifies a maximum of 5-feet but this may be modified through the Design Review.

Renderings of the proposed structure are included below and on the following page of this information sheet.







If you have questions about the project or have comments, please contact the project planner:

David J. Gellner, AICP, Principal Planner  
(385) 226-3860

[david.gellner@slcgov.com](mailto:david.gellner@slcgov.com)



## **Attachment 5**

## DECLARATION OF \_\_\_\_\_

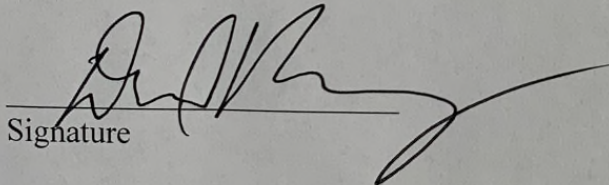
Pursuant to the Uniform Unsworn Declarations Act, codified as Utah Code Ann. § 78B-18a-101 et seq., and under penalty of perjury, I, David Berg, affirm, declare, and state as follows:

1. I have personal knowledge of the statements contained in this Declaration.
2. On July 14, 2021, I attempted to participate in and provide comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting, which was held as an electronic meeting without an anchor location, by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>.
3. I was not able to connect to Webex and, thus, was unable to participate and give my public comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 26<sup>th</sup> day of July, 2021 at Salt Lake City, Utah.

David Berg  
Printed name

  
Signature

## **Attachment 6**

ERIN MENDENHALL  
Mayor



DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS  
PLANNING DIVISION

July 15, 2021

Dusty Harris  
Hine Acquisitions  
136 South Main Street, Suite 850  
Salt Lake City, UT 84101

Evan Haslam  
Dwell Design Studio  
360 West 300 South, Suite 102  
Salt Lake City, UT 84101

RE: **Record of Decision for Petition PLNPCM2021-00024 – Design Review Petition for the 150 S Main Street Apartments for Additional Building Height**  
Location: **136, 144 and 156 South Main Street**

Dear Dusty and Evan,

**On July 14, 2021, the Salt Lake City Planning Commission granted Approval of your Design Review application PLNPCM2021-00024 for the 150 S Main Street Apartments development located at approximately 136, 144 and 156 South Main Street in the D-1 – Central Business District.**

This Record of Decision is provided to you indicating the date action was taken, the decision of the Planning Commission including any approval conditions, the one-year time limit on the approval, the limitations on modifications to the plans, and the 10-day appeal period.

#### **Project Description**

The Planning Commission reviewed and approved the following project:

***Design Review for the 150 S Main Street Apartments*** - Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 144 South Main Street on the site of the currently vacant Utah Theatre, one adjacent parcel at 156 S. Main and a portion of the parcel at 136 S Main Street. The properties at 144 and 156 S Main are owned by the Redevelopment Agency of Salt Lake City while the parcel at 136 S Main is owned by Hines, the developer. All properties are located in the D-1 – Central Business District. The proposed project is for a 400-unit mixed-use residential apartment building that will include a mid-block walkway/plaza and a park amenity on the top of the parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on Main Street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be approximately 392 feet. Mid-block buildings in excess of 100-feet tall in the D-1 zoning district may be approved through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being requested to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet.

### Conditions of Approval

The following conditions were applied to the approval of the proposal and delegated to City staff for verification during the Building Permit review:

1. Compliance with street tree requirements and streetscape improvements consistent with the recommendations of the Salt Lake City Urban Forester.
2. Compliance with sign & lighting requirements that meet the Salt Lake City Lighting Master Plan.
3. Signage must be provided for the mid-block plaza and park space indicating that they are open to the public.
4. Final approval of the mid-block plaza/walkway and park amenities in conformance with the standards for privately owned public spaces.

**Please note:** Approval is for the specific items discussed and identified in the staff report. All other applicable zoning regulations and requirements from other city departments still apply.

### Review Process Standards and Findings of Fact

The Planning Commission made specific findings related to the standards of review for Design Review as stated in Chapter 21A.59 of the Zoning Ordinance. The decision was also based on the purpose of the zoning ordinance, the purpose of the zoning district where the project is located, the information contained in the staff report, the project details provided by you, testimony from the public, and the discussion of the Planning Commission. Copies of this information are available online here: <https://www.slc.gov/planning/planning-commission-agendas-minutes/>

### Modifications to the Approved Plans

To obtain a building permit, all plans must be consistent with the plans reviewed and approved by the Planning Commission. Except where specifically modified by the Planning Commission as a condition of approval, modifications to the approved plans are limited by the following (see 21A.59.080 of the Zoning Ordinance):

*Minor Modifications:* The Planning Director may authorize minor modifications to approved design review applications as listed below.

1. *Dimensional requirements that are necessary in order to comply with adopted Building Codes, Fire Codes, or engineering standards. The modification is limited to the minimum amount necessary to comply with the applicable Building Code, Fire Codes, or engineering standard.*
2. *Minor changes to building materials provided the modification is limited to the dimension of the material, color of material, or texture of material. Changes to a different material shall not be considered a minor modification.*

Other Modifications: Any other modifications not listed above require a new application.

### One Year Time Limit on Approval

No design review approval shall be valid for a period longer than **one year** from the date of approval unless a building permit is issued or a complete building plans and building permit applications have been submitted to the Division of Building Services and Licensing. An extension of one year may be granted by the entity that approved the application. Extension requests must be submitted in writing prior to the expiration of the design review approval.



**10-Day Appeal Process**

There is a 10-day appeal period in which any affected party can appeal the Planning Commission's decision. This appeal period is required in the City's Zoning Ordinance and allows time for any affected party to protest the decision, if they so choose. The appeal would be heard by the Appeals Hearing Officer. Any appeal, including the filing fee, must be submitted by close of business on **Monday, July 26, 2021**.

The summary of action for the Planning Commission meeting is located on the Planning Division's website at: <https://www.slc.gov/planning/public-meetings/planning-commission-agendas-minutes/>

Please feel free to contact me at (385) 226-3860 or by email at [david.gellner@slcgov.com](mailto:david.gellner@slcgov.com) in relation to this letter if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Gellner", with a stylized flourish at the end.

David J. Gellner, MAG, AICP, Senior Planner  
Salt Lake City Planning Division

CC File: PLNPCM2021-00024

## **ATTACHMENT C: ADDITIONAL APPELLANT INFORMATION & STAFF RESPONSE**

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**The following items are included in this attachment:**

- a) Staff Response to Appellant additional information provided 09/30/2021**
- b) Additional written Appellant information in support of Appeal – 09/30/2021**
- c) Additional Appellant information regarding standing – 10/07/2021**



# MEMORANDUM

PLANNING DIVISION  
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Appeals Hearing Office  
From: David J. Gellner, AICP, Principal Planner 385-226-3860, [david.gellner@slcgov.com](mailto:david.gellner@slcgov.com)  
Date: October 6, 2021  
Re: Staff Response to Additional Appellant Items Submitted on 09/30/2021

The Appellants Additional Materials submitted on 09/30/2021 included the following items to which Staff is responding.

## **Individuals Listed in Attachment 1 as Unable to Connect into Remote Meeting**

- Shane Franz
- Sharon Franz
- Maria Patton

### Staff Response:

- An email from Shane Franz was received on 04/21/2021 citing opposition to the project. Sharon Franz was copied on that email. The email was included in the public comments section in the Planning Commission Staff Report.
- An email from Maria Patton was received on 04/25/2021 citing opposition to the project. The email was included in the public comments section in the Planning Commission Staff Report.

## **Failure to Follow City Preservation Policy**

Policy 2.2i that is cited relates to sites that are "...City Landmark Sites or City-owned structures that meet the criteria for Landmark Site status..."

Staff Response: The property in question and structures therein are not a City Landmark Site nor has it been determined to meet that criteria. This item is one of many in the Preservation Plan that speaks to an overall strategy and is not a stand alone requirement.

## **Absence of a Required Mid-block Walkway/Plaza**

The Appellant states that the design is not in accordance with the City's Master Plan, specifically the Downtown Plan (2016) and cites sections of that Plan including the Design Guidelines for Mid-Block Walkways.

Staff Response: The mid-block walkway/plaza included in this project was not identified in the Downtown Plan as a location where one is required. Per the Staff Report of July 14, 2021, the following information was included in the *Key Considerations Section of the report under Consideration 3: Mid-Block Plaza/Walkway and Park Space Details* on Page 11 of the Report as follows:



*The design details of the mid-block plaza and park elements and park space are included in the applicant's materials found in Attachment C of this report. The plaza/walkway and park are RDA requirements and not strict Planning requirements so they are not identified on the Downtown Plan. However, the plaza is a prominent public-facing aspect of the project that ties into the overall street interaction of the project and pedestrian experience at the ground level. This interaction and consideration are addressed by Design Review Standards B and C. The analysis of how these standards have been met can found in Attachment E of this report.*

### **Failure to Repurpose the Pantages Theater**

The Appellant contends Staff's response to the reference in the Downtown Plan on Page 93 to the Pantages Theater is incorrect. This item was addressed in the Staff Report of July 14, 2021 as follows:

#### *Reference to the Utah Theater in the Downtown Plan*

*The Downtown Plan (Page 93) includes a specific bullet point under "Central Business District Initiatives" under the Arts & Culture section that reads:*

- *Repurpose the Utah Theater as a cultural facility and activity generator.*

*Several public comments point to this as establishing a prohibition on the theater being torn down due to this language being included in the Downtown Plan. First and foremost, the purpose of the plan is to set out a framework and guidance for establishing the aspirations outlined by the plan. This is done through the establishment of specific visions, principles, goals and initiatives outlined within the Plan. However, the Plan itself is advisory in nature as defined in Chapter 21A.02.040 – Effect of Adopted Master Plans or General Plan. This is a key point as the goals or initiatives outlined in the plan are not intended to be binding or prescriptive.*

*In regard to the specific statement cited above, this was an aspirational vision or initiative and investigation and analysis conducted by the RDA and the Administration, it was determined that restoration of the theater was not feasible given the deterioration and upgrades that would be needed to the structure. Through a public process, the City negotiated with the adjacent property owner and entered into a contract to have the property redeveloped. The RDA agreement with the developer requires the provision of defined public benefits to include among others the following:*

1. *Mid-block Walkway – the project must include a privately-maintained, publicly-accessible, mid-block walkway that extends into the interior of the block from Main Street.*
2. *Open Space element – the project must include a park element that is privately owned and maintained but publicly accessible.*
3. *Affordable Housing – Ten-percent (10%) of the housing units in the development must be affordable and available to those between 60% and 80% AMI.*
4. *Historic Repurposing – The project must include the reclamation and incorporation of historic theater elements.*

*The executed contracts between Hines and the RDA require the RDA's review and approval of the development plan and final construction documents to ensure that the RDA's requirements are being met. Additionally, a public easement and restrictive*

*covenants will be recorded on the property to ensure the requirements are implemented in the long term.*

*The inclusion of historic elements in the project can be seen as partially meeting the “repurpose” portion of the statement. The inclusion of the mid-block walkway and open space elements will provide public access to the project and will help to make the site an activity generator in the Central Business District. This item is discussed in more detail in the Discussion Section below.*

The Appellant further contests Staff’s interpretation of the Downtown Plan being advisory and aspirational (as included in the Planning Commission Staff Report of July 14, 2021) which they argue renders the plan “meaningless”. The Downtown Plan includes the following guidance on Page 3 which is entitled “*How the Plan will be Used – A Guiding Document for Decision Making*”:

***Downtown Community Plan is a vision and implementation plan***

*The plan provides the public and private sectors with direction on how to implement the community’s vision. It is aspirational in nature, integrating sustainability, livability, economic development, and cultural development concepts throughout. It is comprised of ideas and initiatives that impact the entire downtown and others that are specific to individual districts. Taken together, the plan has the greatest affect.*

**Additional Written Materials in Support of Appeal Application  
PLNAPP2021-00776—Appeal of Approval of Design Review Application  
PLNPCM2021-00024**

Additional Declarations of Individuals who attempted to participate in the Public Hearing but were prevented from doing so through the remote meeting platform provided by the City.

The following Declarations are attached to this document as **Attachment 1**.

- Amber Leigh McCarthy
- Amy Allen
- Maria Patton
- Shane Franz
- Sharon Franz
- Sherrie Coughlin
- Yanni Vera

Failure to Follow City Preservation Policy

The Planning Commission’s decision violates Policy 2.2i of the Salt Lake City Community Preservation Plan, adopted October 23, 2012, and attached to this document as **Attachment 2**, which requires placing “city-held preservation easements on, or designate as Landmark Sites, City-owned structures that meet the criteria for Landmark Site status prior to the City disposing of these important properties.”

Absence of Required Mid-block Walkway/Plaza

The proposed midblock walkway/plaza is not designed in accordance with the City’s Master Plan. What is proposed is not a walkway/plaza; rather, it is a circuitous route with stairs through private property. According to the City’s Downtown Master Plan Design Guidelines for Mid-block Walkways, “Mid-block walkways have the potential to provide some of the most important and unique public spaces within the Downtown. Their unique human scale provides an intimate setting that contrasts with the City’s main streets. Mid-block walkways are a distinctive amenity that provide climatic conditions that encourage pedestrian activity. They allow for greater access to destinations, more choice for pedestrians and a more pedestrian friendly experience.” See Salt Lake City Downtown Master Plan Design Guidelines for Mid-block Walkways, page 5.

Failure to Provide Any Affordable Housing Standards

According to the City’s own guidelines in *Building Affordable in Salt Lake City: An Affordable Residential Development Guide*, “Housing is considered affordable when a household is paying no more than 30% of their total gross income towards housing expenses (rent or mortgage and utilities). The 30% standard is a widely used and accepted measure of “housing affordability” across the country, and applies to households of any income level.” See Salt Lake City’s *Building Affordable in Salt Lake City: An Affordable Residential Development Guide*, page 6. Other than specifying that “Ten-percent (10%) of the housing units in the development must be affordable and available to those between 60% to 80% AMI. According to a 2019 Salt Lake City publication

“Building Affordable In Salt Lake City: An Affordable Residential Development Guide,” to be affordable for a family of four, the rent plus utilities must be \$1,440 per month or less. For an individual, which is relevant due to the studio apartments being designated as affordable units, the rent plus utilities must not exceed \$521.00 per month. Please see the Guide, attached to this document as **Attachment 3**.

#### Failure to Repurpose the Pantages Theatre

The Downtown Plan (page 93) references Central Business District Initiatives, including repurposing the Utah Theater as a cultural facility and activity generation. However, the City asserts that the Downtown Plan is advisory in nature as defined in Chapter 21A.02.040 – Effect of Adopted Master Plans or General Plan and that the goals or initiatives outlined in the Downtown Plan are not intended to be binding or prescriptive. See Staff Report, page 9, July 14, 2021 from David J. Gellner to Salt Lake City Planning Commission. The City also asserts that through an “investigation and analysis conducted by the RDA and the Administration, it was determined that restoration of the theater was not feasible given the deterioration and upgrades that would be needed to the structure.” See Staff Report, pages 9-10, July 14, 2021 from David J. Gellner to Salt Lake City Planning Commission. Not only has the City failed to reference any details about the investigation and analysis or why it is not “feasible” to repurpose the Utah Theater, but its interpretation of the Downtown Plan as “aspirational” renders the Downtown Plan meaningless and the decision directly violates the goal of repurposing the Utah Theater as a cultural facility and activity generator. Even if the City cannot repurpose the Utah Theater because it is not “feasible” to do so, the City has chosen to abandon the Downtown Plan’s goal of preserving the land for a cultural facility by approving the height increase for the proposed Apartments.

# **Attachment 1**

## DECLARATION OF

Pursuant to the Uniform Unsworn Declarations Act, codified as Utah Code Ann. § 78B-18a-101 et seq., and under penalty of perjury, I, \_\_\_\_\_, affirm, declare, and state as follows:

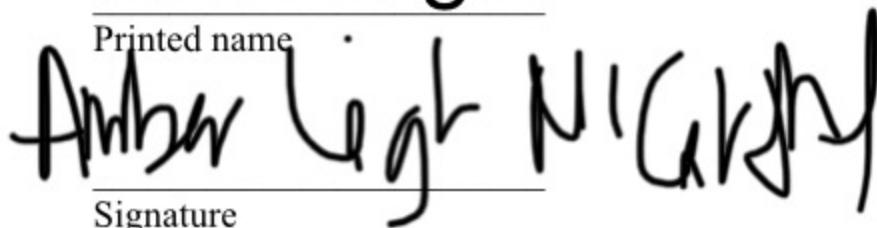
1. I have personal knowledge of the statements contained in this Declaration.
2. On July 14, 2021, I attempted to participate in and provide comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting, which was held as an electronic meeting without an anchor location, by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which \_\_\_\_\_ is \_\_\_\_\_ available \_\_\_\_\_ at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>.
3. I was not able to connect to Webex and, thus, was unable to participate and give my public comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 26<sup>th</sup> day of July, 2021 at Salt Lake City, Utah.

**Amber Leigh McCarthy**

Printed name



Signature

**DECLARATION OF \_\_\_\_\_**

Pursuant to the Uniform Unsworn Declarations Act, codified as Utah Code Ann. § 78B-18a-101 et seq., and under penalty of perjury, I, Amy Allen\_\_\_\_\_, affirm, declare, and state as follows:

1. I have personal knowledge of the statements contained in this Declaration.
2. On July 14, 2021, I attempted to participate in and provide comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting, which was held as an electronic meeting without an anchor location, by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>.
3. I was not able to connect to Webex and, thus, was unable to participate and give my public comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 26<sup>th</sup> day of July, 2021 at Salt Lake City, Utah.

Amy Allen\_\_\_\_\_  
Printed name

*Amy S Allen*

\_\_\_\_\_  
Signature



**DECLARATION OF** \_\_\_\_\_

Pursuant to the Uniform Unsworn Declarations Act, codified as Utah Code Ann. § 78B-18a-101 et seq., and under penalty of perjury, I, Maria Patton, affirm, declare, and state as follows:

1. I have personal knowledge of the statements contained in this Declaration.
2. On July 14, 2021, I attempted to participate in and provide comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting, which was held as an electronic meeting without an anchor location, by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>.
3. I was not able to connect to Webex and, thus, was unable to participate and give my public comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 26<sup>th</sup> day of July, 2021 at Salt Lake City, Utah.

Maria Patton

Printed name

Maria Patton

Signature



## DECLARATION OF \_\_\_\_\_

Pursuant to the Uniform Unsworn Declarations Act, codified as Utah Code Ann. § 78B-18a-101 et seq., and under penalty of perjury, I, Jow Sune Fawz, affirm, declare, and state as follows:

1. I have personal knowledge of the statements contained in this Declaration.
2. On July 14, 2021, I attempted to participate in and provide comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting, which was held as an electronic meeting without an anchor location, by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>.
3. I was not able to connect to Webex and, thus, was unable to participate and give my public comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 26<sup>th</sup> day of July, 2021 at Salt Lake City, Utah.

Jow Sune Fawz

Printed name

  
Signature

DECLARATION OF \_\_\_\_\_

Pursuant to the Uniform Unsworn Declarations Act, codified as Utah Code Ann. § 78B-18a-101 et seq., and under penalty of perjury, I, SHARON C.W. FRANZ, affirm, declare, and state as follows:

1. I have personal knowledge of the statements contained in this Declaration.
2. On July 14, 2021, I attempted to participate in and provide comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting, which was held as an electronic meeting without an anchor location, by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>.
3. I was not able to connect to Webex and, thus, was unable to participate and give my public comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 26<sup>th</sup> day of July, 2021 at Salt Lake City, Utah.

SHARON C.W. FRANZ

Printed name

Sharon C.W. Franz  
Signature

## DECLARATION OF \_\_\_\_\_

Pursuant to the Uniform Unsworn Declarations Act, codified as Utah Code Ann. § 78B-18a-101 et seq., and under penalty of perjury, I, Sherríe Coughlin, affirm, declare, and state as follows:

1. I have personal knowledge of the statements contained in this Declaration.
2. On July 14, 2021, I attempted to participate in and provide comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting, which was held as an electronic meeting without an anchor location, by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>.
3. I was not able to connect to Webex and, thus, was unable to participate and give my public comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 26<sup>th</sup> day of July, 2021 at Salt Lake City, Utah.

Sherríe Coughlin  
Printed name

Sherríe Coughlin  
Signature

**DECLARATION OF**

Pursuant to the Uniform Unsworn Declarations Act, codified as Utah Code Ann. § 78B-18a-101 et seq., and under penalty of perjury, I, YANNI VERA, affirm, declare, and state as follows:

1. I have personal knowledge of the statements contained in this Declaration.
2. On July 14, 2021, I attempted to participate in and provide comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting, which was held as an electronic meeting without an anchor location, by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>.
3. I was not able to connect to Webex and, thus, was unable to participate and give my public comments during the Public Hearing portion of the Salt Lake City Planning Commission Meeting.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 26<sup>th</sup> day of July, 2021 at Salt Lake City, Utah.

YANNI VERA  
Printed name

  
Signature



# **Attachment 2**

preservation as one of the eligible activities in the use of City financial assistance.

---

**Policy 2.2h: Clarify the authority of the Urban Forester and Engineering Divisions relating to changes to locally designated historic landscapes.**

**Action1: Clarify that the Urban Forester and Engineering Division oversees and has the authority to make changes relating to vegetation in designated local districts and Landmark Sites while the H Historic Preservation Overlay authority relates to built structures, including walls, fencing, signage, pavement patterns and buildings as well as the overall historic patterns of the landscapes in locally designated historic districts and on Landmark Sites.**

---

**Policy 2.2i: Place city-held preservation easements on, or designate as Landmark Sites, City-owned structures that meet the criteria for Landmark Site status prior to the City disposing of these important properties.**

# **Attachment 3**



# **BUILDING AFFORDABLE IN SALT LAKE CITY:**

**AN AFFORDABLE RESIDENTIAL  
DEVELOPMENT GUIDE**



2019







# INTRODUCTION

Salt Lake City is one of the fastest growing cities in the nation; this growth in population and employment supports a vibrant community in which many want to live and work, but it is increasingly becoming a city out of reach for many of our residents and workers.

Developers are faced with limitations to building or rehabilitating more units in the City due to increased costs for land, site preparation, materials, and labor. This lack of units and rising demand increases both home prices and the cost of rent.

To address this housing crisis Salt Lake City works closely with developers to encourage and facilitate innovative solutions to housing affordability, as outlined in *Growing SLC: A Five Year Housing Plan, 2018-2022*.

Producing affordable housing is not a casual undertaking. It is a significant commitment of resources to effectively develop a project, whether developers build or renovate, sell or lease, self-finance or gather investors. To assist developers with this process, the following guide is an overview of resources for new or established developers looking to build affordable units.

Salt Lake City helps to set the priorities and the path for the housing needs in the City, but the private sector is essential to help fuel innovation and market dynamics. Together we can build an affordable and equitable city for all of Salt Lake's residents.

## Contact

### HOUSING AND NEIGHBORHOOD DEVELOPMENT

Address: 451 S. State Street, Room 406  
Mailing Address: PO Box 145488, Salt  
Lake City, Utah 84114  
801-535-7712, TTY 711  
[www.slc.gov/HAND](http://www.slc.gov/HAND)

## Contact

### THE REDEVELOPMENT AGENCY

Address: 451 S. State Street, Room 118  
Mailing Address: PO Box 145518, Salt  
Lake City, Utah 84114  
801-535-7240  
[slcrda.com](http://slcrda.com)



# SLC HOUSING AFFORDABILITY PRIORITIES

- **Remove barriers** which limit housing density, prohibit needed housing types or create excessive developer burden.
- **Support the development of new or underutilized housing types** that meet the unique needs of the City's diverse population and improve housing choices into the future.
- **Encourage projects that are mixed-income**, which diversifies the economic mix of neighborhoods to promote economically integrated communities.
- **Invest in Areas of Opportunity** that expand a person's likelihood for social mobility as identified through quality-of-life indicators.
- Implement strategies that **preserve a range of low-income housing**, including rehabilitating aging or in-disrepair housing stock that is affordable.
- **Support innovative construction methods** that provide solutions to rising development costs, and creative housing design that improves form, function, development and maintenance.
- Seek opportunities that incorporate industry-recognized **sustainable building and design practices**, and energy efficient technologies that use fewer natural resources and lower consumers' utility costs.
- Work with public and private investors to **spur the next generation of housing financing**.

- **Promote transit-oriented development**, walkable communities and models that decrease the need for cars or parking stalls.
- **Be responsive to evolving housing demands and trends.**

*For a complete overview of Salt Lake City's housing goals and objectives, visit HAND's website to read **Growing SLC: A Five Year Housing Plan, 2018–2022**, and interact with the City's online Housing Dashboard data.*

*» [www.slc.gov/hand/housingplan](http://www.slc.gov/hand/housingplan)*



# SLC'S HOUSING AND NEIGHBORHOOD DEVELOPMENT AND REDEVELOPMENT AGENCY



## HOUSING AND NEIGHBORHOOD DEVELOPMENT

### HAND'S MISSION

*To develop and enhance livable, healthy, and sustainable neighborhoods.*

### WHAT HAND DOES

*HAND builds neighborhoods by maximizing city owned property, providing funding, and creating housing opportunities. Through a variety of programs, HAND works to stabilize households in their current homes, provide new opportunities for affordable homeownership and rental units, and ensure our neighborhoods are equitable, integrated communities that can support new growth.*

» [slc.gov/hand](http://slc.gov/hand)



## SLCRDA

### THE RDA'S MISSION

*To improve areas of Salt Lake City, encourage economic development of Salt Lake City, encourage the development of housing for low and moderate income households within Salt Lake City, and encourage compliance with and implementation of the Salt Lake City Master Plan. The RDA will participate with Salt Lake City, Salt Lake County, the State of Utah, and other public entities, to stimulate redevelopment.*

### WHAT THE RDA DOES

*The Redevelopment Agency of Salt Lake City (RDA) revitalizes neighborhoods and business districts to improve livability, spark economic growth, and foster authentic communities. The RDA catalyzes strategic development projects that enhance the City's housing opportunities, commercial vitality, and public spaces. Under Utah Code 17C, the RDA is charged with reinvesting in local communities through tax increment financing to fund affordable housing projects throughout the City.*

» [slcrda.com](http://slcrda.com)



# INDEX

- 6 HOUSING AFFORDABILITY TERMS
- 8 THE NEED FOR HOUSING AFFORDABILITY
- 11 DOES IT PENCIL?
- 14 INNOVATIONS IN HOUSING AFFORDABILITY
- 15 FEDERAL RESOURCES
- 18 NATIONAL AND LOCAL IMPACT INVESTMENTS
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- 21 NATIONAL FINANCING, RESOURCES AND TECHNICAL ASSISTANCE
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# HOUSING AFFORDABILITY TERMS

The terms **Affordable Housing** and **Housing Affordability** are often used interchangeable. The following definitions outline these terms and others within this guide.

## Housing Affordability

Housing is considered affordable when a household is paying no more than 30% of their total gross income towards housing expenses (rent or mortgage and utilities). The 30% standard is a widely used and accepted measure of “housing affordability” across the country, and applies to households of any income level.

## Affordable Housing

“Affordable housing” is government-subsidized or financed housing for low-income households. These units are deed-restricted and set-aside for a range of eligible Area Median Income households (0–80%). Eligible, income-verified households are those with low, very-low, and extremely-low incomes, including low-wage workers, seniors or people with disabilities on fixed incomes or those experiencing homelessness. There are different kinds of affordable housing units, including:

- Public housing and project- or tenant-based subsidized vouchers (in which eligible households only pay 30% of their total gross income towards rent).
- Set-aside, income-restricted units (in which eligible households pay a reduced Fair-Market Rent calculated on their Area Median Income and the number of bedrooms).

## Deeply Affordable

This subsidized housing targets people earning 0–30% Area Median Income, such as seniors or people with disabilities on Social Security. Without deeply affordable housing the odds of those groups securing and maintaining housing are almost impossible.

## Area Median Income

The Area Median Income (AMI) is the midpoint of a region’s income distribution. Annually, the U.S. Department of Housing and Urban Development (HUD) releases income guidelines for every U.S. locale that affect how federal grant funds can be used. Depending on the grant type and activity, funds can only be used to assist household that are considered low income. Local governments also use this index to determine their housing policies and priorities.

## Affordable Rent

The industry standard for calculating affordable rent uses published income limit tables from HUD with a combination of Fair Market Rent. The formula is technical and also accounts for slight variances but ensures that projects have consistent rent rates that accommodate a variety of incomes.

## Fair Market Rent

Average rental rates set by HUD for every U.S. locale, which represents the estimated monthly rent for a modest apartment. Fair Market Rents determine the eligibility of rental housing units for the Section 8 voucher program and serve as the payment standard used to calculate subsidies under the Rental Voucher program.

### **Market Rate Rent / Market Value Rent**

Rental housing that is privately owned but charges rents consistent with the property amenities as well as local housing market prices and conditions. Typically these property owners do not receive direct subsidies.

### **Naturally Occurring Affordable Housing**

A majority of America's affordable housing operates without subsidies and is referred to as Naturally Occurring Affordable Housing (NOAH). These mostly multi-family rental properties (generally built between 1940 to 1990) provide housing at rates affordable to low- and moderate-income households. On average, NOAH have smaller square footage, limited amenities, and suffer from poor upkeep.

### **Mixed-Income Housing**

Developments that includes set-aside income-restricted units, and/or diverse types of housing, such as apartments, town homes, or single family homes to promote a range of income levels in the same development.

### **Deed Restrictions / Deed Riders**

Affordability deed restrictions that are placed on the property to preserve them as a low- and moderate-income housing rentals or homeowner units. Restrictions range from 15 to 50 years, and the terms of the restrictions remain in place if properties are sold.

### **Middle Housing**

Middle Housing are building types, such as duplexes, fourplexes, and bungalow courts, which provide diverse housing options. The term *Missing Middle Housing* is used to describe local housing policies that prevent these types of needed housing that provide a scale of affordability, in favor of detached single family homes and mid-rise to high-rise apartment buildings.

### **Affordability Index for Homeownership**

The National Association of Realtors' affordability index measures whether or not a typical family could qualify for a mortgage loan on a typical home. A typical home is defined as the national median-priced, existing single-family home as calculated by the Association.

### **Cost Burdened**

When 30% or more of a household's total gross income is spent on housing costs.

### **Extremely or Severely Cost Burdened**

When 50% or more of a household's total gross income is spent on housing costs.

### **Qualified Census Tracts**

Housing investors evaluated census tracts, or equivalent geographic areas defined by the Census Bureau for communities defined as: Underserved, Distressed, Severely Distressed or Low- and Moderate-Income.

### **Areas of Opportunity**

Geographical areas that provide conditions that expand a person's likelihood for social mobility, as defined through an analysis of quality-of-life indicators such as: homeownership rate, poverty, cost-burdened households, educational proficiency, unemployment rate, and labor force participation.

### **Fair Housing**

Title VIII of the Civil Rights Act of 1968 (aka the Fair Housing Act) prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, or national origin. States and local governments may include additional protected groups under Fair Housing.

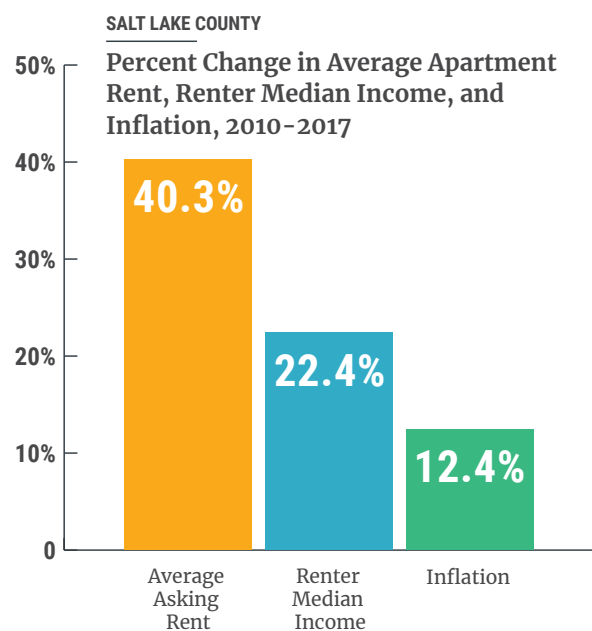


# THE NEED FOR HOUSING AFFORDABILITY

The United States is facing a crisis in the form of a lack of available and affordable residential units. Nearly two-thirds of renters nationwide can't afford to buy a home, home prices are rising at twice the rate of wage growth, 11 million Americans spend more than half their paycheck on rent, and nearly 50% of all renters are cost-burdened, compared with only 20% in 1960.

The main reasons for this crisis are due to: shifting demographics (people are living longer, independent, and not freeing-up units), historical housing policies have favored homeowners over renters (prioritized federal funds and tax incentives, and local policies that favor single family zoning), and a rise in development costs (land, labor and materials are up 20-30%).

Although the economy continues to grow and the housing market rebounds from the Great Recession, many Americans are faced with rising housing costs compared to stagnant wages, thus an inability to comfortably pay for housing.



## AT A GLANCE:

### Apartment Rent in Salt Lake County

#### Salt Lake County has experienced rapidly rising rents

From 200 to 2018, rent in Salt Lake County rose 78%; more than two-thirds occurred in the last five years.

#### Rent has outpaced income growth and inflation

From 200 to 2018, growth in average rent in Salt Lake County more than doubled the rate of inflation and almost doubled increases in renter median income.

#### Salt Lake City remains the center of apartment growth in the region

In 2000, there were just over 12,000 apartment units in the ZIP codes of Salt Lake City. By 2018, this number nearly doubled to 20,554.

#### Changing household preferences is driving apartment rental demand

Many new apartments communities target the high-end market and have some of the highest average rents in the county. Rising prices and a focus on high-end development are increasing pressure on housing affordability challenges in the region.

#### Sources:

*The State of the Nation's Housing.* (2018) Joint Center for Housing Studies, Harvard University.

*The Salt Lake Apartment Market: An Analysis of Apartment Rental Rates in the Greater Salt Lake Region.* (2019). Kem C. Gardner Policy Institute and the David Eccles School of Business.



## AREA MEDIAN INCOME SALT LAKE CITY

### < 30% AMI

**AT OR BELOW \$17,400 PER  
YEAR, POVERTY LEVEL, FOR AN  
INDIVIDUAL**

*Affordable Rent + Utilities:* **Less than \$578/mo**

**Extremely Low-Income Seniors and People  
with Disabilities**

People 65 years and older, people with disabilities,  
people who live on fixed income such as social  
security

### 30% - 50% AMI

**\$17,400 - \$28,950 PER YEAR  
FOR AN INDIVIDUAL**

*Affordable Rent + Utilities:* **\$775/mo**

**Low-Wage Workers**

Childcare Providers, Construction Worker,  
Ski Patrol, EMT, Fast Food Cook, Cashier,  
Visual Artist, Custodian, Hotel Clerk

### 50% - 80% AMI

**\$41,350 - \$66,150 PER YEAR  
FOR FAMILY OF 4**

*Affordable Rent + Utilities:* **\$1,440/mo**

*Affordable Home:* **\$250,000**

**Low-Income Families**

Teacher, Accounting Clerk, Legal Secretary,  
Physical Therapy Assistant, Truck Driver,  
Flight Attendant, Automotive Mechanic

### 80% - 100% AMI

**\$66,150 - \$82,700 PER YEAR  
FOR FAMILY OF 4**

*Affordable Rent + Utilities:* **\$1,440 + /mo**

*Affordable Home:* **\$332,500**

**Moderate-Income Families**

Special Education Teacher, Architect, Electrician,  
Sales Representative, Chef, Chiropractor,  
Social Worker

### 120% - 150% AMI

**\$99,240 + PER YEAR  
FOR FAMILY OF 4**

*Affordable Rent + Utilities:* **\$2,000 + /mo**

*Affordable Home:* **\$415,000**

**High-Income Families**

Real Estate Development Manager, Chemist,  
Electrical Engineer, Human Resource Manager,  
Nurse Practitioner, Software Developer

# COST BURDENED

SALT LAKE CITY

**Cost Burdened:** When 30% or more of a household’s income is spent on housing costs. In Salt Lake City, 50% of households are Cost Burdened.

**Extremely Cost Burdened:** When 50% or more of a household’s income is spent on housing costs. In Salt Lake City, 30% of households are Severely Cost Burdened.



PAGE 10

Extremely Cost-Burdened Cost-Burdened Not Cost-Burdened

Source: Housing Market Update; Salt Lake City Corporation (2016). BBC Research & Consulting.

# DOES IT PENCIL?

For a developer, building even one affordable residential unit can be a difficult and complex effort that may require several layers of financing and a unique operating model. Developers rely on loans and other sources to fund construction before residents move in, but developers can only get those loans and equity sources if the development will produce enough rent revenue to pay back the loans and provide a return to investors.

Gaps exist between what affordable projects cost to construct and maintain, the rent amount that low-income households are able to pay, and long-term obligations. Government subsidies are the main source for filling these gaps, but increasingly developers are utilizing creative and cost-cutting design and construction methods and/or partnering with non-traditional financiers.

Rather than looking solely at the initial development costs of units, affordable developers need to estimate the costs of both developing a property and maintaining it in decent condition for up to a 50-year lifecycle.

## TYPE OF DEVELOPMENT:

### New Construction

Major new construction costs include: land acquisition, construction (materials and labor), and developer fees. Other fees include: design fees, construction loan interest, permanent financing fees, reserves, and project management fees. Overall, developers can't build if they aren't going to earn any money from the project.

### Preservation

Foreclosure, age-related deterioration, rising maintenance and utility costs, demolition, and expiring use-restrictions and affordability controls cause a significant loss of affordable units

each year. High construction costs and lengthy development processes make replacing all of these units with new housing very difficult. Preserving the existing affordable stock is therefore critical to meeting the housing needs of low- and moderate-income households.

## Acquisition / Rehabilitation

Acquisition/rehab of renter-occupied buildings can help provide existing tenants with the economic stability and physical improvements they need to stay in their communities and to thrive in all aspects of their lives. This strategy can also act as a neighborhood revitalization tool by addressing issues of blight and physical decay on both vacant and resident-occupied properties. Additionally, acquisition/rehab can be significantly more cost-effective than new construction depending on the amount of rehabilitation required, with costs reaching as low as one half those of new construction.

## Development Basics:

- Market analysis
- Site and building information
- Capitalization Rates (Cap Rates)
- Debt Service Coverage Ratios (DSCR)
- Pro Forms
- Property management

## Development Variables:

- Location
- Remediation
- Average unit size
- Project size
- Building type
- Weather conditions
- Amenities
- Market Forces

## Online Pro Forma samples and tools for development and operations:

- HUD  
[hudexchange.info/resource/746/sample-pro-forma-and-guide-singlefamily-rental-development](http://hudexchange.info/resource/746/sample-pro-forma-and-guide-singlefamily-rental-development)
- Urban Institute and the National Housing Conference  
[apps.urban.org/features/cost-of-affordable-housing](http://apps.urban.org/features/cost-of-affordable-housing)
- Lifecycle Cost Modeling Tool  
[lcycle.org](http://lcycle.org)
- Utah Housing Corporation  
[utahhousingcorp.org](http://utahhousingcorp.org)
- Olene Walker Housing Loan Fund  
[jobs.utah.gov/housing/affordable/owhlf/index.html](http://jobs.utah.gov/housing/affordable/owhlf/index.html)

## 2019 INCOME LIMITS: SALT LAKE COUNTY

AMI	Number of persons in family							
	1 PERSON	2	3	4	5	6	7	8
40%	\$23,160	\$26,480	\$29,800	\$33,080	\$35,760	\$38,400	\$41,040	\$43,680
50%	\$28,950	\$33,100	\$37,250	\$41,350	\$44,700	\$48,000	\$51,300	\$54,600
60%	\$34,740	\$39,720	\$44,700	\$49,620	\$53,640	\$57,600	\$61,560	\$65,520
80%	\$46,320	\$52,960	\$59,600	\$66,160	\$71,520	\$76,800	\$82,080	\$87,360

## 2019 FAIR MARKET RENTS: SALT LAKE COUNTY

AMI	Bedrooms					
	STUDIO	1	2	3	4	5
40%	\$578	\$620	\$745	\$860	\$960	\$1,058
50%	\$723	\$775	\$931	\$1,075	\$1,200	\$1,323
60%	\$868	\$930	\$1,117	\$1,260	\$1,440	\$1,588

### Sources:

Based on data acquired from the U.S. Department of Housing and Urban Development's FY 2019 Income Limits Documentation System

## SAMPLE DEVELOPMENT PROCESS

---

1

Identify the population you want to serve, the services you want to offer, and potential nonprofit partners.

2

Team up with an experienced affordable housing developer who can help you build your development team, including architect, contractor, legal, financing, tax-credit investor.

3

Find a site that works for the project by reviewing local zoning and planning code. Determine if zoning or other planning changes must occur.

4

Determine what financing the project is eligible for and timeline of applications.

5

Approach private financiers, submit low-income housing tax credit applications, and reach out to secondary financiers.

6

If awarded Federal, State, or local funds, complete all required environmental reviews and other strings.

7

Apply for permits. Attend planning commission meetings and funding meetings as needed.

8

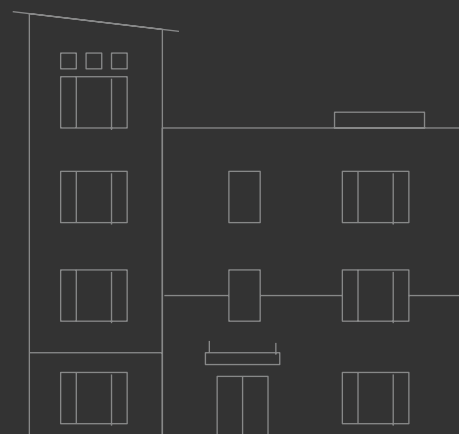
Begin construction. Submit required reports (such as Davis-Bacon) to funders and complete draws regularly.

9

Construction completed. Cost certification and certificate of occupancy. Begin leasing up units.

10

Ensure property management adheres to all funder and investor regulations by completing ongoing monitoring and compliance.





# INNOVATION IN HOUSING AFFORDABILITY

Over the past five years, national housing costs have skyrocketed both in construction and rent, challenging the housing industry to think outside of traditional subsidy models to meet the current demand as well as create long-term changes to the housing market.

Disruptive models in design, construction and finance are breaking the long-held standard that affordable housing can only be built with government subsidies – which are few and subject to political whims and budget cuts.

Innovators are reimagining buildings as designed products by examining the integration between design, construction and manufacturing, and overcoming dysfunctions in development and the traditional limitations of affordable housing. Additionally, these innovators are moving beyond the stigma of affordable housing and striving to make housing affordable for everyone.

## Innovations in Housing to Watch:

- Social Impact Investing
- Modular homes and apartments
- 3-D printed homes
- Non-traditional financiers - i.e. employers, education institutions, and healthcare
- Shared housing or Co-housing
- Shared equity / Community Land Trusts
- Adaptive reuse / Underutilized housing
- Green / Energy efficiencies, reducing utility costs and the need for cars or parking
- Affordable housing preservation programs

## LOCAL RESOURCES

### Ivory Innovations

Located in Salt Lake City and in partnership with the University of Utah, Ivory Innovations work to inspire creative solutions to local and national housing affordability challenges. Additionally, the Ivory Innovations' Ivory Prize competition provides monetary awards and leverages the Ivory Innovations network to promote the most compelling ideas reaching across policy, finance, and design & construction.

» [ivory-innovations.org](http://ivory-innovations.org)

### Innovations in Housing Affordability

#### Publications:

- [Curbed.com](http://Curbed.com)
- [CityLab.com](http://CityLab.com)
- [Shelterforce.org](http://Shelterforce.org)



Constructed by HAND, the Emery Passive House is a 2,100 sq ft, 4 bdrm, 2.5 bath home in the Popular Grove Neighborhood. It is Passive House Certified and relies on solar, Energy Star appliances, triple-pane windows, sealed attic space, and insulated basement slab to operate on one-sixth the energy required of a standard home. What's more, it is a HAND Welcome Home Homebuyer Assistance program recipient and placed in the City's Community Land Trust assuring affordability in perpetuity.

# FEDERAL RESOURCES

## THE LOW-INCOME HOUSING TAX CREDIT (LIHTC)

The Low-Income Housing Tax Credit (LIHTC) is the most important resource for creating or preserving affordable housing in the United States today. The LIHTC database, created by HUD and available to the public since 1997, contains information on thousands of projects and millions of housing units placed in service since 1987. Created by the Tax Reform Act of 1986, the LIHTC program gives State and local LIHTC-allocating agencies the equivalent of nearly \$8 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation or new construction of rental housing targeted to lower-income households.

» [huduser.gov/portal/datasets/lihtc.html](http://huduser.gov/portal/datasets/lihtc.html)

### LIHTC 9% vs. 4%

Claimed in proportion over 10 years, LIHTC can be used to construct new or renovate existing rental buildings. The LIHTC is designed to subsidize either 30% or 70% of the low-income unit costs in a project. The 30% subsidy, which is known as the so-called automatic 4% tax credit, covers new construction that uses additional subsidies or the acquisition cost of existing buildings. The 70% subsidy, or 9% tax credit, supports new construction without any additional federal subsidies. The 9% tax credit is the single most important tool for providing financing for affordable housing. Because of the amount of equity created as a result of the 9% credits, many projects using this tool are able to provide units to those with extremely low and low incomes.

### Housing Finance Agency

The Utah Housing Corporation (UHC) is Utah's Housing Finance Agency (HFA) and manages Utah's LIHTC program and allocation process.

UHC's Multifamily Finance Department is committed to partnering with developers and investors to utilize State and Federal Tax Credits and bond financing. These resources facilitate the development of new and rehabilitated apartments to provide housing for low-income families, senior citizens, and more.

» [utahhousingcorp.org/pdf/2011%20LIHTC.pdf](http://utahhousingcorp.org/pdf/2011%20LIHTC.pdf)

## HUD LOAN PROGRAMS

### HUD & FHA

HUD (the US Department of Housing and Urban Development) and the FHA (the Federal Housing Administration) were founded as two separate entities. However, they now share far more responsibilities than either had originally planned. HUD oversees and guarantees both residential and multi-family lending and insurance programs. The FHA, which became a part of HUD in 1965, deals primarily in residential lending: aiding in the purchase of primary residences for Americans by providing loan insurance for single family homes and multi-family properties with up to four units. Although the FHA is now a subsidiary of HUD, it is responsible for the overall management and administration of HUD's Multi-family Housing Programs. HUD, however, ultimately provides the insurance.

» [hud.gov/program\\_offices/housing/fhahistory](http://hud.gov/program_offices/housing/fhahistory)

### HUD-Insured Loans

A common misconception is that HUD makes loans to developers and real estate investors for the recapitalization, acquisition, rehabilitation, and construction of multi-family properties. In reality, HUD only underwrites and insures these loans, which are made by investors. The HUD and FHA insurance programs were created to ensure the ongoing availability of capital for the acquisition,

rehabilitation, and development and refinancing of all apartment properties. This includes market rate apartments, as well as affordable properties and subsidized housing.

### **HUD Refinancing, Building, Rehabilitating, or Acquiring Multi-family Properties**

The FHA or HUD 223(f) program was created for the refinancing or acquisition of multi-family properties. Many believe that HUD only focuses on Section 8 properties, subsidized housing, or low-income housing. In reality, the HUD 223(f) program insures loans for the full spectrum of market rate multi-family properties across the nation, with further considerations for low-income housing, rental assistance, LIHTC, etc.

### **HUD Loans for Multi-family Developers**

The FHA or HUD 221(d)(4) program insures multifamily developers building market rate, low-income, rental assistance, and other multi-family developments. Loans generally range from \$2 to \$100M or more. In general, there is no hard cap or bottom for the loan amounts. However, because of the costs involved with originating HUD-insured multi-family development loans, developers of smaller multi-family projects are often intimidated by this form of financing. Thankfully, the FHA has embraced change and new operational efficiencies over the years. Despite that, HUD 221(d)(4) loans can still take 8–12 months to close, and often require an experienced financial intermediary to assist throughout the entire process.

### **HUD and FHA Amortization and Maturities**

FHA insured financing provides for the longest terms in the industry. But something else also sets these loans apart: all FHA loans are fully amortizing, creating the longest amortizations in the industry and the most flexibility on debt service coverage ratios. Why? Longer amortizations mean lower payments.

FHA-insured construction loans offer 40 years of

fixed-rate financing plus up to 3 additional years of financing during the construction period. HUD 221(d)(4) provides one of the very few, if not the only, fixed-rate construction loans in the multifamily development business. Existing assets for purchase or refinance are similarly qualified to achieve very long term fully amortizing loans. For example, HUD 223(f) insured loans are fully amortizing for up to 35 years; provided the term and amortization does not exceed 75% of the property's remaining economic life.

As industry professionals know, the longer the fixed rate, the higher the interest rate (except for in the case of an inverse yield curve). However since they are government-insured FHA and HUD multifamily loans earn a AAA credit rating, this leads to rates that are lower than Fannie Mae and Freddie Mac 10-year fixed-rate loans.

### **HUD Multi-family Loans**

HUD multi-family loans include specific benefits for affordable properties. These include increased loan to value (LTV) allowances, reduced debt service coverage ratio (DSCR) requirements, and lower mortgage insurance premium (MIP) requirements. HUD multi-family loans such as the HUD 221(d)(4) and HUD 223(f) are also a great fit when combined with the Low-Income Housing Tax Credit (LIHTC) program, which offers investors a dollar-for-dollar federal tax credit in order to encourage investment in affordable properties. These loans also fit well with the Rental Assistance Demonstration (RAD) program, which allows properties using certain HUD legacy housing assistance programs to convert their properties to long-term Section 8 HAP (Housing Assistance Payment) contracts.

[» hud.loans/hud-multifamily-loans](https://hud.gov/loans/hud-multifamily-loans)

### **Additional HUD / FHA Considerations**

HUD-insured loans require annual financial audits which may cost upwards of \$2,500 per year. In addition, they take longer to close (223f loans



may take 120 days, and 221d4 loans may take 10 months). Plus, there are more upfront costs and closing costs associated with the origination of HUD-insured loans. That said, a 223(f) insured loan isn't vastly different from originating a Fannie or Freddie multi-family loan. Other requirements involve things like:

- Phase 1 environmental assessments are required to include lead based paint and asbestos reviews for properties build before 1978.
  - HUD doesn't insure loans for new properties located within a 100 year flood plain.
  - Substantial rehabilitation loans require adherence to Davis Bacon labor standards.
- » [www.wdol.gov/dba.aspx](http://www.wdol.gov/dba.aspx)

## FANNIE MAE

Fannie Mae financing is available nationwide in primary and secondary markets and is funded under the Fannie Mae Delegated Underwriting Services (DUS) Program. These loans are for stabilized properties only with a minimum \$750,000 loan amount with rates that can be fixed or floating. FNMA financing can be used for traditional multi-family properties, student housing, affordable housing, or independent senior living. Maximum leverage is 80% on purchases and 75% on refinances within designated areas. Loans may be recourse or non-recourse.

» [fanniemae.com/multifamily/index](http://fanniemae.com/multifamily/index)

## FREDDIE MAC

A Freddie Mac Loan is a type of multi-family loan that is secured by a first-position mortgage on a traditional, student housing, senior housing, or affordable housing property. These mortgages may be held in the FHLMC portfolio (10% of mortgages) or sold to bond investors (90% of mortgages).

» [freddiemac.com/blog/rental\\_housing/index.page](http://freddiemac.com/blog/rental_housing/index.page)

## NEW MARKET TAX CREDITS

New Market Tax Credit (NMTC) was authorized in

the Community Renewal Tax Relief Act of 2000 (PL 106-554) to stimulate investment and economic growth in low income urban neighborhoods and rural communities which lack access to the patient capital needed to support and grow businesses, create jobs, and sustain healthy local economies. If residential properties include commercial space then they may be eligible for NMTCs.

» [irs.gov/businesses/new-markets-tax-credit-1](http://irs.gov/businesses/new-markets-tax-credit-1)

## FEDERAL HOME LOAN BANK

The Federal Home Loan (FHL) Banks' Affordable Housing Program (AHP) is the largest private source of grant funds for affordable housing in the United States. It is funded with 10 percent of the FHL Banks' net income each year.

» [fhllbanks.com/affordable-housing.html](http://fhllbanks.com/affordable-housing.html)

## OPPORTUNITY ZONES TAX CREDITS

Opportunity Zones (OZ's) are a new community development program established by Congress in the Tax Cut and Jobs Act of 2017 to encourage long-term investments in low-income and urban communities nationwide. OZ's are an economic development tool - that is, they are designed to spur economic development and job creation in our distressed communities, and can include residential development.

» [business.utah.gov/news/opportunity-awaits-statewide-opportunity-zones-announced](http://business.utah.gov/news/opportunity-awaits-statewide-opportunity-zones-announced)

## BROWNSFIELD REMEDIATION

A Brownfield project as defined by the EPA is "a real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant." Brownfield remediation is being considered more and more often as a viable way to revitalize and spur economic development in communities. It is often dismissed by developers as being too expensive, but a number of studies actually show that remediation has a great number of public benefits as well as economic and environmental gains.

» [epa.gov/brownfields](http://epa.gov/brownfields)

# NATIONAL AND LOCAL IMPACT INVESTMENTS

Impact investments are investments made with the intention to generate positive and measurable social and environmental impact alongside a financial return. Impact investments can be made in both emerging and developed markets, and target a range of returns from below market to market rate, depending on investors' strategic goals. The growing impact investment market provides capital to address the world's most pressing challenges in sectors such as sustainable agriculture, renewable energy, conservation, microfinance, and affordable and accessible basic services including housing, healthcare, and education.

Impact investing challenges the long-held views that social and environmental issues should be addressed only by philanthropic donations, and that market investments should focus exclusively on achieving financial returns.

The impact investing market offers diverse and viable opportunities for investors to advance social and environmental solutions through investments that also produce financial returns. Many types of investors are entering the growing impact investing market. Here are a few common investor motivations:

- Banks, pension funds, financial advisors, and wealth managers can provide client investment opportunities to both individuals and institutions with an interest in general or specific social and/or environmental causes.
- Institutional and family foundations can leverage significantly greater assets to advance their core social and/or environmental goals, while maintaining or growing their overall endowment.
- Government investors and development finance institutions can provide proof of financial viability for private-sector investors while targeting specific social and environmental goals.
- Equity Funds / Money Market Fund / Below-Market-Rate Funds  
A money market fund is a kind of mutual fund that invests only in highly liquid instruments such as cash, cash equivalent securities, and high credit rating debt-based securities with a short-term maturity—less than 13 months. As a result, these funds offer high liquidity with a very low level of risk.  
» [thegiin.org/impact-investing/need-to-know](https://thegiin.org/impact-investing/need-to-know)

## COMMUNITY FOUNDATION OF UTAH

The Community Foundation of Utah (CFU) is a 501(c)(3) nonprofit organization committed to enriching our community. CFU serves as Utah's catalyst for philanthropy through innovative, sustainable, and impactful grant making and works with nonprofit organizations, businesses, and individuals to target the most pressing needs in our community. By performing due diligence on our donors' behalf, they ensure that charities are thoroughly vetted. They also know Utah nonprofits and work with donors to make impactful gifts to the charities or causes they love. Additionally, CFU accepts complex assets, allowing donors to give in the way that is most beneficial to them and the community.

» [utahcf.org](https://utahcf.org)

# ENERGY EFFICIENT INCENTIVES

## DEVELOPMENT AND SUSTAINABLE SALT LAKE CITY

Through a joint Mayor–Council resolution, Salt Lake City has committed to transition to 100% renewable electricity for our community by 2030 and reduce greenhouse gas emissions 80%, compared to a 2009 baseline, by 2040. To be successful we must accelerate adoption of “zero energy” and “zero energy ready” buildings among new and existing development in Salt Lake City.

## SUSTAINABILITY AND THE BUILT ENVIRONMENT

Zero energy ready and zero energy buildings are designed, built, and operated to use dramatically less energy through improved building envelopes, daylighting and efficient lighting systems, air sealing, efficient heating and cooling systems, and commissioning to ensure optimal settings for heating and cooling. The difference between zero energy ready and zero energy, is that while both are ultra–energy efficient, a zero energy building has the added component of renewable energy to meet the remaining energy load of the building. Better performing new and existing buildings are crucial to meeting the City’s greenhouse gas reduction target and air quality goals. Emissions associated with electricity and natural gas use represent over 75% of our community carbon footprint. Reducing energy waste through efficiency and conservation represents a cost–effective way to address climate change and air quality issues while also saving businesses and households money. Reducing energy consumption also reduces the amount of renewable electricity required to make it zero energy.

## FREDDIE MAC GREEN ADVANTAGE

The Green Assessment and Green Assessment Plus show borrowers how they can save energy or water. They reimburse up to \$3,500 of the cost of the report when the borrower closes a loan.

» [mf.freddiemac.com/docs/product/green\\_advantage\\_term\\_sheet.pdf](https://mf.freddiemac.com/docs/product/green_advantage_term_sheet.pdf)

## FANNIE MAE GREEN FINANCING

The Fannie Mae Green Financing Business provides mortgage financing to apartment buildings and cooperatives to finance energy and water efficiency property improvements.

» [fanniemae.com/multifamily/green-initiative](https://fanniemae.com/multifamily/green-initiative)

## RENEWABLE ENERGY TAX CREDITS

Established by The Energy Policy Act of 2005, the federal tax credit for residential energy property initially applies to: solar–electric systems, solar water heating systems, fuel cells, small wind–energy systems, and geothermal heat pumps.

» [energy.gov/savings/residential-renewable-energy-tax-credit](https://energy.gov/savings/residential-renewable-energy-tax-credit)

## RENEWABLE ENERGY SYSTEMS TAX CREDIT (UTAH)

The Renewable Energy Systems Tax Credit can be applied to both residential and commercial installations utilizing solar photovoltaic, solar thermal, wind, geothermal, hydro, and biomass technologies.

» [energy.utah.gov/renewabletaxcredit](https://energy.utah.gov/renewabletaxcredit)



## COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (UTAH)

Commercial Property Assessed Clean Energy (C-PACE) is a low-cost, long-term financing option for energy efficiency, renewable energy, and water conservation projects on commercial buildings, and can be used for residential buildings.

» [energy.utah.gov/utah-c-pace](https://energy.utah.gov/utah-c-pace)

## DOMINION ENERGY

ThermWise rebates and builders program.

» [thermwise.com/builder/BuilderRebates.php](https://thermwise.com/builder/BuilderRebates.php)

## ROCKY MOUNTAIN POWER

WattsMart multifamily program.

» [www.rockymountainpower.net/savings-energy-choices/home/utah-multifamily-program.html](https://www.rockymountainpower.net/savings-energy-choices/home/utah-multifamily-program.html)

## ICAST

ICAST (International Center for Appropriate and Sustainable Technology) is a nonprofit social enterprise that designs and launches programs to provide sustainable resource solutions for residential units. Services include: Multifamily building retrofits, energy and water conservation measures, demand side management utilities, solar services, Green Lending Incentives and financing.

» [www.icastusa.org](https://www.icastusa.org)

## ADDITIONAL TAX CREDITS, REBATES AND SAVINGS

For more up-to-date information:

» [energy.gov/savings/search?f%5B0%5D=im\\_field\\_rebate\\_eligibility\\_shor%3A864818&page=7](https://energy.gov/savings/search?f%5B0%5D=im_field_rebate_eligibility_shor%3A864818&page=7)



*Project Open (phase 1) by the Giv Group in Salt Lake City's Guadalupe Neighborhood is the first of its kind to be completely powered by the sun. Solar panels on the roof as well as those off-site allow for the building to be natural gas free, helping clear the air by creating no emissions. Every stall in the parking garage is wired for electric car charging stations, with five currently installed for the ride-share cars and available for residents' vehicles. Inside the units, Nest smart thermostats control the air conditioning and heat. The Nest helps residents maximize the efficiency of their system and allows them to track their energy costs throughout the month.*

# NATIONAL FINANCING, RESOURCES, AND TECHNICAL ASSISTANCE

## ENTERPRISE COMMUNITY PARTNERS

Enterprise Community Partners offers financial tools and matches socially conscious investors with opportunities that yield economic returns alongside intentional and measurable impact for low-income communities.

» [enterprisecommunity.org/financing-and-development](https://enterprisecommunity.org/financing-and-development)

## COMMUNITY REINVESTMENT ACT

The Community Reinvestment Act (CRA) was enacted in 1977. It mandates that banks provide loans, investments, and services to low- and moderate-income individuals and communities. It provides a framework that requires banks and community organizations to work together to promote the availability of credit and other banking services to low- and moderate-income communities. Non-profit organizations benefit from banks regulated by CRA through:

- Loans for low-income multi-family housing
- Loans to finance single family housing targeted to low-income borrowers
- Loans to finance community buildings
- Purchase of bonds issued by Utah Housing Corporation (UHC)
- Purchase of tax credits such as New Markets Tax Credits that finance community centers
- Participation in venture capital funds that finance and create jobs in small businesses

» [industrialbankers.org/cra](https://industrialbankers.org/cra)

## THE NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS

The National Association of Housing and Redevelopment Officials (NARHO) is the leading housing and community development advocate for the provision of adequate and affordable housing and strong, viable communities for all Americans, particularly those with low- and moderate-incomes.

» [nahro.org](https://nahro.org)

## NATIONAL DEVELOPMENT COUNCIL

Founded as a national nonprofit in 1969, National Development Council (NDC) has worked for almost 50 years fulfilling its mission to increase the flow of capital for investment in low-income communities. NDC directs capital to support the development and preservation of affordable housing, the creation of jobs through training and small business lending, and the advancement of livable communities through investment in social infrastructure.

» [ndconline.org](https://ndconline.org)

## INCREMENTAL DEVELOPMENT ALLIANCE

The Incremental Development Alliance (IDA) began in 2015 in response to the common question from developers: how do I build a small building in the place I love? IDA offers trainings and technical assistance for aspiring small developers targeting infill, rehab, and Missing Middle Housing.

» [incrementaldevelopment.org](https://incrementaldevelopment.org)

# STATE & COUNTY RESOURCES

## THE OLENE WALKER HOUSING LOAN FUND

The Olene Walker Housing Loan Fund (OWHLF) is a revolving loan fund overseen by Utah's Housing and Community Development Division of the Department of Workforce Services. OWHLF supports quality affordable housing options that meet the needs of Utah's individuals and families with the purpose of developing housing that is affordable for very low-income, low-income and moderate-income persons as defined by HUD. The OWHLF is the State's distributor of HUD Housing Trust Funds and HOME Investment Partnership (HOME) funds and State Tax Credits.

» [jobs.utah.gov/housing/affordable/owhlf/index.html](https://jobs.utah.gov/housing/affordable/owhlf/index.html)

- **Multi-Family Program:** The Multi-family program provides financial assistance for the acquisition, construction, or rehabilitation of affordable rental housing of five or more units.

## STATE PROPERTY RIGHTS OMBUDSMAN

The Office of the Property Rights Ombudsman is a neutral, non-partisan agency that helps citizens and developers understand and protect their rights to property ownership and use.

» [propertyrights.utah.gov](https://propertyrights.utah.gov)

## SALT LAKE COUNTY HOUSING AND COMMUNITY DEVELOPMENT

Through the HOME Investment Partnership Program (HOME) funding, Salt Lake County provides 0%-3% loans to help finance (1) the cost of development and construction of rental housing; and (2) the cost of purchase & rehabilitation of existing rental housing projects.

» [slco.org/housing-community-development/home-rehab,-repairs,-and-housing-development](https://slco.org/housing-community-development/home-rehab,-repairs,-and-housing-development)

## SALT LAKE COUNTY CONTINUUM OF CARE

Salt Lake County is responsible for coordinating the HUD CoC Grant Application for the Salt Lake County Continuum of Care (UT-500). This application provides annual funding for local homeless housing and service programs, including the acquisition, rehabilitation, and new construction of residential units.

» [slco.org/homeless-services/continuum-of-care](https://slco.org/homeless-services/continuum-of-care)

## SALT LAKE COUNTY ASSESSORS

The Salt Lake County Assessor's website offers an extensive compilation of property related information including ownership and valuation of real and personal property in Salt Lake County.

» [slco.org/assessor](https://slco.org/assessor)

## LEAD ABATEMENT REHABILITATION

Salt Lake County Lead Safe Housing Program provides funding to remediate lead hazards in homes built before 1978 where children under the age of six reside or visit frequently.

» [slco.org/lead-safe-housing](https://slco.org/lead-safe-housing)



# LOCAL AFFORDABLE HOUSING DEVELOPERS & TECHNICAL ASSISTANCE

## ASSIST, COMMUNITY DESIGN CENTER

ASSIST provides architectural design, community planning and development assistance to nonprofit and community groups; housing repair for low income households; and accessibility design assistance to people with disabilities.

» [assistutah.org](http://assistutah.org)

## ARTSPACE

Artspace creates affordable live and work spaces for artists, cultural organizations, and nonprofits to revitalize and promote stable, vibrant and safe communities.

» [artspaceutah.org](http://artspaceutah.org)

## COMMUNITY DEVELOPMENT CORPORATION OF UTAH

Community Development Corporation of Utah (CDCU) is a 501(c)(3) nonprofit organization founded in 1990 to provide solutions for distressed neighborhoods in Salt Lake City. CDCU builds new single and multi-family housing, rehabilitates existing housing stock, and works to revitalize neighborhoods around the state. CDCU also provides a combination of critical community services including homebuyer education, homeowner case management, foreclosure prevention counseling, down payment assistance, and mortgage lending.

» [cdcutoffah.org](http://cdcutoffah.org)

## COMMUNITY DEVELOPMENT FINANCE ALLIANCE

Community Development Finance Alliance (CDFA) is a 501(c)(3) nonprofit and certified Community Development Entity (CDE) formed in 2010. CDFA's mission is to provide capital to support the development of community and educational facilities and mixed-use projects that provide

strong economic and social impacts to the low income communities and the low-income persons they serve. CDFA is a mission-driven CDE that offers creative, flexible financing to address the obstacles faced by nonprofit organizations, government agencies and others in obtaining conventional financing.

» [cdfautah.org](http://cdfautah.org)

## COWBOY PROPERTIES

Utah based Cowboy Properties is a multi-family, mixed-use, and affordable housing developer and property manager.

» [site.cowboy.us/company](http://site.cowboy.us/company)

## GIV DEVELOPMENT

Giv Development creates sustainable, lasting and innovative structures that reside well in their place. Giv's primary areas of focus centers around mixed-use, catalytic developments in urban corridors.

» [givdevelopment.com](http://givdevelopment.com)

## HOUSING AUTHORITY OF SALT LAKE CITY

The Housing Authority of Salt Lake City (HASLC), a federally funded Special Purpose Government Agency, was created in 1970 to provide rent subsidies and promote affordable housing for low-income persons residing in Salt Lake City.

» [haslcutah.org/about](http://haslcutah.org/about)

## HOUSING CONNECT

Also known as the Housing Authority of Salt Lake County (HASLC), Housing Connect is a full service housing authority that assists individuals, families, elderly, physically and mentally disabled residents who are low-income. Housing Connect has constructed or acquired hundreds of public housing units in Salt Lake County.

» [hacsl.org/about](http://hacsl.org/about)

## LEBEAU DEVELOPMENT, SUPPORTIVE HOUSING TOOLKIT

The Supportive Housing Toolkit, designed by LeBeau Development, is a series of technical assistance and peer learning sessions designed to help non-profits, housing authorities, and service providers increase the number of permanent supportive housing units available in their community.

» [beauxsimone.com](http://beauxsimone.com)

## NEIGHBORWORKS SALT LAKE

NeighborWorks Salt Lake 501(c)(3) is a nonprofit affordable housing and community development agency that offers homeownership and empowerment resources for low-income households.

» [nwsaltlake.org](http://nwsaltlake.org)

## RESTORE UTAH

Restore Utah is a real estate investment company and operator. Restore concentrates on single and multi-family properties in low- and moderate-income geographies.

» [restore-utah.com](http://restore-utah.com)

## ROCKY MOUNTAIN COMMUNITY REINVESTMENT CORPORATION

Through sustainable direct lending, technical assistance and community collaboration, Rocky Mountain Community Reinvestment Corporation (RMCRC) facilitates the development and preservation of safe and clean affordable housing and community facilities that serve low- to moderate-income individuals, families and underserved communities throughout the Rocky Mountain region.

» [rmcrc.org/about-us](http://rmcrc.org/about-us)

## UTAH CENTER FOR NEIGHBORHOOD STABILIZATION

Utah Center for Neighborhood Stabilization (UCNS) administers the Transportation Oriented Development Loan Program to provide financing

for projects near major bus routes, light rail stops, and TRAX stops for mixed-use development for affordable workforce housing and commercial space.

» [utcns.com](http://utcns.com)

## UTAH HOUSING COALITION

Through education, advocacy, and community partnerships, the Utah Housing Coalition is dedicated to building equitable and sustainable communities to ensure all Utah residents have a safe and affordable place to live. Services include outreach and partnership building among diverse groups, and organizing trainings and capacity building for housing professionals.

» [utahhousing.org/about-us.html](http://utahhousing.org/about-us.html)

## UTAH HOUSING CORPORATION

Utah's Housing Finance Agency (HFA) manages Utah's Low Income Housing Tax Credit program and allocation process.

» [utahhousingcorp.org](http://utahhousingcorp.org)

## UTAH NONPROFIT HOUSING CORPORATION

Founded in 1967, Utah Non-Profit Housing Corporation (UNPHC) is Utah's largest non-profit developer of affordable multi-family housing. UNPHC is a 501(c)(3) organization and a Community Housing Development Organization (CHDO). UNPHC has developed or acquired/rehabilitated more than 50 family, senior, and special needs properties to date.

» [unphc.org/about-us](http://unphc.org/about-us)

## WASATCH ADVANTAGE GROUP

Provides a pathway to immediately deploy capital into growing marketplaces by repositioning existing communities through affordable rents and allowing investor to receive the benefit of LIHTC.

» [wasatchgroup.com](http://wasatchgroup.com)



# CITY RESOURCES

## SALT LAKE CITY, HOUSING AND NEIGHBORHOOD DEVELOPMENT DIVISION (HAND)

Develops and enhance livable, healthy, and sustainable neighborhoods. HAND builds neighborhoods by maximizing city-owned property, providing funding, and creating housing. » [slc.gov/hand](http://slc.gov/hand)

### Growing SLC: A Five Year Housing Plan, 2018–2022

On December 12 2017, the Salt Lake City Council voted unanimously to adopt *Growing SLC: A Five Year Housing Plan 2018–2022*, the first housing plan for the City since 2000. *Growing SLC* lays out a number of comprehensive solutions and policies to address the lack of affordable housing for households earning 40% or below the Area Median Income.

### Housing Data

*Growing SLC* includes the objective of providing residents, community advocates, business leaders, and elected officials with high quality data to drive decision-making. The website ([www.slc.gov/hand/housingplan](http://www.slc.gov/hand/housingplan)) provides a public-facing set of housing metrics for insights into key market characteristics. The indicators illustrate important data on housing and track updates on progress over time to drive decisions, understand impact, and help inform solutions to Salt Lake City's housing crisis.

### HOME Development Funds

Salt Lake City operates a HOME Development Fund. Projects supported with this funding are subject to federal HOME regulations and strict timing requirements. The funds are typically low interest or deferred loans for multi-family development. Applications can be submitted online through

ZoomGrants and are accepted year-round.

## Community Housing Development Organization

At least 15 percent of HOME Investment Partnerships Program (HOME) funds must be set aside for specific activities to be undertaken by a special type of nonprofit called a Community Housing Development Organization (CHDO).

A CHDO is a private nonprofit, community based organization that has staff with the capacity to develop affordable housing for the community it serves. In order to qualify for designation as a CHDO, the organization must meet certain requirements pertaining to legal status, organizational structure, capacity, and experience.

## Renter Rehab Program

The Renter Rehab loan program assists owners of investor owned units to make needed repairs to their properties. To qualify, at least 51% of the units must be rented at or below Fair Market Rents. Depending on loan committee approval, rates range between 0–5%, over 20 years.

## SALT LAKE CITY, REDEVELOPMENT AGENCY (RDA)

The Redevelopment Agency (RDA) receives State Redevelopment Area funds and offers a Redevelopment Loan Program for affordable or mixed-income housing. Economic Development Area (EDA), tax-increment financing (TIF), and Community Reinvestment Areas (CRA) are additional sources of direct or leveraged funding for affordable housing.

» [slcrda.com](http://slcrda.com)

### **Tax Increment Reimbursement Program**

The RDA's Tax Increment Reimbursement Program helps achieve the RDA's goals and objectives, including the development and preservation of affordable housing, by offering a tax increment reimbursement to developers for building eligible projects. Tax increment reimbursements are based upon the difference between the initial taxable value of a property prior to improvements and the increased taxable value resulting from said improvements.

### **Loan Program**

The RDA Loan Program provides critical gap financing for projects that advance the RDA's goals and objectives, including the development and preservation of affordable housing. Gap financing is available to eligible projects to bridge the funding gap between the project's economics and market realities. In support of the RDA's mission, the RDA can assume a higher level of risk than traditional lenders to ensure that transformative projects get built.

### **Notice of Funding Availability (NOFA) for Affordable Housing**

The RDA periodically dedicates funds for the development and preservation of affordable housing to be allocated through a competitive and transparent public process, otherwise known as a Notice of Funding Availability. Low cost financial assistance is committed to projects to incentivize the development and preservation of affordable housing within the city limits. The program provides flexibility to accommodate a wide range of projects that may be dependent upon myriad of underwriting standards by outside lenders.

### **Housing Trust Fund**

Multi-family housing financing for acquisition, rehabilitation, or new construction. Timeline from application to approval can take between 4-7 months. Projects are reviewed by staff, and then reviewed by the Housing Trust Fund Advisory

Board prior to seeking final approval from the City Council. Housing Trust Funds can support up to 50% of the per unit costs and applications are considered year-round.

### **Property Acquisition/Disposition**

In addition to programs, the RDA supports the development of affordable housing by acquiring property to market for strategic redevelopment. As per the Utah Community Reinvestment Agency Act, the RDA may sell, convey, grant, gift, or otherwise dispose of any interest in real property to provide for the development of affordable housing. Disposition of all RDA-owned real property, including land write-downs, shall abide by the RDA's real property disposition policy.

## **SALT LAKE CITY, PLANNING**

Free Design Review Team meetings to review zoning and permitting, planning Counter/One-Stop Shop, current projects, zoning maps, historic preservation resources, master plans, neighborhood plans, and citywide plans.

» [www.slc.gov/planning](http://www.slc.gov/planning)

## **SALT LAKE CITY, BUILDING SERVICES DIVISION**

Free Preplanning Meetings to review building codes, Open Counter, fee schedules, building codes, permits, and inspections, and certificates of occupancy.

» [www.slc.gov/buildingservices](http://www.slc.gov/buildingservices)

## **CITIZEN ACCESS PORTAL**

The City offers a Citizen Access Portal: an online tool for business development. This guide makes it easier for applicants to find permit and zoning requirements for their business. In OpenCounter, Salt Lake City customers can easily learn where different use types are permitted, details on all City permits and their associated processes, and fees required.

» [citizenportal.slcgov.com](http://citizenportal.slcgov.com)

## NOTICE OF PARCELS FOR BID

Under the Utah Procurement Code, Salt Lake City lists all notices of parcels for bid through Scquest, Utah Public Procurement Place.

» [solutions.scquest.com](http://solutions.scquest.com)

## OTHER DIVISIONS AND RESOURCES

Salt Lake City offers a wide range of additional resources and technical assistance for the development of affordable units.

» [www.slc.gov](http://www.slc.gov)

- Divisions: Urban Forestry, Public Services, Fire

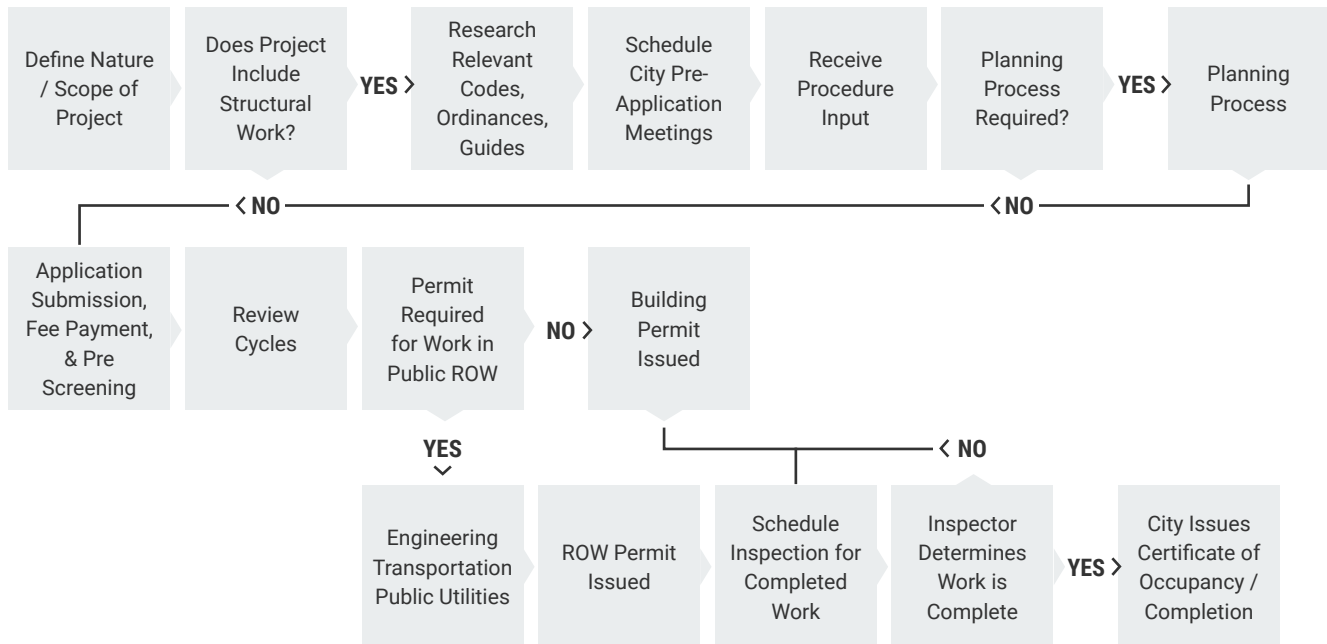
Department (Fire Codes), Public Utilities, etc.

- Some housing affordability projects may be eligible for additional development benefits, subject to City officials and management approval, including: Impact, Building Permit, Plan Review fee waivers, disposition of city-owned land, land discounts, interest rate discounts, and below market sales. For more information about these possibilities, please contact staff at HAND or RDA.

## SLC BUILDING SERVICES: PROCESS FLOW CHART

### PRELIMINARY PROCESS

### PRE-APPLICATION PROCESS



### PLANS REVIEW & PERMITTING

### INSPECTION & CERTIFICATES



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**SLCRDA**



# **THE LAND USE APPEAL AUTHORITY OF SALT LAKE CITY**

**In Re: PLNAPP2021-00776—Appeal of Approval of Design Review Application PLNPCM2021-00024**

## **I. Opposition to Salt Lake City’s Claim Appellants Lack Standing**

### **A. Among the Appellants are Numerous Individuals who will Be “Adversely Affected” by the Planning Commission’s Grant of a Height Variance**

Salt Lake City (the “City”) asserts that the Utah Supreme Court’s recent opinion in *McKittrick v. Gibson*, 1021 UT 48, is fatal to the above referenced appeal of a 300+ foot height variance for the proposed 150 S. Main Apartments. The City, in so asserting, presupposes that all Appellants are not “adversely affected parties,” as defined and used in the Municipal Land Use Development and Management Act, Title 10 Chapter 9a of the Utah Code, and thus cannot appeal the decision of the Planning Commission (the Land Use Authority) to the Land Use Appeal Authority of the City. The City’s supposition is incorrect. Many individual Appellants meet the statutory standing requirements to appeal the variance granted by the Planning Commission to this Appeal Authority.

Not surprisingly, a large number of individuals appealed the Planning Commission’s grant of a height variance to the 100’ height limit found in the D-1 Central Business District zone. This variance or zone change to allow the construction of yet another high-rise luxury apartment building, requiring the demolition of the historic Utah Pantages Theatre, is very unpopular and controversial. (Recently, the failure of the City to nominate the Utah Pantages to the National Historic Register has finally been rectified. Listing is expected soon.)

While many of the individual Appellants reside in various locations in the City and arguably will suffer no more adverse impact than every other City and State resident if this historic

landmark is destroyed, among this large group of Appellants are those who easily meet the statutory standing requirements defined in Utah Code §10-9a-103(2):

“**Adversely affected party**” means a person other than a land use applicant who: (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.” (Emphasis Added)

The following Appellants own or are employed in a business located at the Utah Pantages Theatre Property and will be displaced if the Theatre is razed to make way for the luxury apartments:

<b>Name</b>	<b>Adverse Affect</b>
<b>Twisted Roots</b> Ibou Fall <i>Owner</i>	Displaced from business
<b>Ary’s Barbershop</b> Michael J. Vina <i>Manager/Barber/Prospective Buyer of Ary’s</i>	Displaced from employment
Tyler Green <i>Barber</i>	Displaced from employment
Sarah Reiner <i>Barber</i>	Displaced from employment
<b>Southam Gallery Fine Art</b> Kimberly Southam Snow <i>Owner</i>	Displaced from business
Linda Southam <i>Owner</i>	Displaced from business
<b>Beckett &amp; Robb</b> Derek Bleazard <i>Owner</i>	Displaced from business
<b>Michaelangelo’s on Main</b> Jessica Nichols <i>Employee</i>	Displaced from employment



Obviously, those who may be displaced from either their business or place of employment “will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision” Utah Code Section 10-9a-103(2)(b). By losing their business or place of employment as a result of the Planning Commissions variance/zone change, the tenants of local businesses located between 100 and 200 South Main Street will suffer a distinct and palpable injury that gives them a personal stake in the outcome of the Decision. In addition, Friends of the Utah Pantages Cinematic Theater, a Utah Nonprofit Corporation, and Utah Pantages Cinematic Theater, LLC, as prospective buyers of the Utah Pantages Theater, will be deprived from the possibility of purchasing the Utah Pantages Theater and managing its restoration as a result of the Planning Commissions variance/zone change, a damage different in kind than and distinct from that of the general community as a result of the Planning Commission’s Decision. Thus, the Appellants can establish both traditional standing and statutory standing. *McKittrick*, 2021 UT 48 at p. 14 (citing *Utah Chapter of Sierra Club v. Air Quality Bd.*, 148 P.3d 960 (Utah 2006)).

**B. City Code Section 20.48.120 Echoes State Law Granting Standing to Adversely Affected Parties**

As identified in the Appeal Application, the Appeals Hearing Officer, established pursuant to Section 21A.06.040 of the Salt Lake City Code (the “**City Code**”), is the city’s designated land use appeal authority (“**Appeal Authority**”) *on appeals of planning commission decisions* as provided in Chapter 21A.16 of the City Code. Moreover, “[a]ny person adversely affected by any final decision made by the planning commission under this title may file a petition for review of the decision with the land use appeals authority within ten (10) days after the decision is rendered.” Section 20.48.120 of the City Code. In addition to establishing statutory and traditional standing, the Appellants meet the standing requirements of Section 20.48.120 of the City Code because each

has been adversely affected by the Decision. Thus, the same adverse affect identified above also provides a right for the same Appellants to appeal to the Appeal Authority under City Code.

### **C. All Appellants Meet the Test for Alternative Standing**

In addition to traditional or statutory standing, Utah also provides for alternative standing. *See Sierra Club v. Utah Air Quality*, 148 P3d 960 (Utah 2009). Under the test for alternative standing, “if the party is an appropriate party, the court then considers whether the party is asserting issues of sufficient public importance to balance the absence of the traditional standing criteria,” which requires the court to determine that the issues are of a sufficient weight and are not more appropriately addressed by the executive or legislative branches. *Utah Chapter of Sierra Club v. Utah Air Quality Bd.*, 2006 UT 74, ¶ 41, 148 P.3d 960, 973–74. A party is an “appropriate party” if it can demonstrate that it has “the interest necessary to effectively assist the court in developing and reviewing all relevant legal and factual questions and that the issues are unlikely to be raised if the party is denied standing. *Utah Chapter of Sierra Club v. Utah Air Quality Bd.*, 2006 UT 74, ¶ 36, 148 P.3d 960, 972.

Here, the Appellants are appropriate parties because each has the interest necessary to effectively assist the Appeal Authority in developing and reviewing all relevant and legal factual questions. Each of the remaining Appellants have an interest in preventing a loss of the Utah Pantages Theatre, a unique historic building that has been nominated to the National Historic Register. Moreover, the Decision to illegally alter the building height, of the luxury high rise apartment building slated to replace the Theatre above statutory limits is of sufficient public importance because it is good public policy to require compliance with all applicable laws, including state and local laws. Finally, the Appellants’ assertions that the Planning Commission failed to comply with state and local laws are not more appropriately addressed by other branches

of government. The Appellants seek compliance with these laws and thus are entitled to petition the Appeal Authority for that relief under the well-established doctrine of Alternative Standing.

## **ATTACHMENT D: CITY ATTORNEY'S BRIEF**

ADMINISTRATIVE HEARING OF A LAND USE APPEAL

(Case No. **PLNAPP2021-00776**)

(Appealing Petition No. PLNPCM2021-00024)

October 14, 2021

Appellants:	Friends of the Utah Pantages Cinematic Theater, a Utah Nonprofit Corporation, <i>et al.</i>
Decision making entity:	Salt Lake City Planning Commission
Address Related to Appeal:	136, 144, and 156 South Main Street
Request:	Appealing the planning commission's design review approval
Brief Prepared by:	Paul C. Nielson, Senior City Attorney

Land Use Appeals Hearing Officer's Jurisdiction and Authority

The appeals hearing officer, established pursuant to Section 21A.06.040 of the *Salt Lake City Code*, is the city's designated land use appeal authority on appeals of planning commission decisions as provided in Chapter 21A.16 of the *Salt Lake City Code*.<sup>1</sup>

Standard of Review for Appeals to the Appeals Hearing Officer

In accordance with Section 21A.16.030.A of the *Salt Lake City Code*, an appeal made to the appeals hearing officer "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 appellants' burden to prove that the decision made by the land use authority was incorrect. (Sec.

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<sup>1</sup> While not a particularly unique description of applicable law, the language in the first paragraph is nearly identical to that presented in Appellants' brief. How can this be? This is the language I have been using in my appeal briefs for years, which are available on Salt Lake City's website. It appears that Appellants' counsel appreciates my writing so much that they have lifted most of this paragraph verbatim without attribution.

21A.16.030.F). Moreover, it is the appellants' 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).<sup>2</sup>

“The appeals hearing officer shall review the decision based upon applicable standards and shall determine its correctness.” (Sec. 21A.16.030.E.2.b). “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.” (Sec. 21A.16.030.E.2.c).

This case deals with application of Chapter 21A.59 (Design Review) and Section 21A.30.020 (D-1 Central Business District) of the *Salt Lake City Code*.

### **Background**

This matter was heard by the planning commission on July 14, 2021 via electronic meeting on a petition by Dwell Design Studio (“Applicant”) on behalf of Hines Acquisitions, LLC and with the consent of the Salt Lake City Redevelopment Agency (“RDA”) for design review approval to construct a building that will be taller than what may be built as of right.<sup>3</sup> Video of the commission’s July 14, 2021 public meeting is part of the record of this matter and is found at <https://www.youtube.com/watch?v=x9BiHLh9bMI&t=6806s> (2:52:02 to 4:27:15).

Planning division staff prepared a report for the commission’s July 14, 2021 meeting in which staff included findings that the design review petition met the applicable standards set forth in Chapter 21A.59. (See Planning Division Staff Report Dated July 14, 2021). The staff

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<sup>2</sup> Again, this paragraph is practically identical to language provided in Appellants’ brief. This, also, is the exact language I have been including in my appeal briefs for years. I’m glad that Appellants’ counsel likes my work, but I would encourage them to do their own work in the future.

<sup>3</sup> Salt Lake City Code Subsection 21A.30.20.F.3 allows building height of mid-block buildings to be constructed up to 100 feet tall and allows additional height without a specific height limit through the design review process established in Chapter 21A.59.



report includes an overview of the proposal and a discussion of the applicable standards on pages 2-12 and a point-by-point analysis of those standards applied to the specific facts of the proposal in Attachments D and E.

At the July 14, 2021 meeting, planning division staff presented an overview of the proposed development project, provided a slide show reflecting materials and information in the staff report, responded to commission members' questions, and offered a recommendation to approve the petition. (See Video of July 14, 2021 Planning Commission Meeting at 2:52:58 to 3:03:58). Applicant's representative, Dusty Harris, described the development proposal, provided additional slides depicting the project, and responded to commissioners' questions. (See Video of July 14, 2021 Planning Commission Meeting at 3:04:00 to 3:09:08).

The commission held a public hearing at the July 14, 2021 meeting (see Video of July 14, 2021 Planning Commission Meeting at 3:09:10 to 3:56:30), following which the commission held a discussion and asked the Applicant's representative additional questions. (See Video of July 14, 2021 Planning Commission Meeting at 4:08:34 to 4:23:28).

Following the commission's discussion, Commissioner Urquhart moved and voted to approve the design review application "based on the findings and analysis in the [July 14, 2021] staff report", testimony, and discussion at the public hearing" with the conditions listed in that staff report, which motion was seconded by Commissioner Lee and approved by the commission on a 6-1 vote. (See Video of July 14, 2021 Planning Commission Meeting at 4:23:29 to 4:26:35).

Appellants, Friends of the Utah Pantages Cinematic Theater, a Utah Nonprofit Corporation, Utah Pantages Cinematic Theater, LLC, and several individuals ("Appellants") submitted an appeal of the planning commission's decision on or about July 26, 2021.

## **Discussion**

### **I. Appellants Lack Standing to Bring this Appeal.**

As discussed in an email to the land use appeals hearing officer dated October 1, 2021, the Appellants lack standing to bring this appeal in light of the Supreme Court of Utah's recent decision in McKittrick v. Gibson, 2021 UT 48 (Utah 2021) and because none of them can prove that they "will suffer damage different in kind than, or an injury distinct from, that of the general community" (Utah Code Section 10-9a-103(2)) as an "adversely affected party". For the sake of avoiding duplication, the city relies on the arguments provided in that October 1, 2021 email to the appeals hearing officer and reiterates that standing is a jurisdictional matter that should be determined before addressing the merits. And, notwithstanding the lack of standing--and the appeals hearing officer's lack of jurisdiction to rule on the merits of this matter--Appellants' arguments are meritless and could not prevail even if any of the Appellants were actually adversely affected parties.

### **II. Response to Appellants' Arguments.**

#### **A. Whether the Planning Commission's Decision Was Arbitrary and Capricious.**

Appellants' first argument is that the planning commission's decision was arbitrary and capricious, yet Appellants acknowledge the "information and evidence [presented to them] which may have been relied upon by the Commission to support their decision". (Appellants' Brief at p. 9). Though presented in an argument that appears more in the nature of a claim of illegality, Appellants claim that the commission's decision was arbitrary and capricious because it wasn't based on substantial evidence in the record contradicts itself by noting the substantial evidence in the record.

In their argument claiming the commission's decision was arbitrary and capricious, Appellants assert that Salt Lake City Code Section 21A.30.010.B limits design review in the D-1 zoning district to conditional uses. The language cited and the flowchart provided from Section 21A.30.070 are relics of a former regulatory scheme that unfortunately were not revised by Ordinance 15 of 2013, which revamped the Conditional Building and Site Design Review regulations that would later become just Design Review per Ordinance 14 of 2019. As noted in the planning division staff report regarding the amendments that would become Ordinance 15 of 2013,

“[t]he proposed zoning amendments separate design issues from land use issues. Design is not a use. Formerly, design concepts were also approved under the conditional use process due to the lack of a separate design process. Recent changes in State law require the approval of any conditional use with modification to mitigate impacts. The fundamental criteria for use and design are not the same. This petition separates and clarifies the design process and eliminates conflicts.”

(SLC Planning Division Staff Report dated January 19, 2012 at p. 3, available at:

<http://www.slcdocs.com/Planning/Planning%20Commission/2012/January/00783.pdf>). As

correctly noted by the planner, and as is clear in the definition of “conditional use” provided in Section 10-9a-103 of the Utah Code, a conditional use pertains to land use, not design.

To accept Appellants' argument that buildings that contain permitted uses cannot be granted additional height in the D-1 zoning district but buildings that contain conditional uses may be granted additional height would be an absurd reading of the code. There is no possible explanation why a use that could present potential compatibility concerns could be granted additional height but one that does not present compatibility concerns could not. This is, plain and simple, code that was overlooked when amendments were adopted in 2013 and 2019.

Notwithstanding the faux pas in Section 21A.30.010.B of the city's code, Section 21A.30.020.F.3 makes it clear that additional height can be granted in the D-1 district for mid-

block areas by the planning commission through the design review process. To the extent that there is a conflict in the language of the code, the land use appeal hearing officer is compelled to interpret the code in favor of a land use application per Utah Code Section 10-9a-707(4).

Because Appellants have not carried their burden to prove that the commission's action was unsupported by substantial evidence in the record, Appellants' argument on that point fails and must be rejected by the appeals hearing officer.

## **B. Whether the Planning Commission's Decision is Illegal.**

### **1. Planning Commission's Authority to Modify Building Height Regulations.**

Appellants provide the following perplexing argument:

Only the City's Appeals Hearing Officer may modify or waive zoning requirements, such as the height requirement, through the variance process. Under state law and the City Code, only the City Council, as the legislative body, is authorized to waive or modify existing zoning regulations.

(Appellants' Brief at p. 10). It's unclear from this excerpt whether Appellants believe that it is only the appeals hearing officer or it is only the city council who may modify zoning requirements/regulations. A regulation is a requirement. This nonsensical position ignores the fact that the planning commission is currently authorized specifically by Chapter 21A.52 (Special Exceptions), Chapter 21A.55 (Planned Developments), and Chapter 21A.59 (Design Review) to allow departures from some land use regulations. In these cases, the city council--not the planning commission--has prescribed the rules that govern development.

That initial argument is followed by Appellants acknowledgment that Section 21A.06.030 grants the planning commission the authority to review and approve, among other things, design review applications. Appellants eventually get around to their core argument: that the Salt Lake City Council cannot delegate its legislative authority to the Salt Lake City Planning

Commission. Salt Lake City does not disagree with that premise, but it disagrees that giving the planning commission authority to allow departures from land use regulations is problematic or illegal. The very nature of a variance that Appellants mention in their brief is a legislative delegation (both by the Utah Legislature and the Salt Lake City Council) to authorize a departure from a general rule when a land use applicant can prove that certain standards are met. Utah Code formerly recognized special exceptions to do the same thing. The key issue is whether the legislative body has adopted standards for the land use authority to review an application against when allowing a departure from the general rule.

Had the city council given the planning commission unfettered discretion to determine maximum (or minimum) building heights in the city's central business district, Appellants' argument might have some merit. But the city council essentially adopted a policy that there are no hard caps on building height in the D-1 zoning district when a project meets the standards of design review as set forth in Section 21A.59.050. That section gives the planning commission guideposts to determine whether a proposed building's design--including its height in relation to other structures--should be allowed, but it doesn't turn policymaking over to the commission. It is important to bear in mind that the downtown central business district is a unique place in Salt Lake City. The Downtown Plan identifies that central business district as the "High-Rise Core" (see Salt Lake City's Downtown Plan at p. 12) and, addressing the "Urban Design Framework" the plan notes that, "[t]he 3D structure of downtown is a two-sided pyramidal form with the highest points in the Central Business District. Building height gradually steps down to the south and west." (See Salt Lake City's Downtown Plan at p. 18). Thus, the city council identified the central business district where the tallest buildings shall be constructed per code and the



Downtown Plan and did not intend to limit the building height of mid-block structures to 100 feet without exception.

The city council giving the planning commission the authority to allow departures from building height requirements is not illegal because the council has provided standards against which the commission may determine if a design review application qualifies for that relief. Thus, Appellants' initial illegality argument fails.

## **2. Whether Granting Additional Height is a Variance.**

Appellants argue that the additional height granted by the planning commission was an illegal variance. That is incorrect. The approval granted by the planning commission was, in fact, design review approval that, in addition to examining the overall design of the proposed building for compliance with applicable standards, provided an allowance of additional building height over what is allowed by right as well as additional front setback relief for a residential lobby entrance through the design review mechanism. Strangely, Appellants begin this argument by asserting that,

a waiver or modification of a municipal land use ordinance, including, but not limited to, one that creates a case-specific exception to a land use ordinance, is a legislative act under Utah law that can only be accomplished by the legislative body of a municipality, including the City.

(Appellants' Brief at p. 11). This argument is hard to reconcile with Appellants' preceding claim that, "[o]nly the City's Appeals Hearing Officer may modify or waive zoning requirements, such as the height requirement, through the variance process." (Appellants' Brief at p. 10).

Notwithstanding this perplexing line of argument, a design review application under Salt Lake City Code is not the same thing as a variance, though both allow departures from the general rule but in different ways and applying different standards. Case law cited by Appellants is not on

point because those cases do not present a circumstance where a land use authority was acting within the bounds prescribed by ordinance.

Since it is clear that design review is not the same thing as a variance, Appellants' argument that the planning commission's action approving the design review application was an illegal variance must be rejected.

### **3. Whether the Planning Commission's Decision Violates Sections 21A.30.010 and 21A.30.020.**

Frankly, it is difficult to understand specifically what Appellants are alleging with respect to the planning commission's claimed violations of Sections 21A.30.010 and 21A.30.020 of the Salt Lake City Code because Appellants do not explain how they believe the planning commission acted contrary to the law. This collection of arguments appears to be nothing more than allegations without reasons, citations to law, or factual support. Merely stating something doesn't make it so. And Appellants' failure to understand Salt Lake City's land use regulations doesn't mean that the planning commission's application of those regulations is somehow unlawful. For these reasons, the hearing officer must reject the Appellants' arguments regarding violations on Sections 21A.30.010 and 21A.30.020, whatever those arguments may be.

### **4. Whether the Planning Commission Violated the Design Review Standards.**

Appellants' arguments regarding whether the planning commission had authority to approve additional building height through design review seems to center on whether the planning commission is authorized to allow additional building height through design review instead of just approving design. The city council authorized the planning commission to allow additional height through Sections 21A.30.020.F.3 and 21A.59.50.G. This grant of authority is not difficult to understand. Appellants seem to want to play word games with the fact that this

mechanism is called design review, but the express authorization from the council allows the planning commission through design review to grant additional height, provided that the adopted standards are met. Nothing here proves or reasonably suggests that the planning commission's design review approval was illegal. That argument must, therefore, be rejected.

Appellants piggyback an argument regarding completeness of the application on their lack of authority argument. At the time the planning commission considered the matter, the application was deemed complete. Like most of Appellants' other arguments, this assertion is unsupported by any fact in the record.

#### **5. Whether the Planning Commission Violated the Utah Constitution and the Constitution of the United States of America.**

Appellants' most interesting argument is that the planning commission violated the uniform operation of laws clause of the Utah Constitution and the equal protection clause of the Constitution of the United States of America. This argument clearly fails for two very obvious reasons.

First, in order to make a claim that the design review regulations violate the uniform operation of laws and equal protection clauses, Appellants must show that there is some disparate treatment of persons who are similarly situated. See Gallivan v. Walker, 54 P.3d 1069, 1083 (Utah 2002). Nothing in Chapter 21A.59 of the Salt Lake City Code treats similarly situated land use applicants disparately. Anyone owning property in the D-1 zoning district may apply for design review if they wish to comply with the relevant standards to achieve additional building height.

Second, in order to succeed on a uniform application of laws/equal protection claim, Appellants must show that they have been treated disparately in comparison to others similarly

situated. It's hard to believe that the city has to point something out as obvious as the fact that Appellants have not applied for design review approval in the D-1 zoning district, but here we are. This obvious defect in Appellants' argument further highlights their lack of standing.

Because it is clear that Appellants' argument regarding uniform application of the laws and equal protection cannot prevail, the hearing officer must reject those arguments.

#### **6. Whether the Planning Commission Decision is Contrary to “the Vision and Various Goals of the 2016 Master Plan”.**

Appellants contend that the planning commission's approval of the Applicant's design review application violates various master plan policies, but for the most part they do not explain how. Appellants, however, *do* claim that the planning commission “decision to approve a height increase for the proposed Apartments violates another goal of the Master Plan, which is to repurpose the Utah Pantages Theater.” (Appellants' Brief at p. 14). Not only do Appellants fail to explain how compliance with “the vision and various goals” of a master plan is required in design review approval, but they also fail to recognize the Downtown plan's language from its “How The Plan Will Be Used” section, which states, “[t]he plan provides the public and private sectors with direction on how to implement the community's vision. **It is aspirational in nature**, integrating sustainability, livability, economic development, and cultural development concepts throughout.” (Downtown Plan at p. 3 (emphasis added)). That aspirational language is consistent with the language of Section 21A.02.040 of the Salt Lake City Code regarding the effect of adopted master plans and as noted on page 9 of the July 14, 2021 Staff Report. These types of provisions are advisory in nature as explained in Utah Code Section 10-9a-405.

Nothing in Appellants' argument regarding the effect of adopted master plans suggests that the planning commission's approval of the design review application at issue was illegal and must, therefore, be rejected.

**C. Appellants' Claim that Some Persons Were Excluded from the Public Hearing.**

Appellants argue that some people were not able to participate in the July 14, 2021 public hearing and provided declarations of individuals claiming they were deprived of an opportunity to be heard. While Salt Lake City supports and encourages public participation in land use matters, there are things that are out of the city's control. In these challenging times of a worldwide pandemic which has caused over 700,000 deaths in this country alone, the city has made its best efforts to allow public participation through available technologies. The city can mostly only control what happens on its side of the electronic meeting. We do not believe that there was any technical problem on the city's side as evidenced by the numerous people who were able to attend the meeting electronically, including 25 who provided oral comments on this matter. Two of the people who signed declarations claiming they were unable to make a public comment actually provided comments via email, which were read by planning staff at the July 14, 2021 meeting. It is significant, however, that of all of the persons submitting declarations claiming they were unable to provide public comments, the only two who are listed as appellants in this matter were two of the persons whose email comments were read by staff.

Regardless, Appellants have not asserted a cognizable claim with respect to persons who were unable--for whatever reason--to provide public comments at the July 14, 2021 meeting for which there is a remedy.



**D. Appellants' Claim that the City Failed to Follow its Preservation Plan and Affordable Housing Standards.**

Appellants have introduced materials not included in the record pertaining to historic preservation and affordable housing, which the hearing officer should disregard as not appropriate for consideration. This is not because the city doesn't value historic preservation or affordable housing, but because Utah Code Section 10-9a-707 and Salt Lake City Code Section 21A.16.030 dictate that an appeal on the record is limited to what is in the record. Notwithstanding that limitation, Appellants' arguments regarding historic preservation and affordable housing are misplaced because the subject properties are not within an historic district nor is any structure thereon an historic site and, at present, nothing in the Salt Lake City Code mandates inclusion of affordable housing in new residential development. Appellants' arguments pertaining to an alleged failure to follow preservation and affordable housing policies are patently incorrect.

**Conclusion**

Appellants have failed to meet their burden of proving that the Salt Lake City Planning Commission's decision to approve the Applicant's design review application was in any way arbitrary, capricious, or illegal. For this reason and all of the reasons stated above, Appellants' arguments must be rejected and the planning commission's decision must be upheld.

## **ATTACHMENT E: APPLICANT'S BRIEF**

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The following items are included in this attachment:

- a) **Hines – Planning Commission Complete Brief – 10/07/2021**
- b) **[Proposed] Findings of Fact and Conclusions of Law – 10/07/2021**

Bruce R. Baird (176)  
BRUCE R. BAIRD, PLLC  
2150 South 1300 East, Suite 500  
Salt Lake City, Utah 84106  
Telephone: (801) 647-1400  
Email: bbaird@difficultdirt.com

Wade Budge (8482)  
Michael Hutchings (17243)  
**SNELL & WILMER L.L.P.**  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101  
Telephone: 801.257.1900  
Facsimile: 801.257.1800  
Email: wbudge@swlaw.com  
mhutchings@swlaw.com

*Attorneys for Hines Acquisitions, LLC*

**BEFORE THE SALT LAKE CITY  
APPEALS HEARING OFFICER**

**IN RE APPEAL OF APPROVAL OF  
DESIGN REVIEW APPLICATION  
PLNPCM2021-00024**

**HINES' MEMORANDUM IN  
OPPOSITION TO APPELLANTS'  
APPEAL**

Appeal No.: PLNAPP2021-00776

Hearing Officer: Matthew Wirthlin

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Hines Acquisitions, LLC (“**Hines**”), through counsel, submits this Memorandum in opposition to the Appellants’ Appeal.

## **I. SUMMARY OF RELIEF REQUESTED**

Hines respectfully requests that Hearing Officer dismiss and/or deny the Appellants’ Appeal for the reasons set forth below. The Appellants filed an Appeal (“**Appeal**”) of a decision (“**Decision**”) by the Salt Lake City Planning Commission (“**Planning Commission**”) approving a Design Review Application, PLNPCM2021-0024, (“**Application**”) filed by Hines. The Appeal purports to challenge the Decision approving the building height and setbacks for a project to be constructed at 136, 144, and 158 South Main Street, Salt Lake City, Utah (“**Project**”).

Appellants are a group of individuals and entities that are staunchly opposed to the demolition (“**Demolition**”) of the Utah Pantages Theater (“**Theater**”), a decrepit relic<sup>1</sup> that sits on a portion of the property on which the Project will be constructed. By way of background, this is not Appellants first attempt to derail the Project. Indeed, Appellants and/or their colleagues have decried the Decision at numerous City Council and RDA meetings, launched a smear social media campaign slandering City officials, engaged in a short-lived hunger strike<sup>2</sup>, been arrested for trespassing in the Theater, attempted and failed at a separate citizen initiative, and recently lost a District Court case against Salt Lake City (“**City**”) regarding another proposed citizen initiative to have the Theater declared “historic” in a back door attempt to interfere with the Demolition. This Appeal is simply Appellants’ latest theatrics to derail the Demolition. The Hearing Officer should make this doomed effort be their last crusade.

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<sup>1</sup> Of course, as will be repeatedly mentioned herein, the alleged historic nature of the Theater, its state of disrepair, the economics of any potential restoration, or any other matters related to the Theater at all are simply not at issue here.

<sup>2</sup> According to the Save the Utah Pantages Theater Facebook page, the short-lived hunger strike lasted a total of 15 and 1/2 hours. *See* <https://www.facebook.com/savetheutahpantages/posts/hunger-strike-update-i-ended-the-hunger-strike-early-late-last-night-in-an-attempt/530658098316992/>

As discussed below, Appellants lack standing to challenge the Decision. Even if Appellants had standing, the Decision was legally made, solidly within the scope of the Planning Commission's authority and supported not just by substantial evidence in the record but, instead, by massive and essentially uncontradicted evidence. The Hearing Officer should affirm the Decision and dismiss the Appeal.

## **II. FACTUAL BACKGROUND**

Hines is a globally recognized real estate investment, development, and management firm that has invested significant time, energy, and resources into the future development of the Project. The Project will be constructed on three parcels in the heart of downtown Salt Lake City. Hines indirectly owns one of the parcels and the Salt Lake City Redevelopment Agency ("**RDA**") owns the other two parcels. The RDA parcels constitute the site of the 100-year old Theater that has been damaged, fallen into disrepair and decayed beyond any reasonable expectation of revival.

In 2019, having determined that it was not feasible to restore the Theater, the RDA entered into a contract to sell it to Hines. That determination by the RDA and the decision to sell the RDA properties to Hines was never legally challenged.

The Project will significantly benefit the community by including affordable housing, a publicly accessible open space, a mid-block walkway, a contribution of \$1 million to historic preservation, public art installation, and over 400 dwelling units.

On January 11, 2021 and pursuant to City Code ("**City Code**") §§ 21A.30.020D.2.a.<sup>3</sup> and 21A.30.020F.3.<sup>4</sup> Hines submitted its Application requesting a ten-foot setback from Main Street and a building height of 392 feet. On March 8, 2021 the Application was deemed complete, and

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<sup>3</sup> "No minimum yards are required, however, no yard shall exceed five feet (5') except as authorized through the design review process. Such design reviews shall be subject to the requirements of chapter 21A.59 of this title."

<sup>4</sup> "No building shall be more than one hundred feet (100') in height; provided, that taller buildings may be authorized through the design review process, subject to the requirements of chapter 21A.59 of this title."

a required period of public engagement commenced. To assist the Planning Commission's determination, City staff prepared a staff report ("**Staff Report**") recommending that the Planning Commission approve the Application.

On July 14, 2021, the Planning Commission held a public hearing. At the outset of the public comment portion of the Planning Commission hearing the Chairperson made it clear that the scope of the hearing was limited to the height and setback issues and not the Demolition:

I know there are many people who wish to speak, and I'm certainly going to allow everyone to speak who wants to speak, but to let you know that the commission's purview is limited to discussing whether or not the design review of this project has been correctly assessed by the planning staff and also in -- and whether or not the applicant's ideas about the setbacks and so forth are something we can accept.

(Transcript at p. 9. ll 13 – 22.<sup>5</sup>)

Despite that clear and correct scoping admonition almost none of the comments from the public had anything at all to do with the height and setback issues before the Planning Commission. Instead, the public's comments were focused almost exclusively on the Demolition of which this only one, but tellingly over the top example:

The theater has incredible unique features that were created from hundreds of hours put in by skilled craftsmen. And can you imagine if the Pantheon had been torn down or the Vatican or the Louvre had not been restored? Where would we have been able to enjoy these historical buildings? From personal experience, I lived in the Middle East in Amman, Jordan, for five years, and the sheer incredibleness of the history and architecture in that city is just absolutely amazing. The Temple of Hercules, the Roman theater, Petra. And Utah is no different.

(Transcript at p. 37. ll 1 - 12) In fact, as more fully detailed below, only four out of over one hundred public comments even peripherally challenged the Project's height or setbacks; i.e.,

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<sup>5</sup> A transcript of the Planning Commission hearing is attached as Exhibit "B".

the very heart of the Application, the Decision and this Appeal (or at least what the Appeal should be about).

Contrary to Appellants' baseless and offensive allegations<sup>6</sup>, the Planning Commission carefully (and with the patience of Job) considered over 110 oral and written<sup>7</sup> public comments<sup>8</sup>, the Staff Report, Hines' presentation, and voted 6-1 in favor of the Application. This Appeal followed.

### III. RESPONSE TO THE APPEAL'S "STATEMENTS OF FACT"

The Appeal contains 5 pages of "background facts" that are mostly repetitive, immaterial, legal conclusions and arguments, or misstatements of the law.<sup>9</sup> Given the narrative form of the "facts" in the Appeal Application, Hines is unable to respond and object to each individual assertion as it would if each fact were concise and individually numbered. As such, Hines generally objects to the Appellants' narrative. Nevertheless, Hines, to the best of its ability, hereby responds to each paragraph within Appellants' narrative as follows.

1. On January 11, 2021, Dwell Design Studio, on behalf of Hines Acquisitions, LLC, submitted a Design Review Application ("**Application**") to the Salt Lake City Planning Division ("**Planning Division**") for the "150 S Main Street Apartments," a proposed project designated by the Planning Division as Petition PLNPCM2021-00024, to be located at approximately 150 South Main Street on the site of the historic Utah Pantages Theatre ("**Apartments**"). The combined 0.89 acre (39,000 square feet) parcel where the Apartments are sought to be built is currently owned by the Redevelopment Agency of Salt Lake City and located in the D-1 – Central Business District. A copy of the Application is attached as **Attachment 1** and incorporated herein by this reference. No other applications have been submitted for the proposed Apartments. In addition to informing the applicant of each submittal requirement, the Application provides that "incomplete applications will

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<sup>6</sup> The Appeal states that "there is no evidence that the Commissioners reviewed the staff report, comments, letter, or materials submitted to the Commission." Appellants' baseless claim that the Planning Commission failed to do its duties is insulting to the diligence and hard work of the Planning Commission. In fact, the "Staff Report" is mentioned in testimony in the Transcript at least 9 times.

<sup>7</sup> Some of the written comments were so obviously based on a template that the authors of the comments failed to even delete the portion of that template that instructed them to "delete this sentence".

<sup>8</sup> A surprising number of the comments were from people who do not even live in Utah, much less in Salt Lake City or even anywhere near the Project itself.

<sup>9</sup> Concerning certain additional materials filed later by the Appellants please see Sections V.C.1–V.C.5 below.

not be accepted,” and the Applicant made the following acknowledgment: “I acknowledge that Salt Lake City requires the items above [, i.e., the Submittal Requirements,] 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.” See Application, page 2. Moreover, Salt Lake City directs applicants to review certain information prior to submitting a Design Review Application, including the following: “The purpose of the design review chapter is to: 1) establish a streamlined process and standards of review for minor modifications to applicable design standards, and 2) ensure high quality outcomes for larger developments that have a significant impact on the immediate neighborhood and the city. The design review process is not intended to be a means to simply obtain variances from zoning regulations” (emphasis added) [footnote omitted].

**Hines Response:** *Hines does not dispute that Dwell Design Studio submitted the Application on its behalf and does not dispute the description of the Project. Hines further does not dispute that its Application is the only application it submitted for design review purposes. Hines objects to the remainder of paragraph 1 because it is irrelevant to determining whether the Decision was illegal or arbitrary and capricious.*

2. However, development of “permitted uses” in the D-1 Central Business District, such as the proposed Apartments [footnote omitted], are subject to site review but do not go through any design review process; rather, design review is limited to conditional uses, which require their own application and are subject to separate procedures and a separate review process in addition to the design review process. See City Code 21A.30.010(B) and (C) (“Design review shall apply only to conditional uses in the D-1 and D-4 districts. In the D-1 district, the conditional use process is used to evaluate and resolve urban design issues related to the downtown area... The process for review of development proposals in the downtown districts is illustrated in the diagram set forth in section 21A.30.070 of this chapter. The specific procedures involving conditional use approval and site plan review are set forth in part V of this title. All proposed uses shall be subject to site plan review. For conditional uses in the D-1 district, the petition will be forwarded to the planning commission for approval.”).

**Hines Response:** *Hines objects as most of paragraph 2, to the extent that it can be understood, is a legal conclusion or legal argument premised on an incorrect reading of the City Code. Appellants’ legal arguments are addressed below in Section V.B.1.a.*

3. Moreover, the zoning regulations for the D-1 Central Business District include “Special Controls Over Mid Block Areas”, which apply to land located at the middle of blocks including the site of the proposed Apartments, such as the following Height Regulation: “No building shall be more than one hundred feet (100’) in height...” [footnote omitted] (the “**Height Regulation**”). In addition, [Graphic Omitted] 21A.37.060 provides a table of design standards, which is separate from the foregoing Height Regulation found in See City Code 21A.30.020(F).

**Hines Response:** *Hines acknowledges that in the D-1 Zone, there are special controls over mid-block areas and that the Project is located in a mid-block area. Of note, Appellants’*

*blatant and unethical attempt to mislead the Hearing Officer by intentionally cutting off the remaining provision of City Code § 21A.30.020F. and burying the remainder deep in a bulky footnote. Importantly, Section 21A.30.020F states that mid-block buildings “shall not be more than one hundred feet (100’) in height, **provided, that taller buildings may be authorized through the design review process, subject to the requirements of Chapter 21A.59 of this title.**” (Emphasis added.) Appellants’ Procrustean attempt to bury the real quote, deep in a footnote, is unsurprising because the real quote obliterates their argument that the Planning Commission lacked authority to approve building heights in excess of one hundred feet through the design review process.*

4. Thus, rather than submitting a development application, the Applicant skipped the City’s development approval process and submitted a design review application.

**Hines Response:** *Hines admits it submitted a design review application. Hines did not “skip” anything. Instead, Hines specifically complied with the process specified in the clear language of the City Code. Hines objects to the remainder of paragraph 4 because it is a legal conclusion that is addressed below in Section V.B.1.a.*

5. Nevertheless, on January 21, 2021, the Design Review Application was assigned to the Salt Lake City (“City”) Principal Planner, David J. Gellner, AICP. See Salt Lake City Citizen Access Portal Record, Processing Status (commenting: “Assigned to David Gellner for processing. Planner reviewing application for completeness and will contact RDA staff and consult with Molly Robinson, Planning Manager.”).

**Hines Response:** *Undisputed but irrelevant.*

6. As of February 3, 2021, David Gellner completed an initial review of the Application and determined that it was incomplete based on missing information and sent the review checklist [footnote omitted] to the Applicant by email.

**Hines Response:** *Hines objects as the attachment relied upon to support paragraph 6 was not in the record before the Planning Commission and is inadmissible on appeal. See City Code 21A.16.030.E.2.a. (“No new evidence shall be heard by the appeals hearing officer unless such evidence was improperly excluded from consideration below.”). This earlier review is also utterly irrelevant because all of the issues identified therein were subsequently addressed.*

7. Moreover, as of February 18, 2021, the Application was still incomplete. Likewise, the Application was incomplete as of March 2, 2021, and Mr. Gellner determined that he would discuss a “phased approval approach with the PC [i.e., the Planning Commission] in the absence of walkway and park details. On March 3, 2021, Mr. Gellner determined that the park and walkway are currently being discussed with the RDA and that he spoke with the Applicant about a “phased approach” to approval of the Application.

**Hines Response:** *Hines objects as the attachment relied upon to support paragraph 7 was not in the record before the Planning Commission and is inadmissible on appeal. See City Code 21A.16.030.E.2.a. (“No new evidence shall be heard by the appeals hearing officer*



*unless such evidence was improperly excluded from consideration below.”). The remainder of paragraph 7 is unsupported by any citation to the record and is irrelevant because the Zoning Administrator eventually deemed the application complete. Moreover, the Zoning Administrator “may waive a submittal requirement if it is not necessary in order to determine if a request for a modification to a design standard complies with the standards of review.” City Code § 21A.59.030B.6.*

8. On March 8, 2021, Mr. Gellner declared: “Application now complete as noted in previous entry – for purposes of starting public engagement.” Contrary to the City’s requirements, Mr. Gellner processed the Application without receiving all of the items which were required to be submitted and commenced the 45-day public engagement process despite the Application’s deficiencies.

**Hines Response:** *This fact is unsupported by any citation to the record and is irrelevant because the Zoning Administrator deemed the application complete. Moreover, the Zoning Administrator “may waive a submittal requirement if it is not necessary in order to determine if a request for a modification to a design standard complies with the standards of review.” City Code § 21A.59.030B.6. As discussed in detail in the argument below, Appellants fail to even attempt to show how this alleged procedural deficiency, even if it occurred (which it did not) would have made any difference in the eventual Decision.*

9. According to a public information sheet prepared by the Planning Division, the Application is characterized as a “Design Review for Building Height” and “the proposed project is for a 400- unit apartment building that will include 40 affordable, 355 market rate and 5 penthouse level housing units. The building will include a mid-block walkway and a park amenity on the separate parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on main street. The proposed 31-story building will be approximately 368- feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. *The total height of the building will be 392 feet. Buildings in excess of 100-feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval.*<sup>10</sup> In addition, the Design Review process is also being used to allow the residential lobby entrance to be set back 10-feet from Main Street. The zone specifies a maximum of 5-feet but this may be modified through the Design Review.” See Public Information Sheet, March 8, 2021, attached as **Attachment 4** and incorporated herein by this reference.

(Emphasis added.)

**Hines Response:** *Undisputed*

10. A Planning Commission meeting and public hearing on the Application was held on July 14, 2021. Prior to the hearing, the Planning Commission received nearly 100 public comments on the proposed Apartments and was provided with a Staff Report prepared by Mr. Gellner, which is available at:  
<http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/00024Staff>

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<sup>10</sup> Notice how the judicial admission by the Appellants in this paragraph (and as repeated below) completely destroys their argument that the Planning Commission lacked authority to approve the requested height.

fReport.pdf. The Staff Report included a recommendation to approve the “additional building height request”, reasoning that “The D-1 zoning district allows for a maximum building height of 100-feet by right in any mid-block location. Buildings in excess of 100-feet tall may be approved through the Design Review process. The proposed 31-story building will be approximately 392-feet tall. The building itself will be 368-feet tall with an addition 24-feet added for rooftop mechanical equipment and elevator overruns. The applicant is going through the Design Review process to request the additional building height as well as used to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet.”

**Hines Response:** *Undisputed*

11. Moreover, in the Staff Report, Attachment D: Development Standards, the Height Regulation in D-1 is included as a Development/Zoning Standard. In summarizing the requirement, the Staff Report characterizes the requirement as follows: “Mid-block areas – maximum of 100 feet in height unless additional height is authorized through the Design Review process.” See Staff Report. Moreover, as indicated in the Salt Lake City Code and as referenced throughout the Applicant’s Narrative and in the Staff Report, Attachment E: Design Review Standards Analysis, Building Height is not a Design Standard and, thus, is not permitted to be modified by the Planning Commission.

**Hines Response:** *Hines does not dispute that the Staff Report correctly cited to the zoning ordinances for the D-1 Zone and does not dispute the quoted language from the Staff Report is actually the applicable law. Hines objects to the remainder of paragraph 11 because it is a legal argument that is addressed by Hines below in Section V.B.1.a.*

12. A major problem with how the Hearing was conducted virtually is that a number of individuals, including Appellants, were unable to participate and make any comment. When they attempted to participate by connecting to Webex through the website link (i.e., <https://bit.ly/slc-pc-07142021>) provided in the Salt Lake City Planning Commission Meeting Amended Agenda, which is available at: <http://www.slcdocs.com/Planning/Planning%20Commission/2021/07.%20July/PC07.14.2021agendaAMENDED.pdf>, they were unable to connect and, thus, unable to participate and make comments. Accordingly, under Utah Code § 10-9a-707 the City’s designation of the scope or review as the factual record is incomplete. See Declaration, attached as Attachment 5.

**Hines Response:** *Hines objects as the single affidavit attached to the Appeal is inadmissible. See City Code 21A.16.030.E.2.a. (“No new evidence shall be heard by the appeals hearing officer unless such evidence was improperly excluded from consideration below.”). Hines further objects to Appellants statement that there were a “number” of individuals who could not connect to the Planning Commission meeting. Along with the Appeal itself Appellants only provided one inadmissible, and, as discussed below, risible affidavit supporting the “number” of individuals allegedly excluded from the meeting.<sup>11</sup> Thus, Hines assumes that the “number of individuals” that wanted to participant was*

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<sup>11</sup> The additional declarations that were belatedly filed are addressed in Section V.C.1 below.

*“one” (unless, of course, Appellants were including Save the Utah Pantages Theater’s leader, Michael Valentine<sup>12</sup> who was unable to participate because he was in jail that night for trespassing, a crime he live-streamed himself committing).<sup>13</sup> Nevertheless, one person’s technical difficulties does not make the hearing problematic and would not have changed the outcome as more fully discussed below.*

13. After taking some of the public comments at the July 14, 2021 public hearing, engaging in a discussion with the Applicant, receiving a letter from our office informing the Commission Members that they do not have the authority to waive or modify the Height Regulation and a letter from Parr Brown regarding preserving the Theater, the City Planning Commission made a motion to approve the Design Review request for additional height. See Record of Decision for Petition PLNPCM2021-000249, attached as Attachment 6 and incorporated herein by this reference. In making its decision, one Planning Commission member commented that the demolition of the Utah Pantages Theater is “not in the purview” of the Planning Commission. Another Planning Commission member commented that the Utah Pantages Theater is an “eyesore” and she wants to see the Theater replaced with “something ... that’s useful.”<sup>10</sup> Another Commissioner stated that she “wish[es] we could save the heritage, but that’s not what we’re voting on here tonight.” Likewise, another Commission declared that the demolition of and preservation of the Utah Pantages Theater “is not within our[, i.e., the Commission’s] purview.” The applicant, too, stated that restoring the Theater is “uneconomic” and would cost “a literal fortune.” In addition, Commissioner Sara Urquhart made a motion to approve the height increase “based on the findings and analysis in the staff report, discussions, and comments”; however, there is no evidence that the Commissioners reviewed the staff report, comments, letters, or materials submitted to the Commission. There is also no evidence that the Applicant submitted any other land use applications for the proposed Apartments.

**Hines Response:** *Hines does not dispute that the Planning Commission approved the design review application which included a building height in excess of one hundred feet. Hines further does not dispute, and indeed applauds the Planning Commission for correctly recognizing that its Decision on height and setbacks was unrelated to the Demolition issue. Hines objects to Appellants’ absurd and baseless statement that “there is no evidence that the Commissioners reviewed the staff report, comments, letters, or materials submitted to the Commission.” Unfortunately, these types of scurrilous and unsupported comments are par for the course for Appellants related to the Project. Hines further objects to the remainder of paragraph 13 as a legal argument that Hines responds to below in Section V.B.1.a.*

#### IV. STANDARD OF REVIEW

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<sup>12</sup> On information and belief, Michael Valentine is also known as Appellant Michael Patton.

<sup>13</sup> See Tony Semerad, *A Closing Act of Defiance Leads to Arrest as Protester Seeks to Save Utah Theater from Demolition* (July 15, 2021, 1:02 PM), <https://www.sltrib.com/news/2021/07/15/closing-act-defiance/>

“An appeal from a decision of the . . . planning commission shall be based on the record made below. No new evidence shall be heard by the appeals hearing officer unless such evidence was improperly excluded from consideration below. *The appeals hearing office shall review the decision based upon applicable standards and shall determine correctness. 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.*” City Code § 21A.16.030E.2. (Emphasis added.) The Appellants bear “the burden of proving the that the land use authority erred.” Utah Code § 10-9a-705; City Code § 21A.16.030F. Importantly, the Hearing Officer must “interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.” Utah Code § 10-9a-707(4)(b).

## **V. ARGUMENT**

### **A. Appellants are Not Adversely Affected Parties and Lack Standing.**

Only applicants or “adversely affected” parties have standing to appeal an administrative decision of the Planning Commission. *See* City Code § 21A.16.020; Utah Code § 10-9a-701(2). An “adversely affected party” means “a person other than a land use applicant who [ ] owns real property adjoining the subject property or will suffer damage different in kind than, or an injury distinct from, that of the general community as a result of a land use decision”. *See* Utah Code § 10-9a-103(2). Property is adjoining if it touches or shares a common boundary. *See* Adjoining Definition, Black’s Law Dictionary (11th ed. 2019).

Importantly, the Utah Supreme Court has recently and unequivocally ruled that if there are statutorily created grounds for standing then an appellant (such as those here) must meet these statutory standing requirements as “traditional or alternative standing cannot excuse a lack of statutory standing where the [appellant] is a statutory claimant.” *McKittrick v. Gibson*, 2021 UT 48, ¶ 48, --- P.3d ---. This is because an appellant must be “within the class of parties that the

legislature has authorized to file suit” and not simply a party that can “identify some sort of ‘distinct or palpable injury’ or a basis for ‘public interest’ standing.” *Id.* (quoting *Haik v. Jones*, 2018 UT 39, ¶ 41, 427 P.3d 1155 (Lee, A.C.J., concurring in part and concurring in the judgment)).

Here, Appellants lack standing because they are not statutorily authorized to appeal the Planning Commission’s decision. Specifically, the Appellants are clearly not land use applicants. The only applicant here is Hines. The Appellants also do not own real property adjoining the subject property. The Hearing Officer can take judicial notice that the adjoining property owners are Kearns Building Joint Venture, Utah Power & Light Co., Salt Lake County, 160 South Main, LLC, and 200 South Main Street Investors, LLC. *See* <https://slco.org/assessor/new/ParcelViewer/>. None of which are Appellants here.

Thus, having no standing based on the first prong of Section 103(2), the Appellants would have to demonstrate a “damage different in kind than, or an injury distinct from, that of the general community”. The Appeal does not even acknowledge or try to meet that high standard. The reason for that lacunae is because the Appellants do not have any “damage” or “injury” at all that would be caused by the actual land use decision from which they are attempting to appeal. Again, that actual land use Decision at issue here was to allow a specific height and a modified setback. The Decision was not whether to demolish the Theater. The Appellants conflation of those issues demonstrates the lack of merit (and, indeed, bad faith) of the Appeal. At most, a few of the participants at the Planning Commission disliked the “look” and “height” of Hine’s proposed new building and claimed that the new building would not fit the character of the development of downtown Salt Lake City in their vision of that character.

For example, Appellant Darby McDonough testified at the Planning Commission hearing as follows (in its entirety):

Thanks for staying late to hear our comments tonight. I just want to voice my opinion that I strongly oppose the approval of this development pitch and ask you to do the same. The proposal assumes the demolition of the Utah Theatre. And Hines is clearly able to do magnificent things with the real estate development all over the world, including preserving historic Italian properties, which means they could obviously use their design skills and architectural expertise to do the same for the Utah Theatre. I've seen combination plans floating out there where the theater is saved and a high-rise is built, some combination of architectural design. I know there -- they've got the skills to do it. I don't know why they're not. I think you should not approve this design because it assumes demolition of the Utah Theatre, negating the viability of the design review. I would also like to request if we could see or have somebody read the Downtown Alliance letter. I'm just curious to know if that might be possible in tonight's meeting, or if you could maybe share a link for us to read what they wrote. I have no idea what they -- what their comments were.

(Transcript at p. 17, l 16 – p. 18, l5.)

Not so much as a hint at any “damage different in kind than, or an injury distinct from, that of the general community as a result of a land use decision”.

And another, again in its entirety, from Appellant Shane Franz (this one read into the record from an emailed comment):

My comments are we disagree with the proposed [height and] setback. I am a systems engineer, and this building is patently out of place with the harmony and tone of the surrounding builds. In addition, we need to historic spaces that provide a draw to downtown. The block needs to be pubs and restaurants and shopping and nightlife. There are many places the proposed building could be built, including the 6th South off-ramp of the freeway. This is a raw deal that appears steeped in corruption. We need to save our historic theater. Michael Valentine and his group saved the Pantages (inaudible) for 1 million historic theater already to be donated already. The citizens support saving -- the citizens support saving the building and the arts. What is proposed can be found everywhere. What will be demolished is a one-of-a-kind treasure that will be lost forever. I am vehemently opposed to this Hines project. Thank you, Shane Franz, proud historic spaces supporter and restorer of the Salt Lake City historic properties.

(Transcript at p. 46, l 15 – p.47, l 11.)



As far as Hines can tell from reading the entire Record, including the transcript, not a single one of the named Appellants even tried to mention or hint at a “damage different in kind than, or an injury distinct from, that of the general community as a result of a land use decision”<sup>14</sup>. Thus, the Appellants all lack any standing to raise, literally, any issue in this Appeal.

Appellants attempt to cure their obvious lack of statutory standing based on their status as, supposedly but unspecified, “owners or employees of nearby businesses on Main Street” fails as a matter of law. The fact that a taller building might be built on the site with a smaller setback does not cause them any damages. Literally any new building on the site of the Project would have the same impact on their businesses.

Indeed, Appellants’ arguments are simply pretext for the real reason for this Appeal; to prevent the Demolition. If Appellants’ sincerely cared about the merits of the Planning Commission’s decision—and not just their utterly unrealistic pipedream of “preserving” the Theater—then one would expect them to at least mention how the Planning Commission’s decision will harm the Appellants or their businesses. Instead, Appellants resort to pedantic arguments such as alleged imperfections in Hines’ Application, one person’s supposed technical difficulties accessing the virtual Planning Commission meeting, and a baseless allegation that the Planning Commission failed to review the required materials. Even if the foregoing were correct (which they decidedly are not), Appellants cannot demonstrate any injury, let alone a unique injury, caused by these alleged deficiencies. In short, Appellants are not statutorily authorized to be the procedural police<sup>15</sup> and were not uniquely harmed by the Planning Commission’s decision.

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<sup>14</sup> The two “corporate” Appellants, Friends of the Utah Pantages Cinematic Theater and the Utah Pantages Cinematic Theater, LLC, are both registered to the same person (“Michael Patton”) at the same apartment more than ½ mile away from the Project (90 East 600 South). The corporate entities never even attempt to explain what their unique damage might possibly be.

<sup>15</sup> On this issue please see the analysis of *Potter v. South Salt Lake City*, 2018 UT 21, ¶ 33, 422 P.3d 803 in Section V.B.1.b. below.

**B. The Planning Commission’s Decision was Neither Illegal Nor Arbitrary and Capricious.**

An adversely affected party may appeal the decision of a land use authority “by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.” Utah Code § 10-9a-703(1). The Hearing Officer “shall uphold the [Planning Commission’s] 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.” City Code § 21A.16.030.E.2.c; *see, e.g., Staker v. Town of Springdale*, 2020 UT App 174, ¶ 17, 481 P.3d 1044. In doing so, the Hearing Officer must “interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.” Utah Code § 10-9a-707(4)(b).

**1. The Planning Commission’s Decision was Not Illegal.**

To prove that the Planning Commission’s decision was illegal Appellants must demonstrate that it was “based on an incorrect interpretation of a land use regulation; or [is] contrary to law.” Utah Code § 10-9a-801(3)(c)(ii); *see also* City Code § 21A.16.030.E.2.c. (A Hearing Officer “shall uphold the [Planning Commission’s] decision unless it . . . violates “a law, statute, or ordinance in effect when the decision was made.”); *accord Carlsen v. Bd. of Adjustment*, 2021 UT App 260, ¶ 4, 287 P.3d 440. Here, Appellants make a host of illegality arguments, but all fail, embarrassingly, as a matter of a law.

**a. The Planning Commission May Approve Building Height through the Design Review Process.**

The City Code expressly authorizes the Planning Commission to approve the Project’s building height through the design review process. The Project is in the City’s D-1 Zone. The D-1 Zone’s regulations dictate both the permitted, conditional, and prohibited uses within the zone and impose special controls specific to geographical areas. *See* City Code §§ 21A.30.020B. and

City Code §§ 21A.30.020C. The special control relevant here is that “[n]o building shall be more than one hundred feet (100’) in height; provided that taller buildings may be authorized through the design review process, subject to the requirements of chapter 21A.59 of this title.” City Code § 21A.30.020F.3. Pursuant to City Code § 21A.59.020, the Planning Commission is authorized to consider design review applications for “[a]ll projects that include a request for additional building height . . . .” Moreover, “[t]he Planning Commission may consider . . . any other design standard modifications authorized in the base zoning district . . . .” *See* City Code § 21A.59.040B.

Despite the foregoing provisions which plainly authorized the Planning Commission to consider the Application and make the Decision, Appellants cherry pick provisions of other portions of the City Code granting the Planning Commission various other duties and make a negative inference that the Planning Commission lacks authority to undertake design review for anything but conditional uses. Appellants attempt to bolster this false assumption by reading one tiny sentence in City Code § 21A.30.010<sup>16</sup> in isolation and out of context. Appellants’ incorrect reading of the City Code is contrary to well-established principles of statutory interpretation.

“When interpreting a statute, [the Hearing Officer’s] primary objective is to ascertain the intent of the legislature.” *Castro v. Lemus*, 2019 UT 71, ¶ 17, 456 P.3d 750 (citation omitted) (internal quotation marks omitted). The legislature’s intent is best evidenced by the plain language of the statute itself. *See id.* However, statutory text must not be interpreted in isolation. *See Olsen v. Eagle Mountain City*, 2011 UT 10, ¶ 12, 248 P.3d 465. And statutes must be interpreted to “render all parts [of the statute] relevant and meaningful . . . avoid[ing] an interpretation which renders portions of, or words in, a statute superfluous or inoperative.” *Mallory v. Brigham Young Univ.*, 2014 UT 27, ¶ 13, 332 P.3d 922 (alterations in original) (internal quotation marks and

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<sup>16</sup> “Design review shall apply only to conditional uses in the D-1 and D-4 districts.”

citations omitted). The meaning must be determined by “the relevant context of the statute (including, particularly, the structure and language of the statutory scheme).” *Id.* Finally, any ambiguities must be resolved in the land use applicant’s favor. Utah Code § 10-9a-707(4)(b).

The correct reading of the City Code is that the Planning Commission may perform design review for: (i) conditional use applications *see* § 21A.30.010; (ii) as permitted by special provisions in the zoning ordinance *see, e.g.,* City Code §§ 21A.30.020F; or (iii) to generally modify certain design allowances listed in City Code § 21A.59.040B. These provisions are consistent with the stated purpose of the design review chapter which is to “establish a process and standards of review for minor modifications to applicable design standards.” *See* City Code 21A.59.010. The entire statutory scheme makes it clear that the Planning Commission was authorized to approve the Application through the design review process.

The Planning Commission’s design review duties are not limited to only reviewing conditional uses, as Appellants contend, and such a reading would render Sections 21A.30.020F and 21A.59.040B superfluous and inoperative. Moreover, if any ambiguity exists as to the Planning Commission’s authority, such ambiguity must be resolved in Hines’ favor. The appeal’s officer should reject Appellants’ strained reading of the City Code in favor of well-established principals of statutory interpretation and Utah law.

Here, Hines, the Planning Commission, and City staff fully complied with the design review process set forth in chapter 21A.59 of the City Code. Specifically, Hines submitted the Application that the Zoning Administrator deemed complete. City staff then appropriately notified the public of a hearing regarding the Planning Commission’s review of the Application. The Planning Commission was the authorized body to review and consider the Application. *See* City Code § 21A.59.050B.2. In reviewing the Application, the Planning Commission applied the

standards set forth in City Code § 21A.59.050 and voted 6-1 in favor of the Application. The Appellants, and others, had ample opportunities to make relevant comments (but chose to mostly make irrelevant comments instead). The Planning Commission's Decision was legal because all involved parties followed the process authorized by the City Code.

**b. Appellants Allege No Prejudice.**

Even if Appellants' could demonstrate a procedural error by the Planning Commission, Appellants must prove that they were prejudiced by the error. *Potter v. South Salt Lake City*, 2018 UT 21, ¶ 33, 422 P.3d 803. "[T]he challenging party must show that there is a reasonable likelihood that the legal defect in the city's process changed the outcome of the proceeding." *Id.* A party's failure to allege or establish prejudice requires the Hearing Officer to affirm the Planning Commission's decision. *Id.*

Appellants make no attempt at explaining how they were prejudiced by any Planning Commission error (of which there were actually none). This is because Appellants conflate the actual Decision (the Project's setbacks and building height) with a 2019 RDA determination that the Theater was too costly to restore and that it was in the City's best interest to convey the site to Hines. The 2019 RDA decision is the source of any perceived prejudice Appellants claim. Surprisingly, Appellants did not legally challenge the 2019 RDA decision but are now attempting to use this Appeal as a belated proxy challenge of that decision. Thus, Appellants' only real injury is sentimental loss for a Theater that was beyond saving. However, sentimental value for the Theater cannot form the basis for prejudice here because the Decision was completely detached from the RDA's 2019 determination to sell the property. Therefore, Appellants have suffered no prejudice by any perceived error.

Appellants also fail to explain how any alleged error by the Planning Commission would have reasonably changed the outcome. Specifically, Appellants make no effort to show how: (i)

any deficiencies in the Application tainted the Decision; (ii) a single person not accessing the meeting (perhaps because of his own technological incompetence or technical deficiencies<sup>17</sup>) would have influenced the outcome in spite of over one hundred other public comments with their same tired, *ad nauseam*, mantra of “save the Theater”; (iii) a 100’ building, which Appellants admit Hines could construct without design review, harms Appellants differently than a 393’ building; or (iv) a ten foot setback harms Appellants differently than, say, a five foot setback. Any perceived error by the Planning Commission was harmless. These reasons alone are grounds to dismiss the Appeal.

**c. The Planning Commission’s Decision was Not a Variance.**

Utah Code § 10-9a-702 defines a variance as a “waiver or modification of the requirements of a land use ordinance as applied to a parcel of property . . . .” The City Code adds that a variance is intended to “provide a narrowly circumscribed means by which relief may be granted from particular applications of the [zoning title].” City Code § 21A.18.010.

Here, the Decision was not an unlawful variance because it granted no waiver or modification of a land use code. Hines simply did not ask the City for a “variance”. As previously discussed, City Code § 21A.30.020F, limits mid-block building height to one hundred feet unless taller buildings are approved through the design review process. In other words, Section 21A.30.020F is a two-part regulation: 1) a property owner can build a mid-block building up to one hundred feet as a matter of right; or 2) a property owner can obtain approval for a building height greater than one hundred feet through the design review process. Hines elected to proceed

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<sup>17</sup> It is hard to give much credence to this one person’s inability to electronically access the Planning Commission’s hearing when scores of people seem to have had no such problems. It is also unspecified in the Appeal what this one missing person would have said and why that one additional testimony would have tipped the balance of the Decision. Regarding the additional, and similarly futile, declarations that were filed after the Appeal, please see Section V.C.1, below.



under option two. No variance was granted because the Decision was authorized pursuant to, and not in spite of, Section 21A.30.020F. The Decision was not an unlawful variance. This is yet another “throw the spaghetti at the wall and hope something sticks” style of argument typical of the Appellants which was also rejected by the District Court in the initiatives case.

**d. The Decision did Not Violate the City Code.**

For substantially the same reasons discussed above—that the Planning Commission was expressly authorized to review the Application pursuant to City Code § 21A.30.020F—the Planning Commission’s decision was not illegal. In addition to repeating the same failed arguments made elsewhere in the Appeal Application<sup>18</sup>, Appellants misquote the City Code and ignore the Staff Report to argue that the Planning Commission’s decision was illegal because the first floor of the Project must include “motion picture theaters, performing arts facilities, *and* retail or public service space”. (Emphasis added.) The City Code actually states that first floor space of buildings in the Main Street Retail Core must “provide uses consisting of retail goods establishments, retail service establishments or restaurants, public service portions of businesses, department stores, art galleries, motion picture theaters, *or* performing arts facilities.” City Code § 21A.30.020G. (emphasis added). The first floor of the Project contains 8,400 square feet reserved for the very uses described by Section 21A.30.020G. *See* Staff Report at Pg. 2, Thus, the Planning Commission’s decision was not illegal. And, to put it mildly, Appellants’ deliberate misparaphrasing of the City Code is unconscionable, in bad faith, and unethical.

**e. The Decision Did Not Violate the Federal or State Constitution.**

The Utah Constitution provides that “[a]ll laws of general nature shall have uniform operation.” UTAH CONST. art. I, § 24. Similarly, the Fourteenth Amendment to the United States

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<sup>18</sup> Most of Exhibit B Subsection II.c, and all of Subsections II.d., II.e, of the Appeal Application repeat the same pointless arguments found elsewhere in the Appeal Application.

Constitution prohibits a state from enacting laws that deny “any person within its jurisdiction equal protection of the laws.” U.S. CONST. amend. XIV, § 1. To establish a violation of these provisions, Appellants must satisfy a three-part test: “(1) whether the statute creates any classifications; (2) whether the classifications impose any disparate treatment on persons similarly situated; and (3) if there is disparate treatment, whether the legislature had any reasonable objective that warrants the disparity.” *Count My Vote, Inc. v. Cox*, 2019 UT 60, ¶ 29, 452 P.3d 1109 (citation omitted).

Here, contrary to what is taught to every first-year law student, Appellants do not even attempt to analyze the facts under the proper legal framework. Specifically, Appellants do not state how the Decision created a “classification”, how that “classification” imposed any disparate treatment on similarly situated persons, or whether a legitimate objective warranted the disparity. Instead of analyzing the facts under the *Count My Vote* framework, the actual law in Utah, Appellants merely state, in conclusory fashion, that the state and federal constitutions were violated because the Planning Commission acted outside of its authority. As previously discussed, the Planning Commission acted pursuant to City Code §§ 21A.30.020F, 21A.59.020, and § 21A.59.040B when it approved the Application, and thus Appellants’ conclusory argument fails as a matter of law. Moreover, similar absurd arguments made by Appellants were recently rejected in the Third Judicial District Court in the initiatives case filed by parties related to Appellants. *See McDonough v. Trishman*, No. 210902365-47, at 4–5 (Utah D. Ct. 2021). The District Court gave short shrift to these claims as should the Hearing Officer here. (A copy of the District Court Order dismissing the initiative suit is attached hereto as Exhibit “A”) The Planning Commission did not violate Appellants’ constitutional rights.

f. **The Planning Commission was Not Strictly Bound by the City's Master Plan.**

Only publicly owned uses and publicly and privately owned utilities must strictly conform to a municipality's master plan. *See* Utah Code § 10-9a-406. For privately owned uses, a municipality's "general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance." Utah Code § 10-9a-405. City Code § 21A.02.050 similarly states that the City's master plan "shall serve as an advisory guide for land use decisions." The Decision was consistent with these laws.

Without citing a single law, statute, or ordinance, Appellants claim that the Planning Commission's decision was illegal because of various aspirational statements in the City's master plan for the Central Business District<sup>19</sup> ("**Master Plan**") that are supposedly inconsistent with the Project. Appellants inability to cite to the law, statute, or ordinance allegedly violated is reason enough to disregard any of their Master Plan arguments. Moreover, the Project—including the mid-block plaza/walkway and park<sup>20</sup>—is privately owned and is thus not required to strictly comply with every single hope, wish or dream in the Master Plan. Balancing the competing interests in an advisory, aspirational Master Plan is part of the job of the Planning Commission in individual cases. Just because Appellants disagree with that balancing, it is not within the purview of the Appellants to substitute their biases for the considered Decision of the Planning Commission.

Further, the Project is consistent with the Master Plan. For example, the Master Plan envisions the Central Business District as a growing residential community for those seeking the ultimate urban experience within walking distance to the financial district, Main Street shopping,

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<sup>19</sup> The Master Plan can be found here: <http://www.slcdocs.com/Planning/MasterPlansMaps/Downtown.pdf>.

<sup>20</sup> *See* Staff Report at pg. 3 "Both the mid-block plaza and the park element will be privately owned by publicly accessible elements."

and the Downtown Art's District. The Project carries out this vision by supplying over 400 apartments to accommodate the growing residential community. These apartments will be located close to Main Street Shopping and the Downtown Art's District. The Master Plan also contemplates that the Central Business District will be defined by shopping, the tallest buildings in the City, and arts and cultural institutions. The Project satisfies these guidelines with over 8,400 square feet of commercial space, significant public art installations, and will be the fourth tallest building in the City. The Project will significantly benefit the City and carries out the Master Plan's vision.

## **2. The Planning Commission's Decision is Supported by Substantial Evidence.**

A land use decision is arbitrary and capricious only if it is not "supported by substantial evidence in the record." *Fox v. Park City*, 2008 UT 85, ¶ 11, 200 P.3d 182, (quoting Utah Code Ann. § 10-9a-801(3)(c)); *Staker*, 2020 UT App 174, ¶ 24. "Substantial evidence is 'that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion.'" *Fuller v. Springville City*, 2015 UT App 177, ¶ 17, 355 P.3d 1063 (quoting *Bradley v. Payson City Corp.*, 2003 UT 16, ¶ 15, 70 P.3d 47).

When challenging a land use decision, "[i]t is incumbent upon the party challenging the . . . decision to marshal all of the evidence in support thereof and show that despite the supporting facts, and in light of conflicting or contradictory evidence, the . . . decision [is] not supported by substantial evidence." *Carlsen v. Bd. of Adjustment*, 2012 UT App 260, ¶ 5, 287 P.3d 440<sup>21</sup> (first and third alterations in original) (quotation marks omitted); *Farley v. Utah Cty.*, 2019 UT App 45,

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<sup>21</sup> The Appeal, at pg. 2, acknowledges this standard and controlling case law. The rest of the Appeal then just proceeds to totally ignore it.

¶ 22, 440 P.3d 856. A challenging party’s failure to marshal the evidence is fatal to the challenging party’s case. *See Farley*, 2019 UT App 45, ¶ 23.

In *Carlsen*, Petitioner Carlsen challenged a board of adjustment’s decision confirming that Carlsen’s neighbors had an existing nonconforming use on their property. *Carlsen*, 2012 UT App 260, ¶ 2. The neighbors and Carlsen each presented evidence supporting their position, but the board found for the neighbors. *Id.* ¶¶ 2–3. On appeal, the Utah Court of Appeals explained that Carlsen failed to bear his burden of showing that the board’s decision was not supported by substantial evidence because he failed to marshal the evidence. *Id.* ¶ 7. Specifically, “Carlsen identifies a number of facts that he argues are inconsistent with the Board’s decision. Carlsen’s arguments, however, are based on selected facts that support his position and simply ignore contradictory facts that support the Board’s decision.” *Id.* ¶ 7. Carlsen “left it to the court to sort out what evidence actually support[s] the Board’s conclusion” and thus Carlsen “failed to satisfy his obligation to marshal the evidence . . . .” *Id.*

Appellants cannot claim that the Planning Commission’s decision was arbitrary and capricious because they failed to marshal the evidence supporting the decision. Appellants, like Carlsen, only identify those facts that support their unsubstantiated theories and disregard all contrary facts. To wit, Appellants do not marshal any evidence supporting that (i) the Project satisfied all design review criteria established by the City Code; (ii) the 10-foot set back modification helped satisfy the design review obligation to minimize the building height’s impact on neighbors; and (iii) that Utah Code Ann. § 10-9a-306(2) resolves any ambiguities in the land use applicants favor.

Appellants, like Carlsen, try to leave it to the Hearing Officer to marshal the evidence. But Appellants alone must bear the burden of convincing the Hearing Officer to disturb the Planning

Commission’s Decision. In direct contrast to their duty to marshal the evidence, Appellants allege, without a scintilla of evidence, that the Planning Commission’s decision was made without “the Commissioners review[ing] the staff report, comments, letter, or materials submitted to the Commission.”

If Appellants had properly marshalled the evidence, such a marshaling would have demonstrated that the Decision was supported by substantial evidence. Specifically, pursuant to City Code § 21A.59.050, the Planning Commission must determine whether Hines’ Application complied with the applicable design review standard(s). The relevant standard here is that “[b]uilding height shall be modified to relate to human scale and minimize negative impacts.” City Code § 21A.59.050G. Building height relates to human scale and minimizes negative impact by utilizing stepbacks to design buildings in relation to adjacent buildings, creating distinct base, middle, and top sections, or minimizing a building’s shadow impact. *See* City Code § 21A.59.050G.1. and 21A.59.050G.2.

There is substantial evidence in the record supporting the Decision. First, the City’s staff carefully reviewed the Application and recommended that Application’s approval. In doing so, City staff carefully analyzed the Project’s characteristics against City standards and determined that the Project complied. *See* Staff Report at Pgs. 103–111. David Gellner, a Senior Planner for the City, presented the Staff Report to the Planning Commission and addressed the Planning Commission’s follow-up questions. *See, e.g.,* Transcript at p. 7–8. ll 22–25, 1–6. The Planning Commission acknowledged that the Staff Report and Mr. Gellner’s presentation constitutes substantial evidence. (Transcript at p. 79–80. ll 25, 1–4) (“Based on the findings and analysis in the staff report, testimony, and discussion at the public hearing, I move that the planning commission vote to approve the design review/application . . . ).



Second, Hines spent a substantial amount of time and money creating plans, renderings, and drawings of the Project. These materials demonstrate that the Project met the City's design criteria. For example, pages 35–54 and 56–57 of the Staff Report Hines' renderings produced to address the applicable design review criteria. These renderings show the Project's building height in relation to adjacent buildings, how the building has a distinct base, middle, and top sections, how the building will step down to the US Bank Building and Kearns Building and how shadows will impact neighboring properties. These renderings directly address the City's design criteria.

Third, the remainder of Hines' materials assisted the Planning Commission in determining whether the Project complied with the Master Plan. For example, pages 24–25 of the Staff Report show major points of interest within walking distance of the Project. This is consistent with the Master Plan's vision of creating the ultimate urban experience within walking distance to the financial district, Main Street shopping, and the Downtown Art's District. Other materials describe how the Project improves the downtown pedestrian experience (Staff Report pgs. 30, 73–77), is architecturally appropriate for the location (Staff Report pgs. 35–36, 39–46), is centrally located to recreational areas (Staff Report pgs. 67–72), and includes a privately owned but publicly available park (Staff Report pgs. 78–87). Each of these demonstrated the Project's harmony with the Master Plan.

Fourth, the Planning Commission carefully considered Hines' presentation by Dusty Harris. Hines' presentation centered on how the Project satisfied the City's design criteria and benefitted the City. For example, Mr. Harris explained how the Project contains "retail along Main Street." (Transcript at p. 68. ll 20–21). This directly addresses City Code Section 21A.30.020G's requirements of commercial uses along main street. Mr. Harris also explained how the Project's design makes the mid-block walkway and park accessible to pedestrians. (Transcript at p. 68–69.

ll 23–25, 1–23). In addition, when some Planning Commission members voiced concern about the Project’s aesthetics (Transcript at p. 72. ll 7–19), Mr. Harris’ responded to those concerns and explained how the Project’s unique design engages with Main Street pedestrians and contains restaurants, housing, and open space all in one Project. (Transcript at p. 74. ll 11–25). These examples, along with numerous others in the record, demonstrate that the Decision was supported by substantial evidence.

Finally, after Hines’ remarks, the Planning Commission considered the public’s comments and asked follow-up questions to Hines. As one example, the Planning Commission asked whether the Theater could be incorporated into the Project’s design (Transcript at p. 57. ll 17–21). Hines responded “Hines has evaluated the cost of building over, around, and through the [Theater] and it simply is uneconomic . . . Hines is planning on preserving some of the elements . . . the skylight, for example . . . Hines intends to use as a design element.” (Transcript at p. 58. ll 2–4, 7–11). This exchange is just one example of the Planning Commission carefully considering Hines’ and the public’s input in making its determination. Appellants’ disagreement with how the Planning Commission weighed the evidence does not mean the Decision was not supported by substantial evidence.

In contrast to this overwhelming evidence, only four out of over one hundred public comments even peripherally challenged the Project’s height or setbacks. Specifically, Donna Lyman stated, “I really encourage you to keep Salt Lake historic and unique rather than these skyscrapers 400 feet high.” (Transcript 19. ll 21–23). Emily Bourne stated, “So this building that’s been proposed by Hines is a monstrosity, and it can be built anywhere.” (Transcript 33–34. ll 25, 1). Casey McDonough stated, “[t]he design of the building is just as arguable [sic] doesn’t meet the design standard. The height exception is in your power to deny.” (Transcript 34. ll 20–22).

Shane Franz’s commented: “[m]y comments are we disagree with the proposed [height and] setback. I am a systems engineer, and this building is patently out of place with the harmony and tone of surrounding buildings.” (Transcript 46. ll 15–18). Collectively, these comments do not even begin to refute the monumental evidence supporting the Decision.

The Planning Commission’s decision was not arbitrary and capricious because it was supported by substantial evidence. In reaching its conclusion, the Planning Commission reviewed the analysis and conclusions of the City’s staff, analyzed Hines’ written materials and oral presentation, and received the public’s input. Those materials, presentations, and comments focused on how the Project satisfies the City’s design review criteria and constitute the substantial evidence the Planning Commission based its decision on. The evidence favoring the Planning Commission’s decision is sufficient to convince a reasonable mind to reach the same conclusion.

**C. Two of Appellants’ Additional Arguments are Untimely, and All Are Legally Deficient.**

Pursuant to City Code § 21A.16.030, an appeal of a Planning Commission decision is due within ten (10) days, and an appeal must “specify the decision appealed, the alleged error made . . . and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in district court.” Failure to timely appeal a land use decision is grounds for dismissal. *See Fox v. Park City*, 2008 UT 85, ¶ 42, 200 P.3d 182.

On Thursday, September 30, 2021, Appellants’ submitted to the City (without copying Hines’ counsel) “Additional Written Materials in Support of Appeal Application PLNAPP2021-00776—Appeal of Approval of Design Review Application PLNPCM2021-00024” which includes seven new declarations (“**New Declarations**”) from individuals claiming they could not remotely access the Planning Commission hearing and four baseless arguments (“**Additional Arguments**”) for overturning the Decision.

The Hearing Officer should dismiss two of the four Additional Arguments as untimely and unpreserved. Specifically, Appellants' arguments with respect to the Salt Lake Community Preservation Plan ("**Preservation Plan**") and affordable housing were not included in Appellants' Appeal and were introduced for the first time 66 days after the appeal deadline. Also, these arguments were available to Appellants at the time of their initial applications. Appellants' opportunity to throw these arguments against the wall to see if they stick closed at the appeal deadline.

In addition to two of the Additional Arguments being untimely, all the Additional Arguments are legally deficient and inadequately briefed. Indeed, the Hearing Officer should give as little consideration to these Additional Arguments as Appellants did in drafting them. Appellants transparently do not include these Additional Arguments because they believe they are meritorious. Instead, they are intended to confuse the Hearing Officer into thinking that there is so much smoke there must be a fire. There is no fire here, and these meretricious Additional Arguments fails as a matter of law.

**1. The New Declarations are Inadmissible and Deficient.**

An appeal of a Planning Commission decision must "be based on the record below" and "[n]o new evidence shall be heard by the appeals hearing officer unless such evidence was improperly excluded from consideration below." *See* City Code 21A.16.030.E. Each of the New Declarations were not in the record below and Appellants make no attempt at explaining why the declarants were improperly excluded. Thus, the New Declarations should not be considered by the Hearing Officer.

Although the New Declarations are inadmissible, they are illustrative of Appellants' tactics and careless approach to this Appeal. For example, the declaration supposedly by "Amy Allen" is literally unsigned. Five of the seven declarants are not Appellants here. Each declaration is also

based on a template which provides no relevant information (e.g., where the person lives, why they could not get on the electronic meeting, what they would have said, etc.). Most telling of all is that new declarants Shane Franz and Sharon Franz state that they were unable to comment during the public hearing despite their comments having been read into the record. (Transcript at p. 46–47. ll 14–25, 14–24). None of these declarants ever state what unique value their comments would have brought to the Planning Commission meeting. It is almost certainly safe to assume that they would have included more irrelevant complaints protesting the Demolition. These declarations add no value to this Appeal and should be disregarded as required by *Potter*.

## **2. The Decision did Not Violate the City’s Preservation Policy.**

The Preservation Plan states that its “policies provide guidance for daily decisions to support the implementation of the plan and its vision. It is ultimately the decision-makers’ responsibility to weigh and balance seemingly divergent aims of the City to set an appropriate direction.” *See* Salt Lake Preservation Plan, at P. I-14<sup>22</sup>.

In reaching its Decision the Planning Commission weighed and balanced various interests. As one simple example, the Planning Commission was tasked with assessing the Project’s shadow impact. As such, the Planning Commission weighed the benefits of a taller building— such as more housing, tax revenue, and downtown foot traffic—against the potential downsides of a larger shadow impact and concluded that the Project’s benefits outweighed the costs. As acknowledged by the Preservation Plan itself, the Planning Commission was not bound by a single stated policy but was charged with making a wholistic determination.

Moreover, Policy 2.2i of the Preservation Plan encourages preservation easements for Landmark Sites. This policy is wholly irrelevant to the Planning Commission’s decision regarding

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<sup>22</sup> <https://www.cityofmadison.com/dpced/planning/documents/SaltLakeCity.pdf>

building height and setbacks. Indeed, the question of whether the Theater constitutes a Landmark Site or whether a preservation easement is in the City’s best interest was not before the Planning Commission. Besides being untimely, Appellants’ argument here is, to put it mildly, misplaced.

**3. The Project’s Mid-Block Walkway is Consistent with the Master Plan.**

As previously discussed, the Master Plan is an advisory, aspirational guide used by the City’s decisionmakers to weigh competing interests. Here, the Planning Commission analyzed the Project’s mid-block walkway and plaza in light of the Master Plan. This type of policy determination cannot be overturned because of Appellants’ desire that the Planning Commission reached a different conclusion. Appellants have also failed to marshal any evidence supporting the Decision, and thus they cannot challenge the same. *See Farley*, 2019 UT App 45, ¶ 23.

**4. The Project Provides Affordable Housing.**

Appellants appear to challenge the fact that the Project includes affordable housing. However, Appellants’ argument on this topic is untimely, unintelligible, and unpersuasive, and thus Hines cannot adequately respond. To the extent that Appellants challenge whether the Project includes affordable housing, such an issue was not within the purview of the Planning Commission’s review. Nevertheless, the Project contemplates forty affordable housing units (Transcript at p. 2. ll 24–25). This is just another example of an irrelevant argument that attempts to create smoke where there is no fire.

**5. The Project Properly Repurposes the Theater.**

In true rinse and repeat fashion, Appellants attempt a third “the Project is inconsistent with the Master Plan” argument. This argument fails for the same reasons previously discussed. Namely, the Master Plan “is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.” Utah Code § 10-9a-405. And, the Master Plan “shall serve as an advisory guide for land use decisions.” City Code § 21A.02.050. Consistent with these laws, the

Planning Commission properly weighed the Master Plan's aspiration and advisory guidelines in making its Decision.

To add an additional layer of repetitiveness, Appellants argue that the Theater's demolition is inconsistent with the Master Plan. Unlike Appellants, the Planning Commission properly understood that the Demolition issue was not before the Planning Commission (Transcript at p. 9. ll 13 – 22). Because the Demolition issue was not before the Planning Commission it is also irrelevant to this Appeal.

## **VI. CONCLUSION**

Appellants have no standing to even challenge the Decision. The Appellants cannot demonstrate any prejudice resulting from the Planning Commission's Decision. That fact alone is grounds for dismissing the Appeal. The Planning Commission's decision was not illegal (and the Appellants' arguments of illegality are not in good faith). Appellants failed to marshal the evidence. The Record shows that the Planning Commission's decision was supported by substantial evidence in the record. Hines respectfully requests that the Hearing Officer dismiss the Appeal.



## **EXHIBIT A**

### District Court Memorandum Decision

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**IN THE THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY, STATE OF UTAH**

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CASEY O'BRIEN McDONOUGH, an  
individual, and MICHAEL PATTON, an  
individual,

Petitioners,

vs.

CINDY LOU TRISHMAN, the City Recorder  
of Salt Lake City, KATHERINE LEWIS, the  
City Attorney of Salt Lake City, and SALT  
LAKE CITY, a municipal corporation and  
political subdivision of the State of Utah.

Respondents.

**MEMORANDUM DECISION**

Case No. 210902354

Judge Andrew H. Stone

This case is a declaratory and injunctive action seeking to reverse a decision of the Salt Lake City Attorney ("City Attorney") that a proposed initiative petition was not referable under state statute for circulation for signatures. The City Attorney determined that the proposed initiative was "substantially similar" to one previously submitted by plaintiffs and was therefore not referable under Utah Code §20A-7-502.7. Petitioners challenge the substance of the decision and alternatively argue that the statute is unconstitutional.

Petitioners sought to pursue an initiative intended to preserve the Utah Pantages Theatre in downtown Salt Lake City. They submitted their first application for referral on March 17, 2021. The City Attorney determined, on April 4, that March petition was referable and issued petition forms to Petitioners. The Petitioners did not submit any signatures by the statutory deadline of April 15. Utah Code § 20A-7-506. Instead, they submitted a revised proposed initiative and requested it be referable which, if referred, would have given them more time to collect and submit signatures.

However, the City Attorney determined that the April 15 initiative was "substantially similar" to the March initiative and therefore did not find the later initiative referable under the statute.

Petitioners argue that the initiatives are not "substantially similar." They also argue that the statute is unconstitutionally vague, and unreasonably restricts their rights to seek an initiative or exercise free speech. Finally, they argue the provision barring subsequent substantially

similar initiatives after referral of one within the last two years violates the Equal Protection Clause of the U.S. Constitution and uniform operation of laws under Utah's constitution.

## The Initiatives Are Substantially Similar

The "substantially similar" standard under the statute is not a particularly difficult standard to apply. The statute bars referral of "identical or substantially similar" proposed laws within two years of the filing of an application for the prior proposal. The use of the word "identical" as well as "substantially similar" plainly communicates that the latter means something less than identical. The apparent purpose of the statute is to prevent initiative supporters from repeatedly revisiting the political issue they seek to advance year after year. Thus, the statute requires that the Court look at both initiative proposals and determine whether, viewed as a whole ("substantially") the two proposed initiatives share language, method, or goals such that they are comparable enough ("similar") to be fairly said to be a second attempt to address the same perceived problem.

That is easily answered here. The Initiatives share the same purpose—to preserve the former Utah Pantages Theatre. They use the same general method, by designating the Theatre (along with the Capitol Theatre) landmark sites in order to make their destruction difficult. They each invoke emergency procedures to avoid applying existing ordinances. The initiatives are proposed by the same people and address the identical issue.

The April proposed initiative did add elements lacking in the March proposed initiative. It added a historic theatre district overlay, and an express ban on destruction except after certain damage by earthquake or fire. But these are refinements of the original proposal. The core issue is the same. After the City or its agencies determined to sell the Utah (Pantages) Theatre and allow its destruction, the initiative sought to amend historic designations within the City Code to require its preservation. Fundamentally, the initiatives both sought to reverse the City's decision not to preserve the theatre by putting the same choice to the voters.

The City Attorney correctly concluded that the April application was substantially similar to the previously referred initiative proposal from March.

## The Statute is not Unconstitutionally Vague.

Statutory language is by necessity abstract. Courts and the public routinely must use judgment in applying statutes that address many possible circumstances to specific factual circumstances. Here, a person of ordinary intelligence can easily understand that the statute does not permit successive attempts at the same proposed initiative. The words "substantially similar" clearly communicate that wordsmithing or additional flourishes are not enough to get around that bar. Immediate do-overs, which is what Petitioners clearly attempted here, are not allowed.

## The Statute has a Legitimate, Discernable Purpose.

As stated above, the statute's purpose is to bar unsuccessful initiative applicants from continuously re-attempting the same initiative. Initiative applications require resources—the statute requires that the municipal clerk transmit the proposal to the municipality's budget officer, that the budget officer perform a detailed fiscal analysis, and an analysis of the proposed law's legal impact, that the clerk then publish the proposed initiative and analyses on the city's website, and the City Attorney must determine referability all within strict time frames. Utah Code §§ 20A-7-502.5-502.7. So there is some fiscal and administrative purpose in discouraging repeated applications immediately following an unsuccessful, but referable initiative. Moreover, once referred, the municipal clerk is required to provide specified signature sheets and to number and account for the signature packets used by the initiative supporters, so multiple referrals involve additional resources and time from city officials. Utah Code § 20A-7-504. Finally, once signatures are obtained, additional resources are required for verification of the submitted signatures.

Moreover, while every initiative has its supporters, each has its opponents as well. The bar on successive applications provides some assurance that successful opposition of the initiative won't simply be met with an immediate renewed attempt. Opponents and proponents can understand that a single signature drive will determine whether the matter goes to the voters. In this sense the statute's bar serves a purpose of fairness by giving notice to both sides of an issue that, for at least two years from the initial application, both sides must focus on the initiative at hand.

While the Legislature might have chosen to require municipalities to bear the costs of successive applications, referrals, and petitions, they chose not to. There are multiple rational reasons for the bar on resubmittals.

## The Statute Does Not Unduly Burden Petitioners' Initiative Rights.

Petitioners complain that they had only 10 days to gather the over 8,000 signatures they needed to make the ballot this year. This was because the deadline for dismissal is the earlier of 30 days after the first signature, 316 days after application or April 15 of the year before the next municipal election. Utah Code § 20A-7-506. But that predicament was of their own making. Petitioners chose when to submit the application. They could have submitted it earlier, or they could have deferred the application until after April 15. Poor timing on their part does not render the statute unconstitutional.

The Court can take judicial notice of the fact that, locally at least, The Utah Pantages Theatre has been closed and unusable for many years. Likewise, the property has been discussed as a

potential redevelopment project for many years. Though the potential need for protection has been obvious for years, Petitioners did not make application for their proposed ordinances until mid-March of this year. That strategic choice by Petitioners does not render the statutory deadline unconstitutional. *Cook v. Bell*, 2014 UT 46.

As to the statutory ban on resubmission, Petitioners also fail to overcome the presumption of validity. As discussed above, a reasonable purpose can be easily inferred from the statute, and the ban is plainly related to that purpose. Though Petitioners suggest that the ban should apply only after signatures are submitted (as is the case in statewide initiatives, see below), this is not a circumstance where strict scrutiny applies. Moreover, the Legislature could rationally have decided that the burdens of reviewing applications and preparing an initiative for signatures (discussed above), while acceptable on a statewide level, ought not be borne at the municipal and county levels.

### The Statute Does Not Infringe on Petitioners' Free Speech Rights.

Petitioners' Free Speech analysis under both the U.S. and Utah constitutions conflates speech related to initiatives with regulation of the process for initiatives. In essence they argue that a restriction on the initiative process is a restriction of political expression and is therefore subject to strict scrutiny.

The Court agrees with Respondents that the two concepts are distinct. Petitioners remain free to discuss the need to preserve the theatre, the need for an ordinance, and to advocate for an initiative. What they complain about are regulations governing the initiative process. This does not give rise to a Free Speech claim. *Semple v. Griswold*, 934 F.3d 1134 (10<sup>th</sup> Cir. 2019).

Petitioners did not present any separate analysis under the Utah State Constitution so the Court will not address it further.

### The Statute Does Not Violate Equal Protection or Uniform Operation of Laws.

The Petitioner's final argument is that the two-year ban on substantially similar Initiatives violates Equal Protection and Uniform operation of Laws. The starting point of this analysis asks whether the statute creates different classifications of individuals. If so, the Court analyzes whether those classifications result in disparate treatment to similarly situated individuals and, if so, whether the legislature had a reasonable objective that warrants the disparity. *Count My Vote v. Cox*, 2019 UT 60, ¶ 29.

Petitioners posited one classification in its memoranda and another in oral argument. In their memoranda, they suggest that a classification exists between parties seeking initiatives as to

which a substantially similar initiative has been applied for referral in the last two years and those initiative seekers filing an initiative as to which the two-year ban is inapplicable. At oral argument, counsel suggested that the statute, along with the statute regulating statewide initiatives, create a distinction between those seeking local initiatives versus those seeking statewide initiatives. Neither theory has merit.

With respect to the first theory, the statute creates no classification. All applicants are subject to the same rules. The fact that procedural circumstances might result in people having to follow different rules is not a statutory classification. Likewise, even if the Court were to entertain this theory, the two classes are not in similar circumstances: one class seeks to advance a recently failed initiative petition (or a substantially similar one), the other advances one that is new or has not been attempted in the past two years. Finally, any distinction between the groups is reflective of a reasonable legislative objective: to prevent successive initiative petitions, as discussed above.

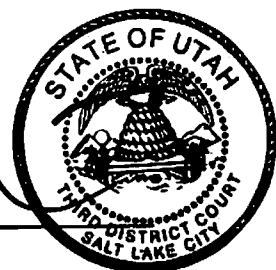
As to the second theory, Petitioners point to the statute regulating statewide initiatives, which, while containing a two-year ban on successive initiatives, runs the ban on resubmittal of statewide initiatives only from the date the first signatures are submitted, rather than the date of first application for referral as is the case in county and municipal initiatives. *Compare* Utah Code 20A-7-202(5)(f) with Utah Code 20A-7-502(7)(2)(g). Thus, they pose an impermissible classification of statewide versus local initiative seekers.

This theory, too, fails. Again, statewide initiative seekers are not similarly situated to local initiative seekers. Even if they were, the Legislature could have determined that the burdens on smaller local governments justified an approach where the ban commences at the first application, avoiding successive requirements for budget and legal impact analyses, determination of referability, and preparation and coordination of signature pages. Or not. The Court is not applying strict scrutiny here, and the fact that the statewide ban starts only after signatures are submitted does not preclude a determination that a ban starting at application is reasonably necessary at the local level.

In short, the City Attorney correctly concluded that the April Ordinance was substantially similar to the prior March Ordinance. Petitioners have not met the heavy burden of showing the statutory two-year ban on substantially similar initiative petitions is unconstitutionally vague or violates any of their constitutional rights. The Court GRANTS Respondents' Motion to Dismiss in its entirety and DENIES Petitioners' Motion for Summary Judgment and the request for injunctive relief included in it. No further order is needed.

DATED this 13<sup>th</sup> day of September, 2021.

BY THE COURT



**ANDREW H. STONE**  
**Third District Court Judge**



**CERTIFICATE OF NOTIFICATION**

I certify that a copy of the attached document was sent to the following people for case 210902354 by the method and on the date specified.

EMAIL: KATHERINE NICHOLS KATHERINE.NICHOLS@SLCGOV.COM

EMAIL: CLAYTON PREECE CPREECE@SHUTAH.LAW

EMAIL: J CRAIG SMITH JCSMITH@SHUTAH.LAW

09/13/2021

/s/ AMBER ALBRECHT

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

## **EXHIBIT B**

### Transcript

**In the Matter Of:**  
**SALT LAKE CITY PLANNING COMMISSION MEETING**

**SLC PLANNING COMMISSION**

*July 14, 2021*



**JD Legal Support**  
**2901 W. Bluegrass Blvd., Ste. 200**  
**Lehi, Utah 84043**

CERTIFIED COPY

SALT LAKE CITY PLANNING COMMISSION MEETING

July 14, 2021, via videoconference

Design Review for the 150 S. Main Street Apartments

TRANSCRIPT OF ELECTRONIC RECORDING

Reporter: Lindsay Payeur, RPR

1 P R O C E E D I N G S

2

3 CHAIRPERSON SCHEER: The final agenda item  
4 is the design review for the 150 South Main Street  
5 Apartments. It's case number PLNPCM2021-00024.

6 And we are going to be hearing from David  
7 Gellner.

8 MR. GELLNER: Okay. Good evening, Madam  
9 Chair. I will start screen -- sharing my screen  
10 momentarily. There we go.

11 All right. So my presentation should be  
12 queued up now. This, as you noted, is the -- is  
13 PLNPCN2021-00024, and it's for the 150 South Main  
14 Street Apartments, and it's a design review  
15 application.

16 So a couple project details. This project  
17 is in the D-1 zoning district, the central business  
18 district, and design review is being requested for  
19 additional building height. In mid-block locations  
20 in the D-1, buildings over 100 feet tall have to go  
21 through the design review process and obtain planning  
22 commission approval.

23 So some factoids about the project. It's  
24 a 400-unit apartment building. Forty units of  
25 that, 10 percent, will be affordable housing. The

1 project is approximately -- is 31 stories. It's  
2 approximately 392 feet tall. That includes the  
3 elevator overruns and other appurtenances. So it  
4 tops out just under 400 feet.

5 I mentioned it's the D-1 zoning district.  
6 It would take place on two entire parcels. One of  
7 those at 144 South Main and the other at 156 in their  
8 entirety and part of the parcel at 136 South Main.  
9 And I'll have a map in a moment to illustrate that.

10 The project includes 8400 square feet of  
11 retail space. A mid-block plaza and park amenity  
12 will be provided as far as for privately owned but  
13 publicly assessable open spaces. And the park will  
14 be located on a new parking structure in the rear of  
15 the development.

16 Here is a zoning map overview showing the  
17 parcels. The largest parcel, outlined in yellow, is  
18 the property at 144 South Main where the Utah  
19 Theatre -- the now-vacant Utah Theatre sits. And the  
20 smaller parcel to the south has a number of small  
21 businesses that front on Main Street. Those two  
22 parcels are owned by the redevelopment agency of Salt  
23 Lake City.

24 And this -- also, the section in orange  
25 outlined is the current parking garage for the Kearns

1 Building, which is located at 136 South Main, that  
2 property being owned by the applicant as well, and  
3 there will be some lot line adjustments and a new  
4 parking building -- parking garage will be built in  
5 the rear of the development.

6 The layout plan shows the existing Kearns  
7 Building and gives you an idea. Here is the  
8 mid-block plaza being illustrated. And this would be  
9 the parking garage in the rear, and that park space  
10 will be located on the top deck of the parking  
11 garage. It also illustrates the retail space that  
12 will be fronting on Main Street and the basic layout  
13 of the site.

14 This was just illustrating the different  
15 properties involved. And there will be lot line  
16 adjustments and a parcel consolidation that takes  
17 place at a staff level, not through planning  
18 commission action, to readjust the lines and have the  
19 parking garage be part of the site.

20 Proposed design of the tower. This is  
21 looking from the northeast towards Main Street. This  
22 would be the Kearns Building in the foreground. And  
23 you can see the different articulation and some of  
24 the stepbacks and other things that are intended to  
25 break up the massing of the building.



1                   Site context. This is a little bit of a  
2   pano view, so excuse the distortion. But this is  
3   Utah Theatre building. And then where Twisted Roots  
4   and there is a barbershop is the smaller parcel that  
5   would be part of this development.

6                   Again, a couple other street photos for  
7   the site context.

8                   Key considerations with this project were  
9   the requests for additional building height and  
10   compatibility. And that relates to the design review  
11   standards in chapter 21A.59. The city policy and  
12   master plan compliance, we did look at a number of  
13   items. The downtown master plan does support the  
14   use. There is specific sections talking about  
15   walkability and uniting city and nature and providing  
16   additional open space in downtown areas. Also looked  
17   at plan Salt Lake and growing SLC five-year housing  
18   plan. So there is support in the city policy and  
19   master plan documents for the development.

20                  The mid-block plaza/walkway and park space  
21   details, again, are privately owned but publicly  
22   assessable open space items. And I'll have some  
23   illustrations on those, and the applicant will talk a  
24   little bit more about those. And, again, we look at  
25   the design review standards for how the development

1 meets those standards.

2 Here is a rendering from Main Street  
3 showing the design of the mid-block plaza and also  
4 the interface of the lobby entrance with the -- kind  
5 of the Main Street area. One of the things that the  
6 design review was also addressing was this lobby  
7 entrance is set 10 feet back from the property line.  
8 The maximum on Main Street is 5 feet. But they were  
9 looking to delineate the private entrance away from  
10 the -- some of the Main Street commercial space.

11 This is an overhead view of the plaza  
12 coming from Main Street and flowing through back to  
13 the parking garage in the rear where the park space  
14 would be accommodated.

15 Park element. A standard EPP in the  
16 design review standards speaks to the number of  
17 elements that must be included if privately owned  
18 public spaces are provided. And that's addressed  
19 more in the staff report, but this is the general  
20 design of the park on the parking structure in the  
21 rear.

22 And so staff, again, in our staff report  
23 included that the proposal generally meets the design  
24 review standards, and we're recommending that the  
25 planning commission approve the design review

1 application with several conditions delegated to  
2 staff for verification during the building permit  
3 phase. Those include the compliance with street tree  
4 requirements, the lighting and sign requirements. We  
5 have included a condition that the signage must be  
6 provided for the mid-block plaza and park space,  
7 indicating that they are open and accessible to the  
8 public. And final approval of the mid-block plaza,  
9 walkway, and park amenities must be in conformance  
10 with the standards for privately owned public spaces  
11 and delegated to staff.

12 In your report, there are a number of --  
13 there are quite a number of public comments that were  
14 submitted on this. Also, several were passed along  
15 via DropBox in the last day or so. And there is  
16 also, in the staff report, a letter from the Downtown  
17 Alliance.

18 That's the end of my presentation. I have  
19 question -- will entertain questions if you have any.

20 CHAIRPERSON SCHEER: Does anyone have any  
21 questions for David?

22 COMMISSIONER BELL: I have a question.  
23 For the plaza area, what are -- is that just the  
24 lobby to the apartment building that's adjacent to  
25 it? Because there's no -- right. In there. So is

1     there any commercial use that's adjacent to that  
2     plaza?

3                   MR. GELLNER: I believe you should have  
4     the slide up with the front of the building, and the  
5     commercial space is here on the south -- south of the  
6     main entrance lobby, fronting on Main Street.

7                   CHAIRPERSON SCHEER: Any other questions  
8     for -- for David?

9                   Now, David, there are a number of people  
10    here who are concerned about the Utah Theatre,  
11    Pantages Theater, and -- but this project is -- this  
12    approval is strictly about the design review of the  
13    proposal; is that correct?

14                  MR. GELLNER: Correct. And Paul may  
15    further weigh in on that if he's on the meeting, but  
16    the project itself is here for the design review  
17    approval.

18                  CHAIRPERSON SCHEER: And the design review  
19    has to do with several issues that you raised, like  
20    the height of the building and the setback and --

21                  MR. GELLNER: Massing and scale.

22                  CHAIRPERSON SCHEER: -- some of the --  
23    right. Okay. Thank you.

24                  So it does not have to do with the  
25    potential demolition of the Pantages Theater?

1 MR. GELLNER: Correct.

2 CHAIRPERSON SCHEER: And there is --  
3 right.

4 So, Paul, did you want to say something  
5 about that?

6 MR. NIELSON: No. I'm just here to  
7 confirm what David said, if you had any questions for  
8 me about that. He is correct that your review is  
9 limited to the design review issues. I know that  
10 there are a lot of ancillary comments. Those don't  
11 factor into the commission's decision.

12 CHAIRPERSON SCHEER: Correct.

13 So I just wanted to clarify that for the  
14 public. I know there are many people who wish to  
15 speak, and I'm certainly going to allow everyone to  
16 speak who wants to speak, but to let you know that  
17 the commission's purview is limited to discussing  
18 whether or not the design review of this project has  
19 been correctly assessed by the planning staff and  
20 also in -- and whether or not the applicant's ideas  
21 about the setbacks and so forth are something we can  
22 accept.

23 So I'm going to go on to have the  
24 applicant make a presentation now, please.

25 MR. HARRIS: Great. Thank you, Madam

1 Chair. Let me see if I can share my screen. I'm not  
2 sure it's going to let me do it. I may need to --

3 MS. OKTAY: I'm sorry. Who is --

4 MR. HARRIS: -- have you do it.

5 MS. OKTAY: Okay. Great.

6 MR. HARRIS: This is Dusty Harris  
7 speaking. If I could --

8 MS. OKTAY: Thanks, Dusty. Just a moment.  
9 I'm --

10 MR. HARRIS: No problem. Thank you.

11 MS. OKTAY: My Webex is actually frozen.

12 MR. GELLNER: Okay. And I have your  
13 slides available, Dusty, if you need me to share  
14 them.

15 MR. HARRIS: Okay. Let's see if I can --

16 MS. OKTAY: I'm just going to give it a  
17 hot second here.

18 MR. HARRIS: Yep.

19 MS. OKTAY: I'm so sorry.

20 It is -- it is -- it is frozen. I may  
21 just leave the meeting and come back in.

22 CHAIRPERSON SCHEER: If it's not one  
23 thing, it's another.

24 So, David, do you --

25 MS. OKTAY: Figures.

1 MR. HARRIS: David, if you're -- maybe if  
2 you're able to do it -- if you already have access,  
3 maybe you could put my slides up, if I would -- if  
4 you could be so kind.

5 MR. GELLNER: Yep. I -- one sec. I'll  
6 queue those up right now.

7 MR. HARRIS: Thank you.

8 MR. GELLNER: You're welcome.

9 MS. OKTAY: Apologies.

10 MR. HARRIS: No problem. This will work  
11 fine. And we don't have many slides. It's late, and  
12 we want to make sure that we're sensitive to time for  
13 public comments and questions from the planning  
14 commission.

15 So what we did want to do briefly, if we  
16 could, is just ensure that we establish credibility  
17 with you all. This is the first time Hines has been  
18 in front of the planning commission in Salt Lake  
19 City, so I just wanted to take just a brief moment on  
20 that.

21 Hines is an international real estate  
22 investment and development firm with 64 years of  
23 experience. We operate in 240 cities in 27 countries  
24 around the world. To date, Hines has completed 35  
25 million square feet of residential projects, and we



1 have another 35 million feet currently underway.

2 Hines provides significant resources to us  
3 locally, but we operate our business at a very local  
4 level. For instance, I've lived in Salt Lake City  
5 for 15 years, and I'm a graduate of the University of  
6 Utah. And we take pride at Hines in building great  
7 places in the communities in which we live and work,  
8 and we think what we've proposed here is one of  
9 those.

10 Just very quickly, if I could, I just  
11 wanted to flip through a few pictures of some of the  
12 buildings that represent the skill set that our firm  
13 brings to this particular project.

14 So, David, if you wouldn't mind, if we  
15 could just flip through the next three and maybe just  
16 pause a couple of seconds on each, just to give a  
17 sense for some of the projects that we've completed.

18 MR. GELLNER: Okay.

19 MR. HARRIS: I'm not going to talk a lot.  
20 We'll move briefly to get to comments, but we just  
21 wanted to show some pictures.

22 If you can go to the next one, if you  
23 wouldn't mind, David.

24 And then go ahead to the last one in San  
25 Francisco.

1                   So I think it's worth noting --

2                   If you'd go to the next slide, if you  
3 wouldn't mind, David? Thank you.

4                   I would like to note that Hines has been  
5 an investor in Salt Lake City for 33 years now,  
6 beginning with the purchase of the Kearns Building on  
7 Main Street, which actually sits next door to the  
8 project that we're talking about tonight.

9                   In fact, at the Kearns Building, we  
10 recently invested an additional \$25 million into this  
11 project to preserve the historic legacy of this  
12 building because we recognized that it could be  
13 reasonably preserved.

14                  If you could go to the next one, please,  
15 David?

16                  I just wanted to show you a couple more  
17 pictures. This is a new addition to the building  
18 lobby that we added that uses similar historic  
19 materials and then highlights the work of the local  
20 art community, which we hung on the walls.

21                  Next, please.

22                  On the second floor, we built a new deck  
23 to provide some outdoor space, and hired a local  
24 artist to paint this mural. And we're quite excited  
25 about this, and the tenant community has been quite

1 excited about it as well. So obviously not the  
2 project we're talking about, but we wanted to give  
3 you a sense for the historic preservation work that  
4 we have done in Salt Lake City.

5 So if you'd go to the final slide, if you  
6 would, David.

7 As I mentioned, just next door to the  
8 Kearns Building is this project for your  
9 consideration tonight. We're happy to answer any  
10 questions, and we'd love to have the opportunity to  
11 respond at the end of the public comment period, time  
12 permitting.

13 And that's all I have.

14 CHAIRPERSON SCHEER: Okay. Thank you very  
15 much. We appreciate your brevity at this point.

16 So are there any questions for the  
17 applicant at this point?

18 So I see none, so we will go ahead and  
19 move to the public hearing.

20 If you would wish to speak on this issue,  
21 you will need to push the little hand button that is  
22 under the participants list or attendees list. If  
23 you'd push on that to begin with. It's the sidebar  
24 on the right side of your screen. If you push on  
25 that, then we will know that you wish to speak.

1 MS. OKTAY: Great.

2 CHAIRPERSON SCHEER: Is there anyone  
3 representing the Downtown -- Downtown Alliance, would  
4 it be? Downtown Alliance?

5 MR. GELLNER: The application would have  
6 been sent to both the Downtown Community Council and  
7 Downtown Alliance. The Downtown Alliance did provide  
8 a letter. We did not get any comments from the  
9 Downtown Community Council.

10 CHAIRPERSON SCHEER: And we --

11 MS. OKTAY: Right.

12 CHAIRPERSON SCHEER: -- don't have a  
13 representative from them, that we know of. Okay.

14 MS. OKTAY: Not that I can see online.

15 CHAIRPERSON SCHEER: Okay. Thank you.

16 Well, I just want to say to everyone who  
17 wants to speak today, we are happy to take your  
18 comments. I know that there are many concerns that  
19 you have. We are especially interested if you have  
20 comments about the design and the design review, but  
21 we will take any comments.

22 And, also, that you have two minutes, and  
23 that will be strictly -- because we have a lot of  
24 people who want to speak, we will go strictly -- be  
25 strictly following that.

1 So go ahead.

2 MS. OKTAY: All right. With further ado,  
3 we'll start with Anna Coltrin.

4 Anna?

5 MS. COLTRIN: Hi.

6 CHAIRPERSON SCHEER: Hi.

7 MS. COLTRIN: Yeah, I just want to speak  
8 about the Pantages Theater downtown that will be  
9 destroyed by this development from Hines. Along with  
10 many issues I have with it, a big issue I have with  
11 it is the environmental impact. They are talking  
12 about tearing down almost an entire block of small  
13 businesses, which, after the last year, haven't we  
14 learned that small businesses are key to our city's  
15 survival?

16 And they want to tear them all down, and  
17 the city hasn't even taken into account how much  
18 environmental damage tearing down almost an entire  
19 block will do, not to mention all the smog clouds we  
20 already have that this will add to. And then you  
21 want to put up a giant building that goes 40 feet  
22 above the two buildings it's in between, including  
23 the beautiful architecture of the Kearns Building.  
24 It just doesn't make any sense.

25 And then you add on top of that all the

1 dirty money that Hines had given to your city  
2 council, our RDA, our city mayor. It's absolutely  
3 ridiculous, and we're not going to let it happen.

4 And I really appreciate everyone here  
5 taking our comments. Thank you.

6 CHAIRPERSON SCHEER: Thank you very much.

7 MS. OKTAY: Thank you.

8 Next hand up, Darby McDonough.

9 MS. MCDONOUGH: Hi, there.

10 MS. OKTAY: Darby?

11 MS. MCDONOUGH: Sorry. I was on mute.

12 Hi.

13 MS. OKTAY: There you go.

14 CHAIRPERSON SCHEER: Hi.

15 MS. OKTAY: Please leave your comment.

16 MS. MCDONOUGH: Thanks for staying late to  
17 hear our comments tonight. I just want to voice my  
18 opinion that I strongly oppose the approval of this  
19 development pitch and ask you to do the same. The  
20 proposal assumes the demolition of the Utah Theatre.  
21 And Hines is clearly able to do magnificent things  
22 with the real estate development all over the world,  
23 including preserving historic Italian properties,  
24 which means they could obviously use their design  
25 skills and architectural expertise to do the same for

1 the Utah Theatre.

2 I've seen combination plans floating out  
3 there where the theater is saved and a high-rise is  
4 built, some combination of architectural design. I  
5 know there -- they've got the skills to do it. I  
6 don't know why they're not.

7 I think you should not approve this design  
8 because it assumes demolition of the Utah Theatre,  
9 negating the viability of the design review.

10 I would also like to request if we could  
11 see or have somebody read the Downtown Alliance  
12 letter. I'm just curious to know if that might be  
13 possible in tonight's meeting, or if you could maybe  
14 share a link for us to read what they wrote. I have  
15 no idea what they -- what their comments were.

16 Thank you for your time.

17 CHAIRPERSON SCHEER: The Downtown Alliance  
18 letter is included in the packet that is available  
19 publicly.

20 MS. MCDONOUGH: Wait.

21 CHAIRPERSON SCHEER: If you go to the  
22 planning -- the planning site -- --

23 MS. MCDONOUGH: Was it in the link for  
24 tonight's meeting? The same link as tonight's  
25 meeting?

1 CHAIRPERSON SCHEER: Yes. No.

2 MS. MCDONOUGH: Thanks.

3 CHAIRPERSON SCHEER: No. The tonight's  
4 meeting link is just the agenda.

5 MS. MCDONOUGH: Oh, okay.

6 CHAIRPERSON SCHEER: You'll have to look  
7 at further documents. There's more documents, so you  
8 have to look at that.

9 MS. MCDONOUGH: Thank you. I appreciate  
10 it. Thank you.

11 CHAIRPERSON SCHEER: Yeah. Sure.

12 MS. OKTAY: Thank you.

13 Donna Lyman.

14 Donna?

15 MS. LYMAN: Hi. I wanted to give you a  
16 visitor's perspective because I'm sure you're aware  
17 that you have so many visitors that love Salt Lake  
18 City.

19 I'm an occasional visitor, not a resident,  
20 and I enjoy the historic architecture of Salt Lake,  
21 and I really encourage you to keep Salt Lake historic  
22 and unique rather than these skyscrapers 400 feet  
23 high. Your skyline is going to be less unique. Once  
24 upon a time, it was so unique with the temple there.  
25 Now, we're getting high-rises.



1 I really would like to encourage the  
2 planning commission to find a better solution for  
3 both sides: For a great developer, and to keep the  
4 historic stuff that's already there.

5 So, please, put your shoulders to the  
6 wheel, and let's get a good deal going on for this  
7 Salt Lake City downtown area.

8 And I really thank you for taking the time  
9 to listen to me and consider a visitor's point of  
10 view.

11 CHAIRPERSON SCHEER: Thank you. Where are  
12 you from, Ms. Lyman?

13 MS. LYMAN: I'm in Bakersfield,  
14 California.

15 CHAIRPERSON SCHEER: Oh, okay.

16 MS. LYMAN: Not too far away from you. I  
17 do feel the earthquakes when you have them rattling  
18 and rolling.

19 CHAIRPERSON SCHEER: All right. Thank  
20 you.

21 MS. LYMAN: Uh-huh. Thank you.

22 CHAIRPERSON SCHEER: Okay.

23 MS. OKTAY: Jared West, you are unmuted.

24 MR. WEST: Hi. Yeah, thank you again for  
25 taking our calls and emails and hearing us. We

1 are -- yeah, currently, I'm working on renovating my  
2 house, a 1923 bungalow, and we spent hours and hours  
3 preserving and adding character. And in the design  
4 process, I just feel like with what is proposed from  
5 Hines and the impressive stats that Mr. Harris stated  
6 about the Hines company, I'm sure they have the  
7 resources and money to incorporate adaptive  
8 (inaudible) the commission to please help save this  
9 piece of our history by requiring Hines to  
10 incorporate the Pantages Theater in the design of  
11 their building.

12 Thank you.

13 CHAIRPERSON SCHEER: Thank you.

14 MS. OKTAY: Thank you.

15 Kelsey Maas.

16 You are unmuted, Kelsey.

17 MS. MAAS: Hello. And thank you,  
18 everybody, commissioners and planning staff. I  
19 really appreciate your time tonight.

20 I am here as a representative of the  
21 nonprofit Preservation Utah. And we do understand  
22 that this session is specifically regarding the  
23 Utah -- the site of the Utah Theatre for design  
24 review of the new proposed building, and we simply  
25 want to state our disappointment and frustration with

1 the city's actions. We are profoundly sad that the  
2 city is allowing such a vibrant and unique  
3 architectural space in the heart of the downtown to  
4 be demolished. We urge the commission to not take  
5 for granted Salt Lake City's historic-built  
6 environment for buildings both great and small. Once  
7 it's gone, it can never be replaced.

8 Thank you again for your service and your  
9 time this evening.

10 CHAIRPERSON SCHEER: Thank you for your  
11 comments.

12 MS. OKTAY: Thank you.

13 Matt Lambros.

14 Matt, you are unmuted.

15 MR. LAMBROS: Hi. Thank you for having  
16 me. I'm here as a representative of the Theatre  
17 Historical Society of America. I would also like to  
18 state my disappointment in the fact that the theater  
19 is being torn down as part of this project.

20 I have photographed and visited hundreds  
21 of theaters across the country, some that were  
22 brought back from way worse than what the Pantages is  
23 right now, and some that were brought back and  
24 incorporated into a new building and aren't used as a  
25 theater anymore, but they kept the original

1 architecture, and I -- if the theater cannot be  
2 saved, I also encourage Hines to redesign their  
3 proposal and incorporate the architecture of the  
4 theater into the new building.

5 Thank you.

6 MS. OKTAY: Thank you.

7 Morgan Pitcher.

8 MR. PITCHER: Thank you for --

9 MS. OKTAY: You're unmuted.

10 MR. PITCHER: I'm here. Can you hear me?

11 CHAIRPERSON SCHEER: Yes, we can. Go  
12 ahead.

13 MS. OKTAY: Yes.

14 MR. PITCHER: Thank you for hearing out  
15 the public. I, under God, would like to stand with  
16 the just and let it be known this theater should not  
17 be torn down. If they must build a high-rise over  
18 the theater, let it be.

19 I grew up in Park City, Utah. I worked in  
20 the Eccles Theater. I came down to Salt Lake after  
21 high school, and I worked with the poor. I worked in  
22 theaters across the valley in Highland, in Rose Park,  
23 and we need theater space here. This is not just  
24 about the architecture or the character. This is  
25 about we need this space.

1                   And I would also like you to know that I  
2   am the grandson -- we talked about Liberty Wells and  
3   Liberty Park. I would like Erin Mendenhall to know I  
4   am her neighbor. My grandparents were the builders  
5   of the Chase Home and the Chase Mill in the middle of  
6   Liberty Park. That building still stands today, and  
7   it is used by a very, very diverse group of people.  
8   That is one of the oldest buildings in this valley.  
9   We must come together and save this structure because  
10   I know that there is a human, a community need for  
11   this space.

12                  So please put me on record that I spoke  
13   and that this theater must be saved.

14                  CHAIRPERSON SCHEER: Thank you very much.

15                  MS. OKTAY: Nathan Starley.

16                  You are unmuted, Nathan.

17                  MR. STARLEY: Hi. Thanks for having me.  
18   So -- let's see. I'm just looking at my notes here  
19   real quick. Sorry.

20                  MS. OKTAY: Okay.

21                  MR. STARLEY: So I just wanted to say,  
22   well, first of all, thanks for your time, and that  
23   the Pantages Theater absolutely needs to be saved  
24   from destruction. And at the very least, we strongly  
25   feel that this historical building needs to have

1 adaptive reuse within the new developer's designs.  
2 And that's probably the biggest thing I would want to  
3 talk about, is that we need to look at adaptive reuse  
4 with that, with the new design plans on that.

5 And that's really -- that's really what I  
6 wanted to say, is I think we just need to see new  
7 design plans, incorporate the building. It's a  
8 beautiful building. Hopefully everyone has had a  
9 chance to take a look and see what that can look like  
10 restored. And I know that with Hines, they can  
11 definitely look at incorporating that into the new  
12 plans.

13 So that's a really important part of our  
14 city, and I think it's -- it's a really important  
15 part of any great city, is keeping the history and  
16 the integrity of the history, and I think that we  
17 can -- and we absolutely must keep the Pantages  
18 building.

19 So I do encourage everybody on this call  
20 to take a look at the "Save the Pantages page" and  
21 take a look and see what these buildings can look  
22 like that are saved, because that makes all the  
23 difference in the world. It's beautiful, and I  
24 strongly encourage that.

25 And like I said, it's really, really

1 important and dear to us in the city, and so I  
2 encourage Hines to take a look at that and  
3 incorporate that into the new plans.

4 Thank you.

5 CHAIRPERSON SCHEER: Thank you.

6 MS. OKTAY: Paul Kulda.

7 Paul, you're unmuted.

8 MR. KULDA: Can you hear me? Hello?

9 CHAIRPERSON SCHEER: Yes, we can.

10 MS. OKTAY: Yes.

11 MR. KULDA: Oh, awesome. Thank you.

12 Yeah. Yeah, thank you all for taking the  
13 time to hear my comment. I first want to mention  
14 that I don't really understand the point of having a  
15 park on top of a parking structure. Like, I think  
16 it's a nice idea, but I question how much the broader  
17 community would be able to use that. I think that  
18 finding some way to fit in some green space at street  
19 level might be a better use of the city's and Hines'  
20 resources.

21 I also want to say that, ultimately, at  
22 the end of the day, along with many who have spoken,  
23 I think that tearing down this theater is  
24 unnecessary. I think that, while Salt Lake City  
25 absolutely does need more housing, I think that,

1 really, the best of both worlds would be some version  
2 of which the project is modified to allow for housing  
3 to be built in place of the parking garage and  
4 preserve the theater itself.

5 I really don't see the point in building a  
6 five-story parking garage for apartments that are  
7 immediately adjacent to high-quality transit.  
8 Namely, the TRAX line that runs on Main Street. I  
9 don't think that that is the best use of the land  
10 that the city is apparently going to give away.

11 So I would ask that the planning  
12 commission really consider -- I know this is late  
13 stage -- some sort of revamp of the situation to  
14 better use the land to both provide desperately  
15 needed housing and preserve the theater that  
16 ultimately gives character to this city and is one of  
17 the things that makes Salt Lake City a worthwhile  
18 place to live in.

19 So that's probably about two minutes, so  
20 thank you very much for your time.

21 CHAIRPERSON SCHEER: Thank you very much.

22 MS. OKTAY: Robert Stefanik.

23 You are unmuted, Robert.

24 MR. STEFANIK: Hello?

25 MS. OKTAY: Yes, Robert.



1 CHAIRPERSON SCHEER: Yes. We can hear  
2 you.

3 MS. OKTAY: You're unmuted.

4 MR. STEFANIK: Can you hear me?

5 MS. OKTAY: Yes, sir.

6 CHAIRPERSON SCHEER: Yes.

7 MR. STEFANIK: Uh-oh. No, no, no, no.  
8 Uh-oh. Uh-oh. Can you -- can anybody hear me?

9 CHAIRPERSON SCHEER: Robert, we can hear  
10 you. Please go ahead if you can hear us.

11 MR. STEFANIK: Work -- my work internet  
12 decided to freeze right at the wrong time.

13 CHAIRPERSON SCHEER: Oh, okay. Well, we  
14 can still hear you.

15 MR. STEFANIK: Okay. So -- okay. Now you  
16 can -- okay. Sorry about that. Let me calm down for  
17 a second now that my freak-out is over.

18 CHAIRPERSON SCHEER: Okay.

19 MR. STEFANIK: I am with saving this  
20 theater. I know we need housing, but we have  
21 multiple parking -- this doesn't even need to be  
22 built right where it says. We could see -- the  
23 theater needs to be saved, a revamp of the idea can  
24 work, but, honestly, I think this building that Hines  
25 can -- wants to build can be built somewhere else.

1                   We have a parking lot that they own next  
2   to the Kearns. There is a parking lot -- another  
3   parking lot right next to the Little America that  
4   they can use. There is lots all around the city. I  
5   don't see tearing down a historic, hundred-year-old  
6   theater will -- it won't benefit anybody. We need  
7   theater space to -- for the arts, for people who want  
8   a safe space. It's one of the oldest, clear safe  
9   space in all of Utah, and that's history that we  
10 cannot replace once it's destroyed.

11                  I'm originally from New York. Their  
12 skyline was boring. This skyline in Salt Lake is so  
13 unique and so wonderful. Why would we want to  
14 destroy that?

15                  So thank you for taking the time to hear  
16 me. Thank you for the time to listen to the  
17 community, and I hope you make the right decision  
18 today.

19                  CHAIRPERSON SCHEER: Thank you.

20                  MS. OKTAY: Sean Bynum.

21                  MR. BYNUM: Hello?

22                  MS. OKTAY: Yes. You are unmuted, sir.

23                  CHAIRPERSON SCHEER: Yes. Go ahead.

24                  MR. BYNUM: Okay. Can you guys hear me?

25                  CHAIRPERSON SCHEER: Yes, we can hear you.

1 MR. BYNUM: All right. So my message to  
2 you guys -- thank you for letting me speak. You  
3 know, right in that intersection right there, we have  
4 a really unique opportunity to build something great.  
5 There is currently two theaters. We have the Eccles  
6 Theater and we have the Capitol Theater, multiple art  
7 galleries. There is actually a college right there,  
8 like a technical school. I think that if we were  
9 able to save the theater, you know, we could  
10 potentially, in the future, have an amazing arts  
11 district. You go to San Francisco, you go to  
12 Chicago, you know, you are surrounded by amazing  
13 districts throughout the cities, like Little Italies,  
14 Chinatowns.

15 And I'm from the east as well, and that's  
16 something that I -- I do love Utah, but that's so  
17 shocking to me, is that, you know, the entire valley  
18 has been whitewashed and there is no cultural hubs,  
19 especially with being right next to Temple Square,  
20 you know, it sees millions of visits every single  
21 year.

22 I think that if, instead, that theater  
23 were saved and there was an arts district  
24 incorporated, that could be a huge boost to the  
25 economy. That could be -- you know, add to tourism.

1 I also -- another thing I would like to  
2 notice -- to note is that there is a shop there  
3 called Twisted Roots. What are the -- you know,  
4 what's going to be the plan as far as relocating  
5 those people? Because that's one of the very few  
6 black-owned businesses we have in Salt Lake City.

7 So it's -- to me, it's very offensive that  
8 a billionaire is coming in, taking out the culture,  
9 taking out the black-owned businesses to put another  
10 skyscraper, especially when there is multiple vacant  
11 parking lots.

12 If you actually look at the -- that master  
13 plan that you guys had shared, so the plot of land  
14 that would be required to build the skyscraper, just  
15 north on that exact same block, it could fit in that  
16 exact same parking lot.

17 And so I have nothing against them  
18 building --

19 MS. OKTAY: That's time. Thank you.

20 MR. BYNUM: Okay.

21 CHAIRPERSON SCHEER: Thank you. Thanks  
22 for your comments.

23 MR. GELLNER: Michaela, you are muted.

24 MS. OKTAY: Oh.

25 Tamarah, I have unmuted you and myself.

1 You can speak.

2 MS. BARTMESS: Okay. Thank you.

3 MS. OKTAY: Thank you.

4 MS. BARTMESS: I am a descendent of the  
5 initial settlers of Utah, particularly the Chase Farm  
6 and the Liberty Park, is my ancestral property. And  
7 one of the things that I value so much is just the  
8 evolvement of our history of this state, and  
9 especially of Salt Lake City.

10 My grandparents grew up there, met each  
11 other, married there. This was part of their life  
12 experience as well. And when we consider  
13 development, it's just so sad for me to see beautiful  
14 handicraft -- handcraftmanship and workmanship that  
15 has been -- that is being disregarded and just tossed  
16 aside for something that is modern and maybe meets  
17 some of the high-density housing needs but definitely  
18 disregards other important aspects of humanity and  
19 living our life.

20 From my understanding, this property was  
21 acquired by the city with the intent to restore it,  
22 and that the city is now disregarding that initial  
23 agreement to give it to a developer for high-density  
24 housing with them not even considering what the  
25 potential is for, you know, integrating of design in

1 housing and in maintaining this property.

2 It's just disappointing that the city and  
3 the council does not consider that and is constantly  
4 disregarding the public's voice in the need for this  
5 kind of maintaining of our history and of our culture  
6 here, and would love to see more partnership in that  
7 instead of disregard for our voices.

8 Thank you.

9 CHAIRPERSON SCHEER: Thank you.

10 MS. OKTAY: Madam Chair, I am just going  
11 back through the list. Emily Bourne.

12 We did not call on you, Emily. Emily, you  
13 are unmuted.

14 MS. BOURNE: Thank you. I would just like  
15 to echo what's been said. I really appreciate the  
16 comments from people from back east and Chicago and  
17 California that have seen historic districts restored  
18 and benefitting cities. I don't know if any of you  
19 have been overseas, but the big European cities  
20 haven't been around for thousands of years because  
21 they tear down buildings every hundred years. They  
22 preserve things. They keep their old buildings, the  
23 buildings that will last for generations. And that's  
24 what makes them special.

25 So this building that's been proposed by

1 Hines is a monstrosity, and it can be built anywhere.  
2 We should be preserving the historic theater.

3 Thank you.

4 CHAIRPERSON SCHEER: Thank you.

5 I see --

6 MS. OKTAY: Casey McDonough.

7 CHAIRPERSON SCHEER: Oh, yeah. There you  
8 go.

9 MS. OKTAY: Casey, you are unmuted.

10 MR. MCDONOUGH: All right. Can you guys  
11 hear me?

12 CHAIRPERSON SCHEER: Yes, we can.

13 MS. OKTAY: Yes, we can.

14 MR. MCDONOUGH: Perfect.

15 So I understand that -- the comment you  
16 made about speaking to the design of this building,  
17 and I think I understand, you know, your role in  
18 this. And part of my understanding is that you guys  
19 are another checks and balance in our system.

20 The design of the building is just as  
21 arguably doesn't meet the design standard. The  
22 height exception is in your power to deny. You do  
23 have control over this property and this deal in this  
24 regard. You can listen to the constituency. You're  
25 appointed by the mayor, the person we elected to

1 represent us, and I think you guys have the power to  
2 deny things like this outside of simple design  
3 questions.

4                   You've surely seen all our demand letters.  
5 There is even constitutional issues related to zoning  
6 and the city thinking that you can make zoning  
7 changes. The theater has simply brought to light a  
8 bunch of, we'll say, unintended or unforeseen  
9 consequences of maybe us developing too quickly, of  
10 us moving too fast.

11                   And on the design, it's not a mid-block  
12 walkway. It was presented to the city that way, to  
13 the people. It's not a park. They say it's a park.  
14 They consistently say it's a park. It is not. It  
15 has never been -- those spaces aren't taking into  
16 account our park studies. That's how it was marketed  
17 to the people. They are giving away our tax dollars  
18 to the developer to make money.

19                   When you sum it all up, with the tax  
20 increment credits, we are actually paying them to  
21 take the property and destroy it. It's in the master  
22 plan. You have control over master plan issues. You  
23 can deny it because it doesn't meet the intent of the  
24 master plan.

25                   To strip pieces of the building and



1 consider that repurposing is a far cry from what I'm  
2 sure you would find if you looked at the public  
3 comments that came up with that specific text in the  
4 master plan. I have no doubt that no one said  
5 "repurpose" means tear down and put some of the  
6 pieces in a new building.

7 I appreciate what you guys do and I  
8 appreciate you listening to all our comments. Please  
9 listen to the constituents. You are a representative  
10 of us because you were appointed by the mayor. Do  
11 what's right for the city and what everyone is  
12 telling you to do. We -- on the street, 99 out of a  
13 hundred people from all points of the globe tell  
14 us --

15 MS. OKTAY: Thank you. That's time.

16 MR. MCDONOUGH: -- that they want the  
17 theater saved.

18 Thanks, guys.

19 MS. OKTAY: BL? That's all I have are  
20 initials BL. You are unmuted.

21 MS. LAYTON: Okay. Fantastic.

22 Hi. Thank you for allowing me to speak.  
23 My name is Bethany Layton, and I am a resident of  
24 Sugar House, and I believe that saving and preserving  
25 the Pantages Theater is incredibly important to our

1 city. The theater has incredible unique features  
2 that were created from hundreds of hours put in by  
3 skilled craftsmen. And can you imagine if the  
4 Pantheon had been torn down or the Vatican or the  
5 Louvre had not been restored? Where would we have  
6 been able to enjoy these historical buildings?

7 From personal experience, I lived in the  
8 Middle East in Amman, Jordan, for five years, and the  
9 sheer incredibleness of the history and architecture  
10 in that city is just absolutely amazing. The Temple  
11 of Hercules, the Roman theater, Petra. And Utah is  
12 no different. We have these gems that are hidden  
13 within our city. And imagine if we didn't invest in  
14 the renovation of Capitol Theater back in the day,  
15 how many of us wouldn't have the memories growing up  
16 seeing the ballet there.

17 I think it would be a terrible decision  
18 for our future community and families if we destroyed  
19 the theater, and we need to invest in our history and  
20 architecture and honor the treasure that is the  
21 Pantages Theater.

22 Thank you.

23 CHAIRPERSON SCHEER: Thanks very much for  
24 your comments.

25 MS. OKTAY: Angie Jamrose, you are

1 unmuted.

2 MS. JAMROSE: Hi. This is Angie with the  
3 Nicole Curtis Team of Detroit. We 1 billion percent  
4 do not support this design, and we do not support the  
5 demo of the Utah Pantages Theater. It's an  
6 irreplaceable treasure, a piece of history, and we  
7 are asking the mayor and the city to please, please  
8 stop the demo of this beautiful treasure and stop  
9 these plans. Please do not approve these plans and  
10 allow this beautiful piece of history to be restored.

11 I know Nicole is going to want to speak  
12 shortly as well, but thank you for your time.

13 CHAIRPERSON SCHEER: Thank you.

14 MS. OKTAY: Alexa Williamson, you are  
15 unmuted.

16 MS. WILLIAMSON: Hi. Can you hear me?  
17 Can you hear me?

18 CHAIRPERSON SCHEER: Yes, ma'am.

19 MS. OKTAY: Yes, ma'am.

20 MS. WILLIAMSON: Okay. So I'm a resident  
21 of downtown Salt Lake City for seven years. I've  
22 lived in Utah all my life. And one thing I love  
23 about this city I live in is the getting to  
24 experience all of the rich history that has been  
25 preserved, especially (inaudible) beautiful works of

1 architecture. I think it would be a huge shame to  
2 lose out on one of Salt Lake City's most beautiful  
3 and historic gems. The citizens and visitors of the  
4 city deserve to be able to experience and enjoy this  
5 magnificent example of our city's history.

6 I also take issue with the fact that these  
7 small businesses have been pillars of our community  
8 for many, many years, and we're okay with kicking  
9 them out and displacing them.

10 Also, I would say that Salt Lake City is  
11 going against their own downtown master plan, which  
12 says to repurpose the Utah Theatre as a cultural  
13 facility and activity generator, and I wouldn't  
14 really call this design a cultural facility and  
15 activity generator.

16 That's all I have to say. Thank you.

17 CHAIRPERSON SCHEER: Thank you.

18 MS. OKTAY: Great.

19 H.I. Hein, you are unmuted.

20 MS. HEIN: Hi. Thank you so much. My  
21 name is Hannah Laurie Hein. I am a resident of  
22 Boise, Idaho. I work professionally as a historian,  
23 and I appreciate everyone's comments about  
24 (inaudible) to tear down the theater and replace it  
25 with a new-build.

1                   From my experience living in Boise, Idaho,  
2   we have a fantastic historic theater right in our  
3   downtown corridor called the Egyptian Theater. It  
4   was scheduled for demolition in the 1970s after the  
5   city had torn down more than 75 buildings in the  
6   course of a few short years, and this was the  
7   building that brought a halt to the demolition ball,  
8   and today, it serves as an absolutely critical piece  
9   of the built environment and our downtown corridor  
10   and sees everything from, you know, film festival  
11   showings to premiers. And it was built in 1927 in  
12   the same era as the theater in question in Salt Lake  
13   City, and you cannot replace historic buildings once  
14   they are lost. And as stewards of your city's built  
15   environments, I would encourage you to preserve the  
16   building.

17                   Thank you.

18                   CHAIRPERSON SCHEER: Thank you.

19                   MS. OKTAY: Jennifer Killpack.

20                   MS. KILLPACK-KNUTSEN: Hello. Can you  
21   hear me?

22                   MS. OKTAY: Yes, ma'am.

23                   MS. KILLPACK-KNUTSEN: Okay. Thank you so  
24   much. I don't think I could speak any more  
25   eloquently than many of the people before me.

1 They've all made really wonderful points.

2 What I'd like to speak to is the  
3 disappointment that I was under the impression that  
4 the city was going to preserve the theater. It was a  
5 big shock to me to find out that they had -- not only  
6 weren't going to preserve it, but that they had  
7 basically given it away to be destroyed.

8 I can speak from a pedestrian point of  
9 view. I did not have a car until I was 28 years old,  
10 and I've walked the downtown streets as a pedestrian  
11 for many years before I was a driver, and I really  
12 became affected by the energy of buildings as I would  
13 pass by, and I've been noticing a really disturbing  
14 trend in recent years in the buildings downtown.

15 The buildings are -- the energy that are  
16 coming off the buildings from a pedestrian point of  
17 view have been really unpleasant. There is --  
18 there's been comments at the beginning of this  
19 presentation that this was supposed to be a  
20 pedestrian-friendly building, but I can tell you, as  
21 a pedestrian, the energy would just be sucked right  
22 out of you as you pass by.

23 I know that sounds very woo-woo, and you  
24 probably don't understand it. I'm just telling you  
25 from my personal point of view.

1                   So I also would love to save the theater.  
2    I went to it as a child. I've lived in Utah all my  
3    life. I'm a 52-year-long resident of Salt Lake City,  
4    and I'd like to see this theater preserved.

5                   Thank you.

6                   CHAIRPERSON SCHEER: Thanks for your  
7    comments.

8                   MS. OKTAY: Nicole Curtis.

9                   You are unmuted, Nicole.

10                  MS. CURTIS: Hello. Yes. This is Nicole  
11   Curtis. I just wanted to say that I'm speaking on  
12   behalf of a lot of people tonight and also in support  
13   of "Save the Utah Pantages" organization.

14                  Madam Chair, I do just want to address  
15   something real quickly. You're saying that you're  
16   not going to talk about the demolition of this; you  
17   are simply doing a plan review. But please let me  
18   point out none of these plans can go into existence  
19   without the fact that you are allowing the demolition  
20   of this building. You're allowing the demolition of  
21   about a hundred-thousand square feet of building,  
22   which means you are all voting for all of this to go  
23   into a landfill.

24                  So let's make no mistake that you're not  
25   just reviewing plans, you are, by approving plans,

1 approving the demolition. And all of you -- all of  
2 you -- on all of your pages on all of your platforms  
3 have been all about eco-conscious awareness in Salt  
4 Lake City, bike paths, green spaces, green buildings.  
5 And this is anything but green. This is an atrocity.

6           You're not following any standard  
7 procedure. The Salt Lake City Council bought this  
8 building under the guise that they would be using  
9 taxpayer funds to buy it to restore it, and now all  
10 of you have handed this over to a developer with a  
11 promise of a public bush and a little walk-around.

12           Let's make no joke that this is simply you  
13 guys feeding into development, and this is not  
14 something you need. You are voting to demo the  
15 history. There is definitely, definitely a use for  
16 this building. I have seen this building. Some  
17 consider me an expert because I have 25 years in this  
18 field. There is no reason that you are not finding  
19 another use for this building. There is no reason  
20 why you are not demanding that the developer find  
21 another use for this building and leave it. Because  
22 guess what? The greenest building is the one still  
23 standing.

24           So all of you, city council, mayor, all of  
25 you on this planning commission, don't you dare say



1 one more thing about being about green, about  
2 eco-conscious for Salt Lake City. It is all  
3 hypocritical. This is -- no demo is green. None.  
4 None. No demo is green. The greenest building is  
5 the one left standing.

6 CHAIRPERSON SCHEER: Thank you. That's  
7 time.

8 MS. OKTAY: Madam Chair, I'm just looking  
9 for any other hands.

10 MR. ANDERSON: I do have several emails to  
11 read into the record as well.

12 MS. OKTAY: Okay. I don't see any new  
13 hands up, so go ahead and read, and I'll double-check  
14 my list as well.

15 MR. ANDERSON: Okay. I made a list as  
16 well, Michaela, but it looked like -- I think we got  
17 all of them, but I'll -- let me read these quickly  
18 and...

19 This is an email from Oscar Arvizu. I'm  
20 going to mispronounce your name. I apologize.  
21 A-R-V-I-Z-U.

22 He states: "I wanted to express my  
23 extreme concern, frustration, and sadness. I've  
24 heard that there is a plan to destroy the beautiful  
25 and historic Utah Pantages Theater and replace them

1 with more condos and apartments. As an admirer of  
2 our local history and the arts, hearing this is  
3 immensely disappointed and I believe a great  
4 disservice to our state and local history.

5 "It's not just another theater, but one of  
6 the most amazing theaters in the country. Utah is  
7 already behind in the arts compared to other major  
8 cities in the world. Yes, we have beautiful  
9 mountains, but only a handful of historic, original  
10 buildings, especially that support the arts.

11 "The benefit for the locals is nothing  
12 compared to what they are losing. A park on top of a  
13 parking lot? A small easement? Affordable housing  
14 for a few units that might expire? All vague details  
15 and plans that keep shrinking every time and, above  
16 all, giving the theater away basically for free.

17 "It sounds so absurd and shameful. Why do  
18 we have to destroy our history, a beautiful one at  
19 that, that we will never again see built in the city?  
20 Salt Lake City has already lost so many beautiful  
21 history buildings to shady deals that don't benefit  
22 the taxpayers.

23 "With all my heart, I implore you to  
24 please save our history and add to the arts at our  
25 state and local government instead of just some more

1 generic condos that will be outdated in ten years."

2 That's from Oscar, taxpayer, 25-year  
3 resident, and admirer of history and art.

4 The next one is from Jeana Quigley. She  
5 says: "Why is this beautiful theater being torn down  
6 when people want to restore it? What is wrong with  
7 you people?"

8 The next one is from Angie Starr. She  
9 says: "I do not support the demolition of the Utah  
10 Pantages Theater at 144 South Main Street. The  
11 theater is an irreplaceable piece of history. It is  
12 a treasure that must be saved. Please do not let the  
13 city destroy this treasure. Angie Starr."

14 The next is from Shane Franz. He says:  
15 "My comments are we disagree with the proposed  
16 high-end setback. I am a systems engineer, and this  
17 building is patently out of place with the harmony  
18 and tone of the surrounding builds.

19 "In addition, we need to historic spaces  
20 that provide a draw to downtown. The block needs to  
21 be pubs and restaurants and shopping and nightlife.  
22 There are many places the proposed building could be  
23 built, including the 6th South off-ramp of the  
24 freeway. This is a raw deal that appears steeped in  
25 corruption. We need to save our historic theater.

1 "Michael Valentine and his group saved the  
2 Pantages (inaudible) for 1 million historic theater  
3 already to be donated already. The citizens support  
4 saving -- the citizens support saving the building  
5 and the arts. What is proposed can be found  
6 everywhere. What will be demolished is a  
7 one-of-a-kind treasure that will be lost forever.

8 "I am vehemently opposed to this Hines  
9 project. Thank you, Shane Franz, proud historic  
10 spaces supporter and restorer of the Salt Lake City  
11 historic properties."

12 This is from Sharon Franz: "I strongly  
13 oppose the demolition of the Pantages Theater. I  
14 want to echo my husband's comments. Salt Lake City  
15 is becoming the city of high-rise apartment  
16 buildings. The last thing we need is another  
17 apartment building to the sky.

18 "We need to hold on to what makes this  
19 city special, historic buildings, the arts, and our  
20 diverse city vibe. Our Pantages Theater is a part of  
21 our city that should be cherished. It will be a  
22 place where people of all backgrounds can come  
23 together and appreciate all aspects of theater, film,  
24 and art. Hines and LaSalle can build anywhere.

25 "Thank you. Sharon."

1                   Let's see. This is -- okay. From Chloe  
2 Monson: "Hi. I just wanted to send an email from my  
3 public comment since I'm having problems getting  
4 through on the web call. I'm a descendent of Brigham  
5 Young, and my family has been here for a long, long  
6 time.

7                   "I feel hurt that this piece of Salt Lake  
8 city history is being talked about being torn down  
9 for something so dismal, so bland, something that  
10 could go somewhere else, something that I'm sure I  
11 won't be able to afford to live in.

12                  "I feel hurt that other businesses that  
13 have been there since I was a kid will be kicked out  
14 along with the theater. I feel more hurt the more I  
15 learn about how Hines got this deal with the theater.  
16 I'm not interested in my city blending in with all  
17 the other major cities in the U.S. with planned  
18 architecture and condos upon apartments upon condos.

19                  "Salt Lake has heart, and it is losing it  
20 so fast. I feel like I am already being pushed out  
21 of a place that I've lived my entire life, even  
22 though I never imagined living. I wish we could live  
23 in a world where the theater could stay, where Salt  
24 Lake would better protect the things that make it  
25 special, but it's hard to keep any faith here.

1 "Thank you."

2 And that is the last emailed comment that  
3 I have.

4 MS. OKTAY: Madam Chair, I have Alexis.  
5 I don't believe I called on you, Alexis.

6 MS. PUGLISI: Yeah. Can you hear me?

7 MS. OKTAY: Yes --

8 MS. PUGLISI: Yes?

9 MS. OKTAY: -- I can hear you.

10 MS. PUGLISI: Okay. I'm a Utah resident,  
11 lifelong Utah resident. I actually live down in  
12 Provo. My family has been very involved in historic  
13 preservation here, and I just wanted to share a quick  
14 thought.

15 In the '90s, the Brigham Young Academy,  
16 which is currently the Provo library, was set for  
17 destruction. There were bulldozers on-site. The  
18 city said it was too expensive to fix. They had  
19 excuses from asbestos to being structurally unsound;  
20 too much mouse poop, they said. The fire department  
21 said if it burned, they would let it burn. And  
22 during this very public battle, the mayor even gave  
23 tours of it just to discourage people from wanting to  
24 preserve it. And my dad, who was a member of the  
25 landmarks commission, went, and he said it was in

1 really rough shape. But the preservationists, they  
2 persevered. The city was sued. Elderly -- you know,  
3 elderly women donated from their retirements, and the  
4 library was saved.

5 And it's difficult to articulate how  
6 deeply this building touches the community. It's a  
7 true public gathering spot. It's hosted everything  
8 from voting to creative workshops, weddings. Utah  
9 Fashion Week started there. And now the city -- you  
10 know, I think on Trip Advisor, it's like our number  
11 one, and the city is constantly talking about how  
12 wonderful it is, but, you know, it was kind of in  
13 spite of the city's best efforts that it exists  
14 instead of because of it.

15 And it would be wonderful to see Utah  
16 government, regardless of the city, but especially in  
17 our State Capitol, really putting their weight of  
18 their energy and effort into helping preserve our  
19 history rather than actively fighting against it, in  
20 which -- you know, which is what seems like happens  
21 most of the time.

22 So I really would support, you know,  
23 preserving this theater and your reconsideration of  
24 this deal. Like many people have pointed out, there  
25 are a lot of locations we can build high-density

1 housing, which, for sure, is a need we have in this  
2 state. But, you know, we can tread carefully and  
3 preserve both. We can -- this can be a win/win  
4 situation for the community, for the developers, for  
5 the city government.

6 So thank you for your time.

7 CHAIRPERSON SCHEER: Thank you.

8 MS. OKTAY: I have Peter Moosman.

9 Let me just scroll back down to you. You  
10 are unmuted, Peter.

11 MR. MOOSMAN: All right. Hey, thank you,  
12 everybody.

13 My name is Peter Moosman. I'm actually  
14 outside of the theater today, right now, with a  
15 handful of people, and I -- a few comments back,  
16 someone was talking about the pedestrian view, and I  
17 just wanted to speak to that a little bit.

18 I live about a block and a half away from  
19 the theater, and walking down specifically this block  
20 of Main Street, there is something magical about it  
21 with the small storefronts, and I can just imagine  
22 this new building going in and really negatively  
23 impacting that view. So I just wanted to urge you  
24 all to vote against the demolition of this theater.

25 Also, I don't know if it's okay, but there



1 is an individual here with me that would also like to  
2 share a quick word.

3 MS. GREEN: Yes. My name is Crystal. I  
4 have lived in Salt Lake City the majority of my life,  
5 within Utah the majority and complete of my life. I  
6 have --

7 CHAIRPERSON SCHEER: Kristin [sic], what  
8 is your last name, please?

9 MS. GREEN: Oh, yes. I'm sorry. The last  
10 name is Green.

11 CHAIRPERSON SCHEER: Thank you. Go ahead.

12 MS. GREEN: I have seen how beautiful this  
13 theater is. I can see the potential in saving it,  
14 and I can see this as being a golden opportunity to  
15 bring the people of this city together to preserve  
16 something that will never be seen again.

17 We don't create architecture like this  
18 anymore, and I feel like it would be a complete --  
19 almost a complete dishonor to our forbearers to  
20 destroy the beautiful work that they put into this  
21 building for something that really could be built  
22 somewhere else.

23 Thank you so much for your time.

24 CHAIRPERSON SCHEER: Thank you.

25 MS. OKTAY: Thank you.

1 And I have more hands coming up.

2 CHAIRPERSON SCHEER: Okay.

3 MS. OKTAY: Just a moment.

4 Dawn? Dawn Borchardt? You are unmuted,  
5 Dawn.

6 MS. BORCHARDT: Hi. Thank you.

7 So I'm a Salt Lake City resident, and I  
8 wanted to oppose the demolition of the theater, like  
9 everyone else. I think that Utah is known for  
10 mountains, the LDS church, and the Sundance Film  
11 Festival. And the reason why we're known for  
12 Sundance is because film is really important to our  
13 culture. Art is important. It's a part of our  
14 livelihoods; it provides inspiration for people,  
15 hope, gathering. And especially after this really  
16 difficult year, I think that we've all turned to film  
17 in one way or another to heal or escape everything  
18 that's going on around us. But these historic  
19 theaters are also a place for us to come together and  
20 experience something.

21 And I work at historic theaters across the  
22 country. I work for film festivals. And these  
23 places are hubs of theaters -- hubs of cities. These  
24 theaters are integral to the culture of these cities,  
25 and I think that it would be a really big shame to

1 get rid of it. And new theaters honestly cannot fill  
2 the void that a historic theater like this has right  
3 now.

4 And that's all.

5 CHAIRPERSON SCHEER: Thanks for your  
6 comment.

7 MS. OKTAY: Just double-checking.

8 Yes. Ryan. Ryan Sawtelle.

9 Ryan, you are unmuted.

10 MR. SAWTELLE: I'm on right now?

11 UNIDENTIFIED FEMALE: Yep. Go.

12 MS. OKTAY: Yes, sir.

13 MR. SAWTELLE: I -- through the Freedom of  
14 Information Act, I saw the email from the developer  
15 to you folks, if I'm not mistaken, suggesting that  
16 the purchase and sales agreement go through before  
17 there is any public outcry.

18 Am I allowed to ask a question? Is that  
19 correct?

20 CHAIRPERSON SCHEER: You can ask the  
21 question, and we may or may -- we'll discuss it after  
22 the public hearing.

23 MR. SAWTELLE: Okay. I suppose that's  
24 convenient because you don't have to discuss it after  
25 the public hearing. But there is an email. We did

1 access it through the Freedom of Information Act.  
2 But that seems a little shady to me. I think it  
3 would seem a little shady to others who live in this  
4 great city that that kind of dialog is being utilized  
5 between developers and the city council as opposed to  
6 the fact that it should be all open without such  
7 barriers for the people to understand what's  
8 happening. It would only lead me to believe that  
9 things are a little bit nefarious going on than they  
10 should be.

11 I don't know if you guys are concerned  
12 about liability. I don't know if there is any  
13 liability going on there that the taxpayers would end  
14 up having to pay for due to lawsuits and such things  
15 because of the way that this was handled. If it's  
16 going to be handled like that, do you think it should  
17 be handled in a better way? More -- you know, in a  
18 more public forum than it is being -- or than it was  
19 going down at the time of that email?

20 I don't know if I have anything more to  
21 say, but I think it's something that's -- should  
22 definitely be touched upon and thought about before  
23 moving forward here.

24 CHAIRPERSON SCHEER: Thank you.

25 MR. SAWTELLE: Yeah. Thank you.

1 MS. OKTAY: Just looking through the names  
2 in case another hand has come up.

3 CHAIRPERSON SCHEER: It might help us to  
4 move forward if those of you who have already spoken  
5 can hit the little hand button again and --

6 MS. OKTAY: Yes.

7 CHAIRPERSON SCHEER: -- take your hand  
8 off.

9 Thank you. That helps a lot. Okay.

10 MS. OKTAY: We have everyone, Madam Chair.

11 CHAIRPERSON SCHEER: Did we hear from  
12 Peter Moosman?

13 MS. OKTAY: Yes.

14 CHAIRPERSON SCHEER: Okay.

15 MS. OKTAY: I'm keeping a list to make  
16 sure.

17 CHAIRPERSON SCHEER: All right. Thank  
18 you, all.

19 MS. OKTAY: That's it.

20 CHAIRPERSON SCHEER: Thank you for doing  
21 that, everybody. And thank you for all of your  
22 comments.

23 And hearing no more comments, I am going  
24 to go ahead and close the public meeting and bring it  
25 back to the planning commission for discussion.

1 MR. BAIRD: Raise your hand.

2 MR. HARRIS: Madam Chair, may we have the  
3 opportunity to speak?

4 CHAIRPERSON SCHEER: I have three or four  
5 specific questions for you, but I think that -- let's  
6 see what the planning commission also -- if they have  
7 questions for you as well. Hang on. Hang on just --  
8 maybe. Yes. Probably.

9 Commissioners, what say you?

10 Okay. I have --

11 COMMISSIONER PARADES: I think in --

12 CHAIRPERSON SCHEER: Oh, go ahead.

13 COMMISSIONER PARADES: Oh, sorry. I was  
14 just saying I think in -- in my view, I think your  
15 three questions that you have should suffice.

16 CHAIRPERSON SCHEER: Okay. So I have a  
17 question. The first question I have is related to  
18 some comments that insist that the Hines company has  
19 incredible skills and could probably consider  
20 incorporating the theater into the building. Do you  
21 want to speak to that issue?

22 MR. BAIRD: Madam Chair, my name is Bruce  
23 Baird. I'm counsel -- cocounsel for the project.  
24 The simple answer to that is Hines has evaluated the  
25 costs of the alternative, the restoration, which,

1 frankly, isn't an issue, as you yourself pointed out  
2 tonight. But Hines has evaluated the cost of  
3 building over, around, and through the facility, and  
4 it simply is uneconomic. This facility hasn't been  
5 used in nearly 30 years. It's in horrible condition.  
6 It would cost a literal fortune to restore.

7 On the other hand, Hines is planning on  
8 preserving some of the elements, as much as they can.  
9 The skylight, for example, anything that is  
10 salvageable, Hines intends to use as a design  
11 element.

12 But in terms of doing the -- building and  
13 preserving it and building it over it sort of like  
14 Grand Central Station in New York, it simply doesn't  
15 work economically; it doesn't work from an  
16 engineering standpoint; it doesn't work from a  
17 logistics standpoint; it work from a parking  
18 standpoint; it doesn't work from an amenitization  
19 standpoint; and it doesn't work from the RDA  
20 agreement standpoint.

21 CHAIRPERSON SCHEER: Can you clarify that  
22 last statement?

23 MR. BAIRD: Well, the RDA agreement  
24 doesn't contemplate that, and the RDA details what's  
25 going to be in it in the 2018 report from the RDA.

1 So it's not -- it's just not functional. 2018, '19  
2 report.

3 CHAIRPERSON SCHEER: Okay.

4 MR. BAIRD: And -- go ahead.

5 CHAIRPERSON SCHEER: So the -- have you  
6 seen the proposal that is called "Save the Pantages"  
7 that has a building built on top of it?

8 MR. BAIRD: Yes. We've, of course, seen  
9 it. It's -- in the real world, it's what I would  
10 call Fantasy Land. Hines has, of course, looked at  
11 it. It's very easy to throw pictures on screen, but  
12 until you do the engineering and the costing, it  
13 won't work.

14 If you simply look at the numbers, even  
15 the numbers that I've seen on the so-called  
16 trespassing documentary today, some \$59 million, for  
17 example, for the facility in Philadelphia, if I  
18 recall correctly.

19 Money simply doesn't fall out of skies to  
20 build \$59 million worth of units like this. The  
21 project is not -- contrary to representations  
22 earlier, the project is not, at the moment, planning  
23 on -- it's not pro forma based off of TIF. I mean,  
24 there may be TIF later, but it's not pro forma based  
25 off of that.



1                   So there is -- the design simply doesn't  
2     function in the real world for economic sense.

3                   And, again, I don't -- you know, I -- as I  
4     was listening to the comments and reviewing the  
5     hundreds of comments in the staff report, I kept  
6     attachment E to the staff report next to me, which  
7     was the design standards, and the only thing I heard  
8     was -- and read was about three comments related to  
9     the design standards. Two people didn't like the  
10    pedestrian view impact, one called it a monstrosity,  
11    one called it an atrocity. Two people said it was  
12    just too tall. But it's not the tallest building in  
13    the area and not the tallest building that's going to  
14    be built in the near future.

15                  So I did not hear any of -- any comments,  
16    essentially, at all detailing any basis under the  
17    design review standards.

18                  And by the way, I think your staff did  
19    an -- the city planning staff did a phenomenal job on  
20    the detail analysis of 21A59050, and I heard  
21    absolutely no comments that contradicted that.

22                  Of the 30 comments -- and I took detailed  
23    notes -- 27 of them were save the Pantages, and  
24    that's it.

25                  CHAIRPERSON SCHEER: Thank you, Mr. Baird.

1 I have one more question. And that is:  
2 There were a number of comments that referenced the  
3 pedestrian feel or the liveliness of Main Street, and  
4 I would ask you to address how you think this  
5 building contributes to that.

6 MR. BAIRD: Well, first, I think you can  
7 take a look at the buildings that are similar to it  
8 in the nearby area. You've got the Wells Fargo  
9 Tower, you've got 222, you've got 111. You have all  
10 of those buildings, and this building is very  
11 analogous to the street flow of those buildings.  
12 It's been designed sensitively for that. It has the  
13 mid-block walkway, which gives an additional  
14 pedestrian-level feel. It will have public art at  
15 that location. It will do everything to replicate  
16 those buildings.

17 Now, those uses that are in there  
18 currently, the small stores, they are operating,  
19 essentially, is my understanding, at zero rent under  
20 the RDA. So at market rent, which somebody would  
21 have to charge even without restoring the building,  
22 those little businesses would not succeed unless  
23 heavily subsidized, and there is just simply no  
24 subsidy available for them. It's simply not going to  
25 function.

1                   And this building does add -- it does add  
2 people on the street. And I think we all know that  
3 the key to a lively downtown is to have feet on the  
4 ground. This building will allow -- we can all  
5 notice the difference over the last ten years of how  
6 Main Street feels differently with the apartments and  
7 the other buildings nearby. Main Street is alive  
8 now, and it's alive because of businesses and  
9 residences in the nearby area that make it feel alive  
10 and make it feel like a downtown. And you're not  
11 going to restore this theater where it's located.

12                   The interesting part is, is that the stage  
13 part of this theater is set, as you know, several  
14 hundred feet off of Main Street. So there really  
15 isn't any Main Street feel for the Utah Theatre  
16 itself. All we're talking about here is potentially  
17 four small businesses that won't be able to stay  
18 there no matter what happens in this situation, and  
19 they will be replaced with the street feel of the new  
20 commercial and the new improvements, as we've talked  
21 about, that parallel the other buildings that are  
22 already on the street.

23                   CHAIRPERSON SCHEER: All right. One of  
24 the conditions in the -- is to look at the master  
25 plan. And the master plan acts -- contemplates

1 repurposing the theater. How do you respond to that  
2 particular objection that the public raised?

3 MR. BAIRD: Well, actually, it doesn't --  
4 it doesn't actually contemplate that. It  
5 contemplates that as a possibility. And the staff  
6 report, on page -- I'm trying to find out what -- I'm  
7 trying to grab which page it is in the staff  
8 report -- specifically addresses that, and I think  
9 the staff report does a very good job of it.

10 It says, you know, you're considering  
11 reactivating. Well, you can consider it all you  
12 want, but if it doesn't work --

13 I'm sorry. It was just handed to me.  
14 It's on page 9 of the staff report, consideration  
15 number 2. It talks specifically about that,  
16 repurpose the Utah Theatre as a cultural facility,  
17 and it --

18 Do you have page 9? Let me -- it's --  
19 yeah, it's 10. Thank you. I got 9.

20 The -- it specifically discusses it, and  
21 it says the RDA's review -- well, the -- anyway. The  
22 inclusion of historic elements in the project can be  
23 seen as partially being the repurpose.

24 But the nice part about a general plan is  
25 it's an advisory document. It's not a mandatory

1 document. It's a guide, and it's an only guide to  
2 what is possible. And what's possible here simply  
3 does not include restoring the Utah Theatre under any  
4 economic theory.

5 That theater has sat, essentially, open  
6 since -- 1988 was the last film, I believe, that was  
7 shown there. '88 or '89. There was apparently a  
8 small performance there in '92. Which means  
9 nearly 30 years, some of the best minds in the state  
10 have tried to figure out a way to refurbish this  
11 theater and save it, and no one has succeeded  
12 in 30 years.

13 There is sort of a rule of life that when  
14 you -- when you're hitting your head against the wall  
15 and it hurts, stop hitting your head against the  
16 wall. Which leads me to -- I do want to make one  
17 point in regards to that.

18 There were a number of slanderous and  
19 defamatory allegations on the Utah save the Pantages  
20 website. You've heard three or four of them tonight:  
21 Corruption, dirty money, et cetera. I need to  
22 vehemently rebut that on behalf of Hines. I need to  
23 rebut it on behalf of the city's excellent staff, the  
24 city's RDA. I think it is insulting to the  
25 professionalism of the city's staff, the RDA, the

1 city council, the city council sitting as the RDA,  
2 and a developer with the international reputation of  
3 Hines for clean, quality projects. To accuse these  
4 people of criminality is simply beyond the pale and  
5 should not be tolerated. And I need to say that --

6 CHAIRPERSON SCHEER: All right. Thank  
7 you. Thank you, Mr. Baird. All right. Thank you.

8 MR. BAIRD: Thank you.

9 MS. OKTAY: Madam Chair?

10 CHAIRPERSON SCHEER: Yes.

11 MS. OKTAY: The applicant had asked to  
12 speak as well to respond to the public comments. And  
13 generally, we would allow the applicant to do so.

14 MR. HARRIS: Thank you. I just --

15 CHAIRPERSON SCHEER: No. We just heard  
16 from them. Sorry. That is -- that was the --

17 MR. NIELSON: Madam Chair, you just --

18 MS. OKTAY: But --

19 MR. NIELSON: -- you just asked -- you  
20 just asked the applicant questions, and they  
21 responded. They are entitled to an opportunity to  
22 respond to --

23 CHAIRPERSON SCHEER: Actually, they are  
24 not entitled to --

25 MR. NIELSON: They are.

1 CHAIRPERSON SCHEER: -- as a matter of  
2 fact.

3 MR. NIELSON: Under -- yes, under -- they  
4 are.

5 MR. BAIRD: That's all right.

6 MR. HARRIS: Madam Chair, we're good. I'd  
7 defer to Bruce. We're fine.

8 MR. BAIRD: We're good, Madam Chair.

9 CHAIRPERSON SCHEER: Thank you.

10 MS. OKTAY: Okay. Just wanted to make  
11 sure.

12 MR. BAIRD: Thank you very much,  
13 Michaela --

14 MR. HARRIS: Thank you.

15 MR. BAIRD: -- and Paul.

16 CHAIRPERSON SCHEER: Okay. Planning  
17 commission, what say you?

18 COMMISSIONER URQUHART: Just to start this  
19 off, I think -- I'm excited about what they have  
20 going in there. Right literally outside my window, I  
21 see this property. I live half a block away. I walk  
22 by it every day.

23 I know everybody is excited -- they're --  
24 you know, someone has been telling them they can  
25 restore this Pantages. That has been empty, and it

1 is an eyesore, and it is dangerous, and I want it --  
2 I'm so excited to have another big building in our  
3 downtown. It is -- the vibrancy, the excitement that  
4 we're seeing with more people on the streets, more  
5 people walking, more bars opening up, more  
6 restaurants, this -- I'm just so excited.

7 So as a neighbor, I'm saying hallelujah.  
8 I'm so glad the RDA is finally moving on this and  
9 that we have a great design. That's my opinion.

10 CHAIRPERSON SCHEER: Anyone else?

11 COMMISSIONER LEE: Yeah. I just wanted to  
12 mention, you know, I appreciate everyone's comments,  
13 and I have empathy for wanting to save something, but  
14 when it's so far gone and has had so many people  
15 thinking about it, you know, at some point, we do  
16 have to move forward.

17 And just to clarify, if we voted no on  
18 this, it doesn't change anything. The demolition  
19 would still happen. This isn't -- this isn't an  
20 issue of the demo. This is an issue about the design  
21 and about certain aspects of the building. It has  
22 nothing to do with -- we have no control over the  
23 demo over the building. I just wanted to make that  
24 clear for everyone that commented.

25 And, again, I appreciate everyone's



1 thoughtfulfulness on this, but that's not in our scope  
2 to be able to stop the demolition of the project.

3 COMMISSIONER BELL: Brenda, can I ask them  
4 one question --

5 CHAIRPERSON SCHEER: Sure.

6 COMMISSIONER BELL: -- about the --

7 CHAIRPERSON SCHEER: Of course.

8 COMMISSIONER BELL: -- (inaudible) space  
9 and --

10 CHAIRPERSON SCHEER: Of course.

11 COMMISSIONER BELL: -- the mid-block  
12 walkway?

13 Can you guys walk us through how someone  
14 from Main Street will get to this park that's on top  
15 of the parking garage and what you are doing to kind  
16 of activate this partial mid-block walkway when there  
17 is no retail or other draw to bring people down  
18 there?

19 MR. HARRIS: Yeah, I'm happy to do that.

20 So, first of all, there is retail along  
21 Main Street. And that will be, I think as David  
22 mentioned, on the southern part of the lobby  
23 entrance. And then the mid-block walkway connects  
24 with Regent Street across Main Street. So from -- if  
25 you are standing at the corner of Regent Street, you

1 would be able to see across Main into the open space.  
2 And the intention is to put public art at the top of  
3 the open space to give the signal for people -- the  
4 entire public to be able to walk up these stairs or  
5 take the elevator up and walk across a bridge back to  
6 the park, the open space.

7 So one of the decisions that we made  
8 that -- in the design process was to provide an  
9 accessible way to get to the park. You could either  
10 tuck the elevator back by the parking structure or  
11 you could bring it out to Main Street.

12 And so as you see the pink lit -- and this  
13 is not going to be pink, by the way. The architect  
14 created that to draw attention to it. But the idea  
15 is to bring the elevator out to Main Street to make  
16 it most accessible for all. They could take an  
17 elevator up to the bridge, and it will take them --  
18 they can then, you know, access the open space.

19 And if you walk up the stairs, you'll walk  
20 up seeing a mural along the side with, you know,  
21 really fantastic landscaping. It will be very  
22 activated. And, you know, the intention is to make a  
23 place for all to go and enjoy.

24 COMMISSIONER BELL: So do you intend to  
25 program that space? Or is it a passive space? Or

1 have you decided? I mean --

2 MR. HARRIS: No. The intention is --

3 COMMISSIONER BELL: -- will you be holding  
4 events and the like that would actually encourage  
5 people to wander back there, that would be  
6 advertised? Or how do you see this working?

7 MR. HARRIS: Yes. I'm having some  
8 Internet connections, it looks like. Can you hear me  
9 okay?

10 CHAIRPERSON SCHEER: Yes, we can.

11 COMMISSIONER BELL: Yes.

12 MR. HARRIS: Okay. Okay. Yeah. So the  
13 intention is to activate it. If -- in the staff  
14 report -- I know it was a very thorough staff report  
15 from David, and it's a lot of paper, but you'll see  
16 in there that what we submitted was some precedent  
17 photos of ways that we intend to activate the space.  
18 You'll see yoga; you'll see outdoor film; you'll see,  
19 you know, families playing soccer or sports; you'll  
20 see --

21 CHAIRPERSON SCHEER: Yeah. But that's for  
22 the park itself, though, right? I think that  
23 Adrienne was asking about the passageway.

24 MR. HARRIS: The passage--

25 COMMISSIONER BELL: Actually, both.

1 CHAIRPERSON SCHEER: Oh, I'm sorry. Okay.

2 COMMISSIONER BELL: I mean, yeah, I think  
3 both. I mean, the passageway, to me, seems like it's  
4 really just to get to that space. There is not  
5 much -- I mean, unless you are wandering off Main  
6 Street and want to sit in the shade for a little bit.  
7 But there is not much programming going on there, it  
8 seems to me. It's a connection to this park that's  
9 tucked away that wouldn't be visible otherwise.

10 MR. HARRIS: Yeah. So I think, you know,  
11 the requirement for us and what we agreed to is to  
12 provide this mid-block walkway, but what we think we  
13 have provided is something better than that with the  
14 public art and the landscaping. And then we can  
15 envision -- like, you may see at the Harbor Steps in  
16 Seattle or other great, you know -- there is other  
17 outdoor spaces in major cities where you might have  
18 an outdoor music performance. There would be, you  
19 know, potentially programming on those steps itself  
20 that could activate it, but those are things that  
21 we're going to think through more deeply as we  
22 continue on through the design of this project.

23 COMMISSIONER BELL: Okay. Thank you. I  
24 appreciate that.

25 MR. HARRIS: Yeah. Hopefully that was

1 clear. I would like to maybe just clarify. The  
2 intention here is for the public to enjoy it. This  
3 is not something specific for our residents. This is  
4 something for the public to enjoy.

5 CHAIRPERSON SCHEER: Okay. Commissioners?  
6 Anybody else have comments about this project?

7 I have to tell you, I'm a little bit  
8 uncomfortable with the actual facade of the project  
9 because -- the front facade of the project, because I  
10 think it's very cold compared to the kind of --  
11 especially compared to the 19th century fabric that  
12 we are contemplating -- that part of the Kearns  
13 Building, for example, or part of even the rhythm of  
14 the (inaudible) that's there now or the rhythm of the  
15 things across the street from it on Main Street. It  
16 is kind of, you know -- I don't know what the best  
17 thing to say is, but it's really not a kind of --  
18 it's -- and Bruce was talking about 222 and others  
19 like it. And that's true, but 222 is also very cold.

20 And so when I think about a lively  
21 pedestrian atmosphere, I don't think of something  
22 that's -- that's got a -- that's so -- kind of so  
23 slick, so to speak. So that's, you know, my sense of  
24 this.

25 Any others? Commissioners?

1 COMMISSIONER URQUHART: I actually want to  
2 ask a follow-up question to Dusty. What -- I know  
3 you're putting -- because -- and this relates to what  
4 you're saying, Brenda.

5 222 is very stark until they put in The  
6 Daily.

7 CHAIRPERSON SCHEER: Yes.

8 COMMISSIONER URQUHART: And then it  
9 becomes this hub. So it matters how -- not just how  
10 pedestrians can walk by but how they are actually  
11 interacting with the building.

12 So tell me a little bit more about, are  
13 we -- I can't -- and I couldn't tell specifically.  
14 Are we losing the BeerHive? Are we losing Murphy's?  
15 And if we are, what is -- what are your plans for  
16 some of those interactions on street level?

17 I know you don't have contracts. I know  
18 it's all -- you know, you're thinking about it at  
19 this point, but I'd like to know what some of that  
20 feels like.

21 MR. HARRIS: Yeah, I appreciate it. And  
22 you mentioned the BeerHive. That's one of our  
23 tenants at the Kearns Building. And so we will take  
24 some credit for that. We obviously don't operate the  
25 bar, and Dale has done a very good job. We're very

1 proud of that, though.

2 And we would envision, you know, activated  
3 streets like what we've done our best to create at  
4 the Kearns Building. We're currently working on  
5 marketing the vacant space at Kearns for additional  
6 restaurants and doing our best to do that. Through  
7 the pandemic, that was pretty hard, given, you know,  
8 the bar and the restaurant issues. But we've got, I  
9 think, the best brokers in town working with us to  
10 try to find new restaurants for the Kearns Building.

11 And it's the same idea. We want the  
12 ground plan of this building to be as activated as  
13 possible. We're bringing these residential units not  
14 only to help a housing problem, but to activate Main  
15 Street. We want people there. We're going to create  
16 something that people want to utilize. And that is  
17 absolutely the intent.

18 And I -- you know, we've talked about some  
19 of the other buildings in town and compared to those,  
20 but I actually think what we've designed is going to  
21 be much better because you have the ability to turn  
22 the corner -- you can go from the restaurant, turn  
23 the corner past the lobby, which will be lit and  
24 activated, and up this -- you know, this walkway back  
25 to an open space. What other building has -- can say

1 that?

2 And part of the reason we talked and have  
3 proposed the park is because we looked at data about  
4 park space in Salt Lake City compared to other major  
5 cities, and the data shows that Salt Lake City  
6 actually has about 47 percent less park space than  
7 the average major city. And so we want to -- we  
8 wanted to provide something that people could utilize  
9 that others -- people in other cities enjoy.

10 CHAIRPERSON SCHEER: Okay.

11 VICE CHAIRPERSON BARRY: I don't actually  
12 think that Dusty -- well, for me -- didn't answer her  
13 question about the BeerHive part. Were you planning  
14 on taking that down or keeping that up?

15 MR. HARRIS: No. As long as the BeerHive  
16 is doing well and they want to be there, we want them  
17 there.

18 MR. BAIRD: We're going there right after  
19 this.

20 COMMISSIONER URQUHART: And what about  
21 specifically Murphy's? Is that -- do we lose  
22 Murphy's?

23 MR. HARRIS: Murphy's would be lost  
24 through this.

25 COMMISSIONER URQUHART: Okay. But you



1 are -- but your answer was you're putting in more  
2 spots for bars and restaurants, and so maybe it's  
3 replaced?

4 MR. HARRIS: That's right.

5 COMMISSIONER URQUHART: Okay. Thanks.

6 MR. HARRIS: Yes. Yes.

7 VICE CHAIRPERSON BARRY: I want you to  
8 know that I have a pencil drawing of that building  
9 with the BeerHive -- the BeerHive building that  
10 is 60 years old hanging in my living room right  
11 now --

12 MR. HARRIS: Wow.

13 VICE CHAIRPERSON BARRY: -- that I  
14 pilfered from my mother. So that building is, you  
15 know, obviously, like, a little dear to me. So I  
16 wanted to know that.

17 MR. HARRIS: Okay.

18 VICE CHAIRPERSON BARRY: I have a  
19 question. So one of the comments was about  
20 incorporating the design into your new building. And  
21 not the -- not like the skylight or things like that.  
22 I personally think what's there now in the facade is  
23 pretty horrible compared to what it was originally.

24 So if we look at some of the historic  
25 photos, it had that really nice arched entranceway

1 into the theater. I think the only thing from the  
2 facade that still exists are the window placements  
3 from what's been done to it now.

4 But have you thought about drawing back on  
5 the original facade of the Pantages Theater to maybe  
6 pull in some of those architectural elements that  
7 actually speak to a -- being a theater that you can  
8 find in the historic photos that could be  
9 incorporated at the street level for the pedestrian  
10 into your design to kind of harken back to, you know,  
11 wanting to give some credit to what was there?

12 What's there now, architecturally, is not  
13 anything great, but certainly, historically, it had  
14 some beautiful elements that could be a really  
15 good -- a good addition to your project, I think.  
16 Have you thought about that?

17 MR. HARRIS: Yeah, we have thought a lot  
18 about it, and I think the debate ended with the idea  
19 that trying to recreate something that is not  
20 authentic is not ultimately a winning idea.

21 VICE CHAIRPERSON BARRY: Yeah.

22 MR. HARRIS: So we didn't want to try and  
23 miss and have a Disneyland-like effect on Main  
24 Street. We thought that was ultimately going to be a  
25 bad idea.

1                   Having said that --

2                   VICE CHAIRPERSON BARRY: I just -- I just  
3           wanted to say I think there is a disconnect between  
4           what I hear from, like, architectural communities of  
5           that feels phony and fake and then the rest of us who  
6           see it as something that's really interesting and  
7           draws us in.

8                   So I always feel there is just two  
9           different worlds happening of you guys and how you  
10          talk and then how the rest of the public views it.  
11          We're never meeting because it's not -- it's not  
12          phony or inauthentic to me. To me, it is honoring  
13          some of the architectural richness that we had, and  
14          it's not about you trying to be phony about it but to  
15          try to honor that heritage.

16                  So I just -- whenever I hear that now, I  
17          think we are just talking in two different languages  
18          almost.

19                  MR. HARRIS: Yeah. I can respect that,  
20          and I've felt that way in meetings with architects  
21          too. And so I apologize if I made you feel that way  
22          with my answer. That really was not my intention.

23                  I would say the current --

24                  VICE CHAIRPERSON BARRY: Oh, no. I'm not  
25          offended. Please don't apologize. I just wanted to

1 throw that out there. You're fine.

2 CHAIRPERSON SCHEER: All right. Thank  
3 you.

4 MR. HARRIS: Well, I like --

5 CHAIRPERSON SCHEER: Thank you.

6 MR. HARRIS: I like what you said, and I  
7 think at the Kearns Building, just to point out, we  
8 did reopen the original openings to that building  
9 around the back, around the west side, and along the  
10 north walkway.

11 So I think we actually agree with what you  
12 are saying if it can done within the envelope of  
13 what's there now. Trying to recreate it, we are  
14 concerned that it would be less than authentic and  
15 then may miss.

16 CHAIRPERSON SCHEER: Okay. Commissioners,  
17 any other questions or comments? Comments in  
18 particular? Or is there a motion potential here at  
19 any time?

20 COMMISSIONER URQUHART: I'm willing to  
21 make a motion if everyone is done with their  
22 comments.

23 CHAIRPERSON SCHEER: I don't hear anybody  
24 speaking.

25 COMMISSIONER URQUHART: Okay. Based on

1 the findings and analysis in the staff report,  
2 testimony, and discussion at the public hearing, I  
3 move that the planning commission vote to approve the  
4 design review/application for additional building  
5 height for the 150 South Main Street apartments  
6 located at approximately 136, 144, and 156 South Main  
7 Street, file PLNPCM2021-00024, with the conditions --  
8 the following conditions delegated to staff -- or I'm  
9 going to say it this way: With the conditions listed  
10 delegated to staff for verification during the  
11 building permit review.

12 CHAIRPERSON SCHEER: Okay.

13 COMMISSIONER URQUHART: Numbers 1  
14 through 4.

15 CHAIRPERSON SCHEER: Thank you.

16 I have a motion from Sara. Do I have a  
17 second?

18 COMMISSIONER LEE: I'll second.

19 CHAIRPERSON SCHEER: I have a motion from  
20 Sara and a second from John. So we'll go down the  
21 list.

22 Maurine?

23 COMMISSIONER BACHMAN: Yes.

24 CHAIRPERSON SCHEER: Amy?

25 VICE CHAIRPERSON BARRY: So I think, you

1 know, with the given height increase, I think we  
2 could have done more at the ground level to engage  
3 the pedestrian and kind of draw on the history, so  
4 I'm going to vote no for that reason.

5 CHAIRPERSON SCHEER: Thank you.  
6 John?

7 COMMISSIONER LEE: Yes.

8 CHAIRPERSON SCHEER: Adrienne?

9 COMMISSIONER BELL: While I'm completely  
10 sympathetic to the preservation arguments that were  
11 raised, I also know what's in our purview, so I will  
12 vote yes.

13 CHAIRPERSON SCHEER: Andres?

14 COMMISSIONER PARADES: I will vote yes,  
15 but I do want to address as well the public comments.  
16 I think they do raise some really good points, and  
17 hopefully, with -- you know, with this meeting coming  
18 to an end, we'll be able to kind of look towards the  
19 next step.

20 I also am a very big fan of things that  
21 are antique and things that have a value due to time,  
22 but, again, this is -- there are limits in what we  
23 do. So, yes.

24 CHAIRPERSON SCHEER: Thank you.  
25 Sara?

1 COMMISSIONER URQUHART: I'm voting yes,  
2 but I'd also like to say I am also sympathetic. I  
3 know it's super hard to watch a building that feels  
4 like it's old and historic and beautiful go down.  
5 But we are balancing -- no, we're not. Other people  
6 are having to make the decisions to balance: Is it  
7 worth keeping? Is there any way to restore it?

8 And I have been watching this building for  
9 over a decade now, and I just don't know how it would  
10 ever happen. So I'd rather see something really  
11 beautiful and really used. So I'm voting yes.

12 CHAIRPERSON SCHEER: Thank you, Sara.  
13 Carolyn?

14 COMMISSIONER HOSKINS: Agree. Yes.

15 CHAIRPERSON SCHEER: Thank you.

16 So the motion passes six to one.

17 And I do also want to thank everyone who  
18 commented. It's very important that we do hear. I  
19 think it's important that these kinds of public  
20 comments continue. We all -- we wish we could save  
21 some of this heritage that we have, but that is not,  
22 also, the thing that we are voting on here tonight.

23 So thank you all very much for coming.

24 And I believe --

25 Unless we have other business?

1     Okay.   Then we are adjourned.

2     VICE CHAIRPERSON BARRY:   Thank you.

3     (Audio recording concluded.)

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REPORTER'S CERTIFICATE

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

I, Lindsay Payeur, Registered Professional  
Reporter, do hereby certify:

That on September 27, 2021, I transcribed  
an electronic recording at the request of Danielle  
Elwood;

That the testimony of all speakers was  
reported by me in stenotype and thereafter  
transcribed, and that a full, true, and correct  
transcription of said testimony is set forth in the  
preceding pages, according to my ability to hear and  
understand the tape provided;

I further certify that I am not kin or  
otherwise associated with any of the parties to said  
cause of action, and that I am not interested in the  
outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL  
this 27th day of September 2021.

*Lindsay Payeur*

Lindsay Payeur, RPR

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**BEFORE THE SALT LAKE CITY  
APPEALS HEARING OFFICER**

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**IN RE APPEAL OF APPROVAL OF  
DESIGN REVIEW APPLICATION  
PLNPCM2021-00024**

**[PROPOSED] FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

Appeal No.: PLNAPP2021-00776

Hearing Officer: Matthew Wirthlin

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This matter is before the Salt Lake City Appeals Hearing Officer (“**Hearing Officer**”) on an Appeal (“**Appeal**”) filed by Emilee Gorham on behalf of various appellants (“**Appellants**”). The Appeal seeks to overturn the Salt Lake City Planning Commission’s (“**Planning Commission**”) decision (“**Decision**”) approving Design Review Application No. PLNPCM2021-0024 (“**Application**”) filed by Dwell Design Studio on behalf of Hines Acquisitions, LLC (“**Hines**”).

**SUMMARY**

Appellants lack standing to challenge the Decision because they do not own real property adjacent to the Project (defined below), are not land use applicants, and have not demonstrated that they are uniquely harmed. This alone is reason enough to dismiss the Appeal without reaching the merits. Alternatively, the Decision was legally made, within the scope of the Planning Commission’s authority and supported by substantial evidence in the record. For these reasons, as more particularly discussed below, the Hearing Officer will deny the appeal and affirm the Planning Commission’s Decision.

**STANDARD OF REVIEW**

“An appeal from a decision of the . . . planning commission shall be based on the record made below. No new evidence shall be heard by the appeals hearing officer unless such evidence was improperly excluded from consideration below. “The appeals hearing office shall review the decision based upon applicable standards and shall determine correctness. 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.” City Code § 21A.16.030E.2. The Appellants bear “the burden of proving the that the land use authority erred.” Utah Code § 10-9a-705; City Code § 21A.16.030F. Finally, the Hearing Officer must “interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.” Utah Code § 10-9a-707(4)(b).

## **FINDINGS OF FACT**

### **A. Project Background**

1. Hines is a globally recognized real estate investment, development, and management firm that intends to construct a project located at 136, 144, and 158 South Main Street, Salt Lake City, Utah (the “**Project**”). The Project consists of a 400-unit high-rise apartment building and includes affordable housing, open space, a mid-block walkway, a contribution of \$1 million to historic preservation, public art installation, and 8,400 square feet of commercial space.

2. The Project will be privately owned but the open space area and mid-block walkway will be publicly accessible.

3. The Project is to be built on one parcel that is indirectly owned by Hines and two parcels that are currently owned by the Salt Lake City Redevelopment Agency (the “**RDA**”).

4. The RDA owned parcels constitute the site of the 100-year old Utah Pantages Theater (the “**Theater**”).

5. In 2019, the RDA determined that the Theater could not feasibly be restored. Thus, the RDA entered into a contract to sell it to Hines. The RDA decision to sell the Theater to Hines was never legally challenged.

6. The Project requires that the Theater be demolished (the “**Demolition**”).

7. Appellants are a group of individuals and entities that purport to be owners and employees of businesses located near the Project or residents living within six blocks of the Project.

8. Appellants do not own any real property adjacent to the Project and are not land use applicants.

9. Appellants are opposed to the Demolition and have taken various actions prior to this Appeal to preserve the Theater. For example, appellants Casey O'Brien McDonough and Michael Patton unsuccessfully attempted a citizen initiative to apply a historic overlay zone to the Theater.

## **B. The Application and Staff Report**

10. On January 11, 2021, Hines submitted its Application for the Project. Relevant here, the Application requested a building height of 392 feet and a ten-foot setback from Main Street.

11. On March 8, 2021, Salt Lake City's (the "**City**") principal planner, David Gellner, acted as the City's Zoning Administrator and deemed the Application complete, thus commencing the required public engagement period required by the Salt Lake City Code ("**City Code**").

12. A public hearing for the Application was scheduled for July 14, 2021, and prior to the July 14<sup>th</sup> hearing, the City's staff prepared a staff report (the "**Staff Report**").

13. The Staff Report recommends that the Planning Commission approve the request for additional building height. In reaching this conclusion, City Staff analyzed the Application against the City's Downtown Plan, the City's design review criteria, and the City Code. *See* Staff Report at 8–12, 103–111.

14. The Staff Report also contains Hines' renderings, plans, and designs for the Project, including, specific renderings addressing the City's design review criteria. *See* Staff Report at 35–54, 56–57. And a narrative of how the Project complied with the City's design review standards. *See* Staff Report at 97–103.

15. Prior to the public hearing, the City received over eighty (80) written public comments which were included in the Staff Report. *See* Staff Report at 113–219.

### C. The Planning Commission Hearing

16. Pursuant to City Code Section 21A.59.020, the Planning Commission held a public hearing for the Application on July 14, 2021.

17. At the public hearing David Gellner, a Senior Planner for the City, presented the Staff Report to the Planning Commission and addressed the Planning Commission's questions. *See, e.g.*, Transcript at p. 7–8. ll 22–25, 1–6.

18. Hines also presented to the Planning Commission how the Project complied with the design review criteria and would benefit the City. *See, e.g.*, Transcript at p. 68–69. ll 23–25, 1–23. In doing so, Hines responded to the Planning Commission's questions and concerns. *See, e.g.*, Transcript at p. 74. ll 11–25.

19. The Planning Commission allowed the public to comment on the Project.

20. At the outset of the public comment portion of the Planning Commission hearing the Chairperson stated that the scope of the hearing was limited to the height and setback issues and not the Demolition:

I know there are many people who wish to speak, and I'm certainly going to allow everyone to speak who wants to speak, but to let you know that the commission's purview is limited to discussing whether or not the design review of this project has been correctly assessed by the planning staff and also in -- and whether or not the applicant's ideas about the setbacks and so forth are something we can accept.<sup>1</sup>

21. Despite this charge no public comments directly addressed the Project's height or setbacks in light of the City's design review criteria. Indeed, only four out of over one hundred public comments even alluded to the Project's height or setbacks.

22. Specifically, Donna Lyman stated, "I really encourage you to keep Salt Lake historic and unique rather than these skyscrapers 400 feet high." (Transcript 19. ll 21–23). Emily Bourne stated, "So this building that's been proposed by Hines is a monstrosity, and it can be built anywhere." (Transcript 33–34. ll 25, 1). Casey McDonough stated, "[t]he design of the building is just as arguable [sic] doesn't meet the design standard. The height exception is in your power to

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<sup>1</sup> Transcript at p. 9. ll 13 - 22

deny.” (Transcript 34. ll 20–22). Shane Franz’s commented: “[m]y comments are we disagree with the proposed [height and] setback. I am a systems engineer, and this building is patently out of place with the harmony and tone of surrounding buildings.” (Transcript 46. ll 15–18).

23. In response to the public’s comments, the Planning Commission asked follow-up questions to Hines. For example, the Planning Commission asked whether the Theater could be incorporated into the Project’s design (Transcript at p. 57. ll 17–21). Hines responded “Hines has evaluated the cost of building over, around, and through the [Theater] and it simply is uneconomic . . . Hines is planning on preserving some of the elements . . . the skylight, for example . . . Hines intends to use as a design element.” (Transcript at p. 58. ll 2–4, 7–11)

24. The Planning Commission carefully considered the Staff Report, the City Staff’s presentation, Hines’ presentation, the public’s comments, and voted 6-1 in favor of the Application.

25. On September 30, 2021, Appellants submitted to the City “Additional Written Materials in Support of Appeal Application PLNAPP2021-00776—Appeal of Approval of Design Review Application PLNPCM2021-00024” which included seven declarations (“**Declarations**”) of persons claiming they could not remotely access the Planning Commission hearing and four additional arguments (“**Additional Arguments**”) for overturning the Decision.

## **CONCLUSIONS OF LAW**

### **A. Appellants Lack Standing to Challenge the Decision.**

1. Only land use applicants or “adversely affected” parties have standing to appeal and administrative decision of the Planning Commission. *See* City Code § 21A.16.020; Utah Code § 10-9a-701(2). An “adversely affected party” means “a person other than a land use applicant who [ ] owns real property adjoining the subject property or will suffer damage different in kind than, or an injury distinct from, that of the general community as a result of a land use decision”. *See* Utah Code § 10-9a-103(2).



2. The Utah Supreme Court has ruled that if there are statutorily created grounds for standing then an appellant must meet these statutory standing requirements as “traditional or alternative standing cannot excuse a lack of statutory standing where the [appellant] is a statutory claimant.” *McKittrick v. Gibson*, 2021 UT 48, ¶ 48, --- P.3d ---. This is because an appellant must be “within the class of parties that the legislature has authorized to file suit” and not simply a party that can “identify some sort of ‘distinct or palpable injury’ or a basis for ‘public interest’ standing.” *Id.* (quoting *Haik v. Jones*, 2018 UT 39, ¶ 41, 427 P.3d 1155 (Lee, A.C.J., concurring in part and concurring in the judgment)).

3. The Hearing Officer concludes that Appellants lack standing because: i) they are not land use applicants; ii) do not own real property adjoining the subject property; and iii) will not suffer damage different in kind than, or distinct from, the general community as a result of a land use decision.

4. Specifically, Appellants are not the land use applicants. The only land use applicant here is Hines.

5. Appellants do not own any real property adjoining the subject property. The Hearing Office takes judicial notice from publicly available records of the Salt Lake County Recorder that all surrounding property is owned by Kearns Building Joint Venture, Utah Power & Light Co., Salt Lake County, 160 South Main, LLC, and 200 South Main Street Investors, LLC. None of which are Appellants here.

6. Appellants have never alleged or hinted at any harm or causation between the Decision and any injury, let alone any unique or distinct injury different in kind than the public.

7. Appellants do not have standing based on their status as owners or employees of nearby businesses because they have failed to explain why the Decision—dealing with building height and setbacks—would uniquely harm their (unspecified) business(es). Indeed, those Appellants that simply live or work within six blocks of the Project have no injury distinct from that of the general public.

8. Moreover, the two entity Appellants, Friends of the Utah Pantages Cinematic Theater and the Utah Pantages Cinematic Theater, LLC, are both registered to the same person (“Michael Patton”) at the same apartment more than ½ mile away from the Project (90 East 600 South). These entities make no attempt to explain what unique injury they would suffer ½ a mile away from the Project.

9. Even the “business owners operating on Main Street between 100 and 200 south” never state how they will be harmed, let alone uniquely harmed.

10. Finally, any injury claim resulting from the Demolition fails as a matter of law because the Demolition question was not before the Planning Commission and only injuries caused by the Decision can provide a basis for standing. Appellants’ lack of standing alone is sufficient to deny the Appeal without reaching the merits.

11. Alternatively, for the reasons set forth in Hines’ Memorandum in Opposition to Appellants’ Appeal, which is hereby incorporated by this reference, the Hearing Officer concludes that Appellants have failed to bear their burden of proving that the Decision was arbitrary and capricious or illegal. Appellants’ failure to bear this burden is a second, independent basis for denying the Appeal.

*[Hines’ proposes the foregoing conclusions of law, paragraphs 10 and 11, as a short-form option for the Hearing Officer to consider if the Hearing Officer does not wish to engage in the unpleasant task of responding to each of Appellants’ meritless arguments. However, as a courtesy, Hines’ proposes the following conclusions of law to respond to each of Appellants’ arguments.]*

**B. The Planning Commission May Approve Building Height through the Design Review Process.**

12. To prove that the Planning Commission’s decision was illegal, Appellants must demonstrate that it was “based on an incorrect interpretation of a land use regulation; or [is] contrary to law.” Utah Code § 10-9a-801(3)(c)(ii); *see also* City Code § 21A.16.030.E.2.c. (A Hearing Officer “shall uphold the [Planning Commission’s] decision unless it . . . violates “a law, statute, or ordinance in effect when the decision was made.”); *accord* *Carlsen v. Bd. of Adjustment*, 2021 UT App 260, ¶ 4, 287 P.3d 440.

13. Appellants' argue that the Decision violates City Code § 21A.30.010(B) and (C) because those provisions limit design review to apply only to conditional uses.

14. Appellants also argue that the Planning Commission lacks authority to waive or modify zoning ordinances. *See, e.g.* Utah Code § 10-9a-501(1).

15. After considering Appellants' arguments and the law cited therein, the Hearing Officer disagrees with Appellants' assertions and concludes that the City Code expressly authorized the Planning Commission to approve the Project's building height through the design review process.

16. Specifically, the Project is in the City's D-1 Zone. The D-1 Zone's regulations dictate both the permitted, conditional, and prohibited uses within the zone and impose special controls specific to geographical areas. *See* City Code §§ 21A.30.020B. and City Code §§ 21A.30.020C. The special control relevant here is that "[n]o building shall be more than one hundred feet (100') in height; **provided that taller buildings may be authorized through the design review process, subject to the requirements of chapter 21A.59 of this title.**" City Code § 21A.30.020F.3. (emphasis added). Further, pursuant to City Code § 21A.59.020, the Planning Commission is authorized to consider design review applications for "[a]ll projects that include a request for additional building height . . . ." Moreover, "[t]he Planning Commission may consider . . . any other design standard modifications authorized in the base zoning district . . . ." *See* City Code § 21A.59.040B.

17. Therefore, the Hearing Officer concludes that the foregoing provisions unambiguously authorized the Planning Commission to approve the Project's building height through the design review process. If any ambiguity exists as to the Planning Commission's authority, then pursuant to Utah Code § 10-9a-707(4)(b), such ambiguity must be resolved in Hines' favor.

18. The Hearing Officer is not persuaded by the Appellants' interpretation because: 1) it requires that City Code § 21A.30.010(B) and (C) be read in isolation, as opposed to a part of an overall statutory scheme; 2) it renders Sections 21A.30.020F and 21A.59.040B superfluous and

inoperative; 3) it is contrary to the plain language authorization of City Code 21A.30.020F.3.; and 4) it violates the Hearing Officer's responsibility to resolve any ambiguities in the land use applicant's favor.

19. The Hearing Officer further concludes that the Planning Commission did not unlawfully modify the zoning ordinance because the zoning ordinance itself contemplates that the Planning Commission could grant building height in excess of 100' through the design review process. The Planning Commission acted pursuant to and not in spite of this ordinance.

20. The Hearing Officer further concludes that Hines, the Planning Commission, and City staff fully complied with the design review process set forth in chapter 21A.59 of the City Code.

**C. Even if the Planning Commission Errored, Appellants Fail to Allege or Prove any Prejudice.**

21. Even if Appellants' could demonstrate a procedural error by the Planning Commission, Appellants must prove that they were prejudiced by the error. *Potter v. South Salt Lake City*, 2018 UT 21, ¶ 33, 422 P.3d 803. "[T]he challenging party must show that there is a reasonable likelihood that the legal defect in the city's process changed the outcome of the proceeding." *Id.* A party's failure to allege or establish prejudice requires the Hearing Officer to affirm the Planning Commission's decision. *Id.*

22. Appellants make no attempt to explain how they were prejudiced by any Planning Commission error. Appellants also fail to explain how any error would have changed the outcome. Thus, the Hearing Officer concludes that if the Planning Commission erred, such error was harmless.

**D. The Planning Commission's Decision was Not an Unlawful Variance.**

23. Utah Code § 10-9a-702 defines a variance as a "waiver or modification of the requirements of a land use ordinance as applied to a parcel of property . . . ." The City Code adds that a variance is intended to "provide a narrowly circumscribed means by which relief may be granted from particular applications of the [zoning title]." City Code § 21A.18.010.

24. The Hearing Officer concludes that the Decision was not an unlawful variance because it granted no waiver or modification of the City’s land use code. As previously stated, the Planning Commission has authority to authorize building height in excess of one hundred feet through the design review process. *See* City Code § 21A.30.020F. Thus, no variance was granted because the Decision was authorized pursuant to, and not in spite of Section 21A.30.020F.

**E. The Decision did Not Violate City Code Sections 21A.030.020 and 21A.030.020.**

25. For substantially the same reasons as previously discussed, the Hearing Officer concludes that the Decision did not violate City Code § 21A.030.020.

26. City Code § 21A.030.020(G) states in relevant part that buildings in the City’s Main Street Retail Core must “provide uses consisting of retail goods establishments, retail service establishments or restaurants, public service portions of businesses, department stores, art galleries, motion picture theaters, *or* performing arts facilities.” The Hearing Officer concludes that the Project complies with Section 21A.030.020(G) because it contains 8,400 square feet of commercial space for purposes consistent with those listed in Section 21A.030.020(G).

**F. The Decision Did Not Violate the Federal or State Constitutions.**

27. The Utah Constitution provides that “[a]ll laws of general nature shall have uniform operation.” UTAH CONST. art. I, § 24. Similarly, the Fourteenth Amendment to the United States Constitution prohibits a state from enacting laws that deny “any person within its jurisdiction equal protection of the laws.” U.S. CONST. amend. XIV, § 1. To establish a violation of these provisions, Appellants must satisfy a three-part test: “(1) whether the statute creates any classifications; (2) whether the classifications impose any disparate treatment on persons similarly situated; and (3) if there is disparate treatment, whether the legislature had any reasonable objective that warrants the disparity.” *Count My Vote, Inc. v. Cox*, 2019 UT 60, ¶ 29, 452 P.3d 1109 (citation omitted).

28. Appellants have failed to analyze the Decision under the *Count My Vote* framework and the Hearing Officer is not required to develop Appellants’ arguments for them. *See Ramos v.*

*Cobblestone Centre*, 2020 UT 55, ¶ 49, 472 P.3d 910 (“[Appellants’] failure to provide relevant case law and to develop an argument based on that law leaves us with the task of developing the contours of these important constitutional arguments. We decline to do so.”). As such, the Hearing Officer concludes that Appellants’ constitutional claims fail as a matter of law.

**G. The Planning Commission was Not Bound by the City’s Master Plan.**

29. Only publicly owned uses and publicly and privately owned utilities must strictly conform to a municipalities’ master plan. *See* Utah Code § 10-9a-406. For privately owned uses, a municipalities’ “general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.” Utah Code § 10-9a-405. City Code § 21A.02.050 similarly states that the City’s master plan “shall serve as an advisory guide for land use decisions.”

30. The entire Project is privately owned and, therefore, the Planning Commission is not strictly bound by the City’s master plan. Nevertheless, the Planning Commission appropriately balanced various aspirational provisions of the Master Plan to reach its conclusion, and the Hearing Officer is not authorized to substitute its judgment for that of the Planning Commission. Therefore, the Hearing Officer Concludes that the Planning Commission’s decision did not violate the City’s master plan.

**H. Appellants’ Arbitrary and Capricious Arguments Fail Because They Failed to Marshal the Evidence.**

31. A land use decision is arbitrary and capricious only if it is not “supported by substantial evidence in the record.” *Fox v. Park City*, 2008 UT 85, ¶ 11, 200 P.3d 182, (quoting Utah Code Ann. § 10-9a-801(3)(c)); *Staker*, 2020 UT App 174, ¶ 24. “Substantial evidence is ‘that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion.’” *Fuller v. Springville City*, 2015 UT App 177, ¶ 17, 355 P.3d 1063 (quoting *Bradley v. Payson City Corp.*, 2003 UT 16, ¶ 15, 70 P.3d 47).

32. When challenging a land use decision, “[i]t is incumbent upon the party challenging the . . . decision to marshal all of the evidence in support thereof and show that despite the supporting facts, and in light of conflicting or contradictory evidence, the . . . decision [is] not

supported by substantial evidence.” *Carlsen v. Bd. of Adjustment*, 2012 UT App 260, ¶ 5, 287 P.3d 440 (first and third alterations in original) (quotation marks omitted); *Farley v. Utah Cty.*, 2019 UT App 45, ¶ 22, 440 P.3d 856. A challenging party’s failure to marshal the evidence is fatal to the challenging party’s case. *See Farley*, 2019 UT App 45, ¶ 23.

33. Appellants make no attempt to marshal the evidence supporting the Planning Commission Decision. Thus, Appellants’ have failed to carry their burden of proving the Decision was arbitrary and capricious. *See Carlsen*, 2012 UT App 260, ¶ 7.

**I. The Decision was Not Arbitrary and Capricious because It was Supported by Substantial Evidence in the Record.**

34. The Planning Commission was tasked with determining whether the Application complied with certain design standards in the City Code. The relevant standard in the City Code is that “[b]uilding height shall be modified to relate to human scale and minimize negative impacts.” City Code § 21A.59.050G. Building height relates to human scale and minimizes negative impact by utilizing stepbacks to design buildings in relation to adjacent buildings, creating distinct base, middle, and top sections, or minimizing a building’s shadow impact. *See* City Code § 21A.59.050G.1. and 21A.59.050G.2.

35. The Hearing Officer concludes that the Decision was easily supported by substantial evidence, including: 1) the Staff Report, which carefully analyzed the Project against the relevant design standards and provided justifications supporting their positive recommendation *see* Staff Report at Pgs. 103-111; 2) David Gellner’s presentation of the Staff Report to the Planning Commission and his answers to the Planning Commission’s questions (Transcript at p. 7–8. ll 22–25, 1–6); 3) Hines’ prepared plans, renderings, and drawings of the Project demonstrating its compliance with the design criteria *see* Staff Report at 35–54 and 56–57; 4) Hines’ presentation to the Planning Commission about how the Project met certain City Code requirements (Transcript at p. 68. ll 20–21); and 5) Hines’ response to questions by the Planning Commission following the public’s comments (Transcript at p. 58. ll 2–4, 7–11).

**J. Two of Appellants' Additional Arguments are Untimely.**

36. Pursuant to City Code § 21A.16.030, an appeal of a Planning Commission decision is due within ten (10) days, and an appeal must “specify the decision appealed, the alleged error made . . . and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in district court.” Failure to timely appeal a land use decision is grounds for dismissal. *See Fox v. Park City*, 2008 UT 85, ¶ 42, 200 P.3d 182.

37. The Hearing Officer concludes that every theory of relief that can be presented in district court must be raised prior to the expiration of the City’s ten (10) day appeal deadline. Here, two of the Additional Argument—pertaining to affordable housing and the Salt Lake City Preservation Plan (“**Preservation Plan**”)—are novel arguments not discussed in the Appeal. Appellants did not raise these arguments until 66 days after the appeal deadline. As such, these arguments are untimely and were waived by Appellants.

38. Nevertheless, all Additional Argument fail as a matter of law as discussed below.

**K. The Decision did Not Violate the City’s Preservation Plan.**

39. The Salt Lake Community Preservation Plan (“**Preservation Plan**”) states that its “policies provide guidance for daily decisions to support the implementation of the plan and its vision. It is ultimately the decision-makers’ responsibility to weigh and balance seemingly divergent aims of the City to set an appropriate direction.” *See* Salt Lake Preservation Plan, at pg. I-14.

40. In reaching its Decision, the Planning Commission inevitably had to weigh various competing interests. Accordingly, the Planning Commission is not bound by a single policy statement in the Preservation Plan when the Preservation Plan specifically contemplates that its policy statements are one factor, among many to be considered by decisionmakers. Therefore, it is not within the Hearing Officer’s purview to substitute its judgment for the reasoned judgment of the Planning Commission.



41. Alternatively, Appellants do not reference any Preservation Plan policies that were relevant to the Planning Commission's decision regarding building height and setbacks; i.e., the actual Application and Decision. Thus, the Decision did not violate the Preservation Plan.

**L. The Project's Mid-Block Walkway is Consistent with Master Plan.**

42. As previously discussed, the City's master plan is an advisory, aspirational guide used by the City's decisionmakers to weigh competing interests.

43. The Hearing Officer concludes that the Planning Commission properly assessed the Project's mid-block walkway design in light of the Master Plan. The Hearing Officer further concludes that it is not within its purview to substitute its judgment for the reasoned judgment of the Planning Commission.

**M. The Project Provides Affordable Housing.**

44. The Hearing Officer diligently analyzed Appellants' argument pertaining to affordable housing. After careful review, the Hearing Officer concludes that this argument is inadequately briefed and not fully developed. Thus, the Hearing Officer cannot overturn the Decision on this basis.

45. The Hearing Officer also concludes that no affordable housing issues were before the Planning Commission and therefore any affordable housing issues are irrelevant for purposes of this Appeal.

**N. The Project Properly Repurposes the Theater.**

46. The Planning Commission was responsible for weighing the various competing interests in arriving at its Decision. The Hearing Officer concludes that the Planning Commission properly weighed the aspiration and advisory guidelines in the City's master plan in making its decision. The Hearing Officer further concludes that it is not within its purview to substitute its judgment for the reasoned judgment of the Planning Commission.

47. Additionally, the question of whether to demolish or preserve the Theater was not before the Planning Commission. Thus, Appellants' arguments that the Theaters' demolition violates the City's Master Plan are misplaced.

**O. Appellants' Declarations are Inadmissible.**

48. An appeal of a Planning Commission decision must “be based on the record below” and “[n]o new evidence shall be heard by the appeals hearing officer unless such evidence was improperly excluded from consideration below.” *See* City Code 21A.16.030.E.

49. Appellants' provided the Hearing Officer with eight total declarations stating that certain individuals were unable to access the remote Planning Commission hearing. These declarations were not included in the record below and the Hearing Officer cannot accept new evidence unless it was improperly excluded below. Appellants make no argument as to why the declarants were improperly excluded from the record below. As such, the Hearing Officer disregards Appellants' declarations. Even if any of the eight declarations were admissible none of them state any individualized harm, explain what the declarant would have said, why that would have not just been cumulative nor address any issue actually relevant to this Appeal.

**CONCLUSION**

For the reasons stated above, the Hearing Officer hereby denies Appellants' appeal and affirms the Decision of the Planning Commission.

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Matthew Wirthlin, Hearing Officer

# **ATTACHMENT F: PLANNING COMMISSION RECORD OF DECISION**

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ERIN MENDENHALL  
Mayor



DEPARTMENT of COMMUNITY  
and NEIGHBORHOODS  
PLANNING DIVISION

July 15, 2021

Dusty Harris  
Hine Acquisitions  
136 South Main Street, Suite 850  
Salt Lake City, UT 84101

Evan Haslam  
Dwell Design Studio  
360 West 300 South, Suite 102  
Salt Lake City, UT 84101

RE: **Record of Decision for Petition PLNPCM2021-00024 – Design Review Petition for the 150 S Main Street Apartments for Additional Building Height**  
Location: **136, 144 and 156 South Main Street**

Dear Dusty and Evan,

**On July 14, 2021, the Salt Lake City Planning Commission granted Approval of your Design Review application PLNPCM2021-00024 for the 150 S Main Street Apartments development located at approximately 136, 144 and 156 South Main Street in the D-1 – Central Business District.**

This Record of Decision is provided to you indicating the date action was taken, the decision of the Planning Commission including any approval conditions, the one-year time limit on the approval, the limitations on modifications to the plans, and the 10-day appeal period.

#### **Project Description**

The Planning Commission reviewed and approved the following project:

***Design Review for the 150 S Main Street Apartments*** - Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 144 South Main Street on the site of the currently vacant Utah Theatre, one adjacent parcel at 156 S. Main and a portion of the parcel at 136 S Main Street. The properties at 144 and 156 S Main are owned by the Redevelopment Agency of Salt Lake City while the parcel at 136 S Main is owned by Hines, the developer. All properties are located in the D-1 – Central Business District. The proposed project is for a 400-unit mixed-use residential apartment building that will include a mid-block walkway/plaza and a park amenity on the top of the parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on Main Street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be approximately 392 feet. Mid-block buildings in excess of 100-feet tall in the D-1 zoning district may be approved through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being requested to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet.

### Conditions of Approval

The following conditions were applied to the approval of the proposal and delegated to City staff for verification during the Building Permit review:

1. Compliance with street tree requirements and streetscape improvements consistent with the recommendations of the Salt Lake City Urban Forester.
2. Compliance with sign & lighting requirements that meet the Salt Lake City Lighting Master Plan.
3. Signage must be provided for the mid-block plaza and park space indicating that they are open to the public.
4. Final approval of the mid-block plaza/walkway and park amenities in conformance with the standards for privately owned public spaces.

**Please note:** Approval is for the specific items discussed and identified in the staff report. All other applicable zoning regulations and requirements from other city departments still apply.

### Review Process Standards and Findings of Fact

The Planning Commission made specific findings related to the standards of review for Design Review as stated in Chapter 21A.59 of the Zoning Ordinance. The decision was also based on the purpose of the zoning ordinance, the purpose of the zoning district where the project is located, the information contained in the staff report, the project details provided by you, testimony from the public, and the discussion of the Planning Commission. Copies of this information are available online here: <https://www.slc.gov/planning/planning-commission-agendas-minutes/>

### Modifications to the Approved Plans

To obtain a building permit, all plans must be consistent with the plans reviewed and approved by the Planning Commission. Except where specifically modified by the Planning Commission as a condition of approval, modifications to the approved plans are limited by the following (see 21A.59.080 of the Zoning Ordinance):

*Minor Modifications:* The Planning Director may authorize minor modifications to approved design review applications as listed below.

1. *Dimensional requirements that are necessary in order to comply with adopted Building Codes, Fire Codes, or engineering standards. The modification is limited to the minimum amount necessary to comply with the applicable Building Code, Fire Codes, or engineering standard.*
2. *Minor changes to building materials provided the modification is limited to the dimension of the material, color of material, or texture of material. Changes to a different material shall not be considered a minor modification.*

Other Modifications: Any other modifications not listed above require a new application.

### One Year Time Limit on Approval

No design review approval shall be valid for a period longer than **one year** from the date of approval unless a building permit is issued or a complete building plans and building permit applications have been submitted to the Division of Building Services and Licensing. An extension of one year may be granted by the entity that approved the application. Extension requests must be submitted in writing prior to the expiration of the design review approval.

**10-Day Appeal Process**

There is a 10-day appeal period in which any affected party can appeal the Planning Commission's decision. This appeal period is required in the City's Zoning Ordinance and allows time for any affected party to protest the decision, if they so choose. The appeal would be heard by the Appeals Hearing Officer. Any appeal, including the filing fee, must be submitted by close of business on **Monday, July 26, 2021**.

The summary of action for the Planning Commission meeting is located on the Planning Division's website at: <https://www.slc.gov/planning/public-meetings/planning-commission-agendas-minutes/>

Please feel free to contact me at (385) 226-3860 or by email at [david.gellner@slcgov.com](mailto:david.gellner@slcgov.com) in relation to this letter if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Gellner", with a stylized flourish extending to the right.

David J. Gellner, MAG, AICP, Senior Planner  
Salt Lake City Planning Division

CC File: PLNPCM2021-00024

## **ATTACHMENT G: PC MINUTES (07/14/2021)**

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**SALT LAKE CITY PLANNING COMMISSION MEETING**  
**This meeting was held electronically**  
**Wednesday, July 14, 2021**

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at approximately 5:30 pm. Audio recordings of the Planning Commission meetings are retained for a period of time. These minutes are a summary of the meeting. For complete commentary and presentation of the meeting, please visit <https://www.youtube.com/c/SLCLiveMeetings>.

Present for the Planning Commission meeting were: Chairperson, Brenda Scheer; Vice Chairperson, Amy Barry; and Commissioners Maurine Bachman, Adrienne Bell,Carolynn Hoskins, John Lee, Andres Paredes, and Sara Urquhart. Commissioner Crystal Young-Otterstrom was excused.

Planning Staff members present at the meeting were: Michaela Oktay, Deputy Planning Director; John Anderson, Planning Manager; Krissy Gilmore, Principal Planner; Lex Traughber, Senior Planner; Nannette Larsen, Principal Planner; David Gellner, Senior Planner; and Marlene Rankins, Administrative Secretary.

Discussion was made regarding considering a motion to recall petitions PLNPCM2021-00047 & PLNPCM2021-00048 at the June 23, 2021 Planning Commission meeting.

**MOTION**

**Commissioner Paredes moved to recall the motion for PLNPCM2021-00047 and PLNPCM2021-00048.**

**Commissioner Lee seconded the motion. Commissioners Bachman, Barry, Lee, Paredes, Urquhart, Hoskins, and Bachman voted “Aye”.**

**APPROVAL OF THE JUNE 23, 2021, MEETING MINUTES.**

**Commissioner Bachman moved to approve the June 23, 2021 meeting minutes.**

**Commissioner Barry seconded the motion. Commissioners Bachman, Barry, Lee, and Paredes voted “Aye”. Commissioners Urquhart, and Hoskins abstained. The motion passed 4-0.**

**REPORT OF THE CHAIR AND VICE CHAIR**

Chairperson Scheer stated she had nothing to report.

Vice Chairperson Barry stated she had nothing to report.

**REPORT OF THE DIRECTOR**

Michaela Oktay, Deputy Planning Director, stated she had nothing to report.

**Planned Development, Design Review, & Preliminary Subdivision at approximately 811 West 100 South** - Jarod Hall, representing the property owners, is requesting approval for a new townhome development at approximately 811 W 100 S. The proposal is for two buildings, each with five single-family attached townhomes for a total of 10 dwellings. The development involves three different applications:



- a. **Design Review:** The development requires Design Review approval as the development did not receive enough points through the Transit Station Area (TSA) development review process for administrative (staff level) approval. Case number **PLNPCM2021-00424**
- b. **Planned Development:** The Planned Development is needed to address creating lots without street frontage regulations. Case number **PLNPCM2021-00425**
- c. **Preliminary Subdivision:** The development also involves a preliminary plat to create the individual new townhome lots. Case number **PLNSUB2021-00426**

The subject property is located within Council District 2, represented by Dennis Faris. (Staff contact: Krissy Gilmore at (801) 535- 7780 or kristina.gilmore@slcgov.com)

Krissy Gilmore, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Planning Commission approve the request with the conditions listed in the staff report.

Jarod Hall, applicant, was available for questions.

The Commission, Staff and Applicant discussed the following:

- Clarification on frontage window placement

## **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing;

Tamarah Bartmess – Requested a clarification on modern design.

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

Staff address the public concerns.

The Commission and Staff discussed the following:

- Whether community council was notified of the request

## **MOTION**

**Commissioner Urquhart stated, based on the information in the staff report, the information presented, and the input received during the public hearing, I move that the Planning Commission approve PLNPCM2021-00424, PLNPCM2021-00425, and PLNSUB2021-00426, Folsom Row Townhomes - Planned Development, Design Review and Preliminary Subdivision with the conditions listed in the staff report.**

**Commissioner Bachman seconded the motion. Commissioners Bachman, Lee, Paredes, Urquhart, and Hoskins voted “Aye”. Commissioners Barry and Bell voted “Nay”. The motion passed 5-2.**

**Design Review - 500 Parkview Mixed-Use Development** – Design Review - Jacob Shirley, Think Architecture, representing the property owner, Alexey Kotov, has submitted an application for Design Review for a mixed-use development (residential & commercial) to be located at 1320 & 1328 S. 500 East. The applicant is requesting that the Planning Commission consider modification to the "Front Yard

Setback" requirements through the Design Review process as required by City Code Section 21A.26.020(F)(1). The required Front Yard Setback in the CN Neighborhood Commercial Zone is 15'. The applicant is requesting a reduction of 11' for a 4' setback along 500 East to match the setback of adjacent structures to the north. The subject property is located within Council District 5 represented by Darin Mano. (Staff contact: Lex Traughber at (385) 226-9056 or lex.traughber@slcgov.com) **Case number PLNPCM2021-00068**

Lex Traughber, Senior Planner, reviewed the petition as outlined in the Staff Report (located in the case file). He stated Staff recommended that the Planning Commission approve the request subject to the conditions listed in the staff report.

The Commission and Staff discussed the following:

- Setback measurement
- Setback for the existing apartment complex
- Clarification on why there are not two entrances to the parking garage

Jacob Shirley, applicant, provided a presentation along with further details.

The Commission, Staff and Applicant discussed the following:

- Clarification on need for setback variance

## **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing;

Ron Johnston – Stated his opposition with the setback.

Talus Peterson – Stated her concern with setback because of the need for parking.

Christopher Johnson – Stated his opposition of the request.

Carmen Trevino – Stated her opposition and raised concern with compatibility of the neighborhood.

Trish E. – Requested clarification on garage entrance.

David Vergobbi – Raised concerns with compatibility of the neighborhood and increase of traffic.

Kathleen Reavis – Raised concerns with compatibility of the neighborhood.

Rachel Stromness – Lost connection.

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

The applicant addressed the public comments. Alexey Kotov also provided further clarification.

The Commission and Staff further discussed the following:

- Clarification on the request of the applicant

The Commission made the following comments:

- I would be willing to agree to this if the project fulfilled the basics of the zone
- I like this project; I think it looks really good

- I wish there was more commercial in the project, but I do agree that we need more density in the area
- It seems to have a nice potential
- I have a problem tying this to a project that is not complete

#### **MOTION**

**Commissioner Barry stated, based on the analysis and findings in the staff report that the standards for Design Review have been substantially met, testimony and the proposal presented, I move that the Planning Commission approve the request for Design Review for the reduced front yard setback of 11' resulting in a front yard setback of 4' along 500 East, located at approximately 1320 & 1328 South 500 East, subject to three conditions as noted in the staff report dated 7/14/2021 for PLNPCM2021-00068.**

**Commissioner Bell seconded the motion. Commissioners Bachman, Barry, Lee, Bell, Paredes, Urquhart, and Hoskins voted "Aye". The motion passed unanimously.**

Michaela Oktay, Deputy Planning Director stated that the recall for petitions PLNPCM2020-00047 and PLNPCM2021-00048 requires a revote.

#### **MOTION**

**Commissioner Bachman moved to recall the vote from the June 23, 2021 Planning Commission Meeting for petitions PLNPCM2020-00047, PLNPCM2021-00048.**

**Commissioner Lee seconded the motion. Commissioners Bachman, Barry, Lee, Paredes, Urquhart, and Hoskins voted "Aye". Commissioner Bell recused herself. The motion passed.**

**The commission took a small break.**

**Zoning Map Amendment at approximately 1945 South 1300 East** - Salt Lake City received a request from Max Chang, representing American Estate Management Corp., the property owner, to amend the zoning map for a property located at approximately 1945 South 1300 East. The proposal would rezone the entire property from RMF-35 (Moderate Density Multi-Family Residential) to RMF-45 (Moderate/High Density Multi-Family Residential). The proposed amendment to the Zoning Map is intended to accommodate a new multi-family residential development to potentially provide a total of 46 residential units. The project is located within the RMF-35 (Moderate Density Multi-Family Residential) zoning district and within Council District 7, represented by Amy Fowler. (Staff contact: Nannette Larsen at (385) 386-2761 or Nannette.larsen@slcgov.com) **Case Number: PLNPCM2020-01022**

Nannette Larsen, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Planning Commission forward a recommendation of approval to the City Council.

The Commission and Staff discussed the following:

- Clarification on number of units allowed in zoning RMF-35
- Clarification on the application

Max Chang, applicant, provided further details.

The Commission, Staff and Applicant discussed the following:

- Clarification on location of bus stop

## **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing;

Judi Short, Land Use Chair Sugar House Community Council – Stated this change would be in accordance with the Sugar House master plan. She asks if this is the right thing to do. We lose 26 affordable units and would like to know where those people would go. She stated she doesn't see how this benefits the community at large. She also stated she would like this petition to be denied but since it might not be, she would like to see some conditions added.

Meaghan Kelliher – Stated her opposition of the request and raised concern with compatibility of the surrounding neighborhood.

Scott Cruze – Stated his concerns that involve egress.

Mitchell Rudd, HOA President – Stated his opposition of the request.

Jeff Knight – Raised concerns regarding losing parking spaces for patients.

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

The applicant addressed the public comments.

The Commission and Staff discussed the following:

- Clarification on where the alley way ends as a private property

## **MOTION**

**Commissioner Bachman stated, I move that the Planning Commission recommend that the City Council approve the proposed zoning map amendment, as presented in PLNPCM2020-01022.**

**Commissioner Bell seconded the motion. Commissioners Bachman, Lee, Bell, Urquhart, and Hoskins voted “Aye”. Commissioners Barry, and Paredes voted “Nay”. The motion passed 5-2.**

**Design Review for the 150 S Main Street Apartments** - Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 144 South Main Street on the site of the currently vacant Utah Theatre, one adjacent parcel at 156 S. Main and a portion of the parcel at 136 S Main Street. The properties at 144 and 156 S Main are owned by the Redevelopment Agency of Salt Lake City while the parcel at 136 S Main is owned by Hines, the developer. All properties are located in the D-1 – Central Business District. The proposed project is for a 400-unit mixed-use residential apartment building that will include a mid-block walkway/plaza and a park amenity on the top of the parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on Main Street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be approximately 392 feet. Mid-block buildings in excess of 100-feet tall in the D-1 zoning district may be approved through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being requested to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet. The subject property is located within Council District 4,

represented by Ana Valdemoros. (Staff contact: David J. Gellner at (385) 226-3860 or david.gellner@slcgov.com) **Case number PLNPCM2021-00024**

David Gellner, Senior Planner, reviewed the petition as outlined in the Staff Report (located in the case file). He stated Staff recommended that the Planning Commission approve the request with the conditions listed in the staff report.

The Commission and Staff discussed the following:

- Clarification on the plaza area and whether there is any commercial space
- Clarification on the proposal being strictly regarding the design review and not the demolition of the Pantages Theater

Dusty Harris, applicant, and Bruce Baird, provided a presentation along with further details.

### **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing;

Anna Coltrin – Stated her concerns with the demolition of Pantages Theater.

Darby McDonough – Stated her opposition of the request.

Donna Lyman – Stated her opposition of the request.

Jared West – Stated he would like to see the Pantages Theater incorporated into the project instead of being demolished.

Kelsey Maas – Stated her opposition of the request and urged the commission to help preserve the historic properties.

Matt Lambros – Stated his disappointment with the Pantages Theater to be demolished. He also requested that the applicant to incorporate the theater.

Morgan Pitcher – Stated his opposition of the demolition of the Pantages Theater.

Nathan Starley – Stated he would like to see the Pantages Theater be considered as an adaptive reuse.

Paul Kulda – Stated he would like to see some green space.

Robert Stefanik – Stated he would like to see the theater saved.

Sean Bynum – Stated that there is a potential to have an amazing arts district if the theater is saved.

Tamarah Bartmess – Stated her opposition of the request.

Emily Bourne – Stated she would like to have the theater preserved.

Casey McDonough – Stated his opposition of the request. He would like to see the theater preserved.

Bethany Layton – Stated she thinks preserving the theater is important to the City.

Angie Jamrose – Stated her opposition of the request and does not support the demolition of the Pantages Theater.

Alexa Williamson – Stated she is opposed of the request.

Hannah Hein – Stated she is opposed to the demolition of the Pantages Theater.

Jennifer Killpack-Knutsen – Stated her opposition of the demolition of the Pantages Theater.

Nicole Curtis – Stated her opposition of the request and opposes the demolition of the Pantages Theater.

Oscar Arvizu – Provided an email comment that was read into the record stating his opposition of the request.

Jeana Quigley – Provided an email comment that was read into the record stating her opposition of the demolition of the Pantages Theater.

Angie Starr – Provided an email comment that was read into the record stating her opposition of the demolition of the Pantages Theater.

Shane Franz – Provided an email comment that was read into the record stating his opposition of the request.

Sharon Franz – Provided an email comment that was read into the record opposing the demolition of the Pantages Theater.

Chloe Monson – Provided an email comment that was read into the record stating her opposition of the request.

Alexis Puglisi – Stated her support in preserving the Pantages Theater.

Peter Moosman – Stated his opposition of the demolition of the Pantages Theater.

Crystal Green- Stated her opposition of the demolition of the Pantages Theater.

Dawn Borchardt – Stated her opposition of the demolition of the Pantages Theater.

Ryan Sawtelle – Stated his opposition of the request.

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

The Commission and Applicant discussed the following:

- Clarification on whether the applicant can incorporate the theater to the building
- Clarification on how this building contributes to the pedestrian experience
- Clarification on public access to the park and plaza

The Commission made the following comments:

- I'm excited to have another big building in our downtown
- This isn't an issue about the demo of the theater, this is about the design of the proposal

The Commission and Applicant further discussed the following:

- Clarification on how the applicant plans to activate the mid-block walkway
- Clarification on plans for street level pedestrian interaction and how that has been addressed

#### **MOTION**

**Commissioner Urquhart stated, based on the findings and analysis in the staff report, testimony, and discussion at the public hearing, I move that the Planning Commission vote to APPROVE the Design Review application for additional building height for the 150 South Main Street Apartments located at approximately 136, 144 & 156 S Main Street, file PLNPCM2021-00024 with the following conditions listed delegated to City staff for verification during the Building Permit review, numbers 1-4.**

**Commissioner Lee seconded the motion. Commissioners Bachman, Lee, Bell, Paredes, Urquhart, and Hoskins voted “Aye”. Commissioner Barry voted “Nay”. The motion passed 6-1.**

**The meeting adjourned at approximately 9:51 pm.**

# **ATTACHMENT H: PLANNING COMMISSION STAFF REPORT (07/14/2021)**

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# Staff Report

PLANNING DIVISION  
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: David J. Gellner, AICP, Senior Planner – 385-226-3860 - [david.gellner@slcgov.com](mailto:david.gellner@slcgov.com)

Date: July 14, 2021

Re: 150 South Main Street Apartments Design Review  
Planning Application PLNPCM2021-00024

## Design Review

**PROPERTY ADDRESSES:** 136, 144 S Main & 158 S Main Street  
**PARCELS:** 15-01-229-055, 15-01-229-068 and 15-01-229-070  
**MASTER PLAN:** Downtown Plan (2016)  
**ZONING DISTRICT:** D-1 – Central Business District

**REQUEST:** Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 144 S. Main Street on the site of the currently vacant Utah Theater, as well as the entirety of one adjacent parcel at 156 S. Main Street and a portion of a 3<sup>rd</sup> parcel located at 136 S. Main Street. Two of the parcels are owned by the Redevelopment Agency of Salt Lake City while the third property located at 136 S Main is owned by Hines. All parcels are located in the D-1 – Central Business District. The proposed project is for a 31-story, 400-unit apartment building that will be approximately 392-feet tall including rooftop mechanical equipment and elevator overruns. Buildings located mid-block in excess of 100-feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being used to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum setback of 5-feet.

### STAFF RECOMMENDATION:

Based on the findings listed in the staff report, it is the Planning Staff's opinion that request for additional height generally meets the applicable Design Review standards and therefore, recommends the Planning Commission approve the request for additional building height with the following conditions delegated to City staff for verification during the Building Permit review:

1. Compliance with street tree requirements and streetscape improvements consistent with the recommendations of the Salt Lake City Urban Forester.
2. Compliance with sign & lighting requirements that meet the Salt Lake City Lighting Master Plan.
3. Signage must be provided for the mid-block plaza and park space indicating that they are open to the public.
4. Final approval of the mid-block plaza/walkway and park amenities in conformance with the standards for privately owned public spaces.

## ATTACHMENTS:

- A. [Vicinity/Zoning Map](#)
- B. [Site Photographs & Existing Conditions](#)
- C. [Applicant's Narrative, Plans & Rendering](#)
- D. [Development Standards](#)
- E. [Analysis of Standards](#)
- F. [Public Process and Comments](#)
- G. [Department Review Comments](#)

## PROJECT DESCRIPTION:



### Project Quick Facts

**Property Size:** 0.89 acres

**Height:** 392' (31 stories)

**Property Length:** 125' (on Main Street)

**Ground Floor Uses:** 8,400 square feet of commercial space fronting on Main Street

**Upper Floor Uses:** Residential

**Number of Residential Units:** 400 – includes 40 affordable, 355 market & 5 penthouse units.

**Exterior Materials:** Window wall system with glass, metal panels of various colors, exposed concrete shear walls, marble and stone cladding, glass railings, metal wrapped columns and polished concrete.

**Public Amenities:** Privately owned but publicly accessible mid-block plaza/walkway & park amenity on the parking garage.

**Private Amenities:** Private pool, fitness center, sky lounge and open two-story terrace, co-working space.

**Parking:** 262 interior stalls – 185 for residents, 60 for the Kearns Building, 6 ADA & 11 EV spaces

### Overview

Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 156 S. Main Street on the site of the vacant Utah Theatre and adjacent parcels at 156 S Main Street and 136 S. Main Street as described above in the Request section.. The proposed project is for a 400-unit apartment building that will include 40 affordable, 355 market rate and 5 penthouse level housing units. The building will include a mid-block plaza and a park amenity on the separate parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on Main Street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be 392 feet. Buildings located mid-block in excess of 100-feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval. In addition, the Design Review process is

being used to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum setback of 5-feet.

### **Site Configuration & General Project Details**

The project is proposed on two (2) parcels site owned by the Redevelopment Agency of Salt Lake City and on part of a 3<sup>rd</sup> contiguous parcel owned by the applicant, Hines, at 136 S Main. The parcel at 144 S. Main Street contains the long vacant Utah Theater and is approximately 0.7055 acres (30,732 SF) in size. The parcel at 156 S. Main Street is approximately 0.1894 acres (8,250 SF) in size. It currently contains retail and restaurant space. The parcel at 136 S Main Street contains the Kearns Building and an existing parking garage that would be demolished. A new parking garage and park space for the project will be located on what is now the adjacent parcel. However, some lot line and parcel boundary adjustments will take place to make that part of the project site. This process is discussed below. The new parking garage which will contain the park space will also provide dedicated parking for the Kearns Building. The two (2) contiguous parcels owned by the RDA total approximately 0.89 acres (39,000 square feet) in size and would be combined along with a portion of the property at 136 S Main that is approximately 0.4 acres (17,000 square feet) in size. The overall development will be approximately 1.3 acres (56,000 square feet) including the new parking structure.

Applications for a parcel consolidation to combine the properties at 144 and 156 S Main Street as well as a lot line adjustment to reconfigure the property with the Kearns Building at 136 S Main Street and include the parking structure as part of the new development will be required. These applications will be reviewed by staff as administrative approvals and don't require review or approval by the Planning Commission. Discussion of this item is being included here for the purpose of process clarification.

The configuration of the site includes a residential tower with ground floor retail space facing Main Street and a parking structure behind the tower and away from Main Street. The residential tower will be accessed from a lobby entrance that faces Main Street. Additional access to the residential tower will be from inside the parking garage. The project also includes a mid-block plaza/walkway coming off of Main Street that flows through the site up to an elevated park on the top of the parking structure. Both the mid-block plaza and the park element will be privately owned but publicly accessible elements. The main point of public access will be the entrance to the mid-block plaza which leads to the park amenity. Staff is recommending a condition of approval that appropriate signage be provided that indicates that the mid-block plaza and park space are open to the public.

The configuration and programming of the building are summarized here and detailed in the applicant's narrative included in [Attachment C](#). The tower includes a podium level with retail space and the lobby, the midrise portion of the building running from floor 2-20, and then a high rise building section that goes from floor 23 to 31. The mid and high rise sections are separated by a 2-story mid-rise amenity that includes a sky lounge and terrace that breaks up the massing of the building. Levels 5 and 6 include a fitness center and club house as well as an outdoor pool on level 5 that overlooks the park element on the parking structure.

The prominent face of the building is oriented toward Main Street. There are existing trees on Main Street which will be preserved and there are specific paving details and elements required around the trees. The applicant has included a tree protection plan but will work with the Urban Forester on the replacement and installation of any trees that are damaged during construction activities.

The exterior of the building is proposed with a variety of materials including a window wall system with glass, metal panels, exposed concrete, marble and stone cladding, metal wrapped columns and polished concrete. The proposed materials and colors are also described in more detail in the applicant's materials which are found in [Attachment C](#).

The mid-block plaza will also interact with the street frontage on Main Street although this will be a privately-owned and maintained public space. The details are unclear as to the number of trees that will be provided in that plaza. Trees, if provided, must be in proportion to the space. While the trees are not subject to requirements from the Urban Forester, staff suggests that the applicant consider how flow and consistency between this pedestrian element and that experienced on Main Street could be maintained when designing the landscaping for the plaza which would further reinforce that the space is open to the public.



**Renderings of the proposed building as seen from a north-east elevated view looking south-west.**





**Rendering of the mid-block plaza/walkway & lobby entrance**



**Intersection of the mid-block plaza and Main Street showing the elevator to get to the park space in the rear and the public interface of the development with lobby entrance.**



**Overhead view of the proposed mid-block plaza showing the connection to Main Street and flow-through back the park space on top of the new parking garage.**



**Rendering of the park element on top of the proposed parking garage structure**





**Rendering of the park layout on top of the proposed parking garage structure**

### **Building Height & Location Context**

The D-1 zoning district allows for a maximum building height of 100-feet by right in any mid-block location. Buildings in excess of 100-feet tall may be approved through the Design Review process. The proposed 31-story building will be approximately 392-feet tall. The building itself will be 368-feet tall with an addition 24-feet added for rooftop mechanical equipment and elevator overruns. The applicant is going through the Design Review process to request the additional building height as well as used to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet.

The Main Street Retail Core includes a variety of buildings of different sizes and configurations that have been built over time. The closest adjacent buildings include the Kearns Building to the north which is 150-feet tall and the US Bank Building to the south which stands 211-feet tall. Other nearby downtown buildings of notable scale include the Wells Fargo Center (422-feet), 111 South Main (387 feet), and the One Utah Center (350-feet). The proposed building height is not out of context with other buildings located within and near the Main Street Retail Core. Moreover, the proposed building height is not out of scale with the anticipated future growth and development in the Central Business District and the Downtown Plan anticipates this district to continue to be defined by the tallest buildings in the City. The applicant's narrative includes a shadow study showing the anticipated impact of shadows cast by the building.

## **Parking**

Parking for the project will be accommodated within a newly proposed parking structure that will be located where the parking structure for the adjacent Kearns Building is currently located. The parking structure will have a building footprint of approximately 22,570 Square feet and will include one level below grade and four (levels) above grade. It will also include an elevated park amenity on the roof level of the garage. The garage that can be accessed via a driveway from either 100 South or West Temple. The garage will include a total 262 parking spaces. There are 185 regular spaces provided for residents as well as 6 ADA compliant spaces and 11 spaces for electric vehicles. Bicycle parking is being provided at the ground level and there is space for 13 bicycles. An additional 60 parking spaces will be reserved for the neighboring Kearns Building, which currently has on-site parking that will be eliminated. The space containing the existing parking structure will become part of the proposed development site through a lot line and parcel adjustment. Per chapter 21A.55.050, off-site parking is a permitted use in the D-1 zoning district. As such, the parking provided for the Kearns Building will be retained but will be moved off-site to a new shared structure that is approximately in the same location as the existing parking structure on the property at 136 S Main Street.

Based on the Chapter 21A.44.030 – Off Street Parking, Mobility and Loading - the D-1 zone requires 0.5 spaces per dwelling unit for residential uses and requires additional parking for commercial uses if the useable floor area for that use exceeds 25,000 square feet. The 400 residential units would require 200 parking spaces. There is not a commercial parking requirement as the commercial space totals 8,400 square feet. Electric vehicle parking requirements are 1 EV space per 25 spaces so 10 EV spaces would be required. Bicycle parking are 5% of the provided parking spaces so parking for 13 bicycles would be required. The proposed parking meets the requirements for the use and zone.

The site is also transit accessible via the Main Street stations along the UTA TRAX line with stations within 700 feet to both the north and south of the development.

## **KEY CONSIDERATIONS:**

### **Consideration 1: Request for Additional Building Height and Compatibility**

The D-1 zoning designation allows for a building height of 100-feet by-right in a mid-block location. Buildings in excess of 100-feet tall are allowed through the Design Review process with Planning Commission approval. The primary question before the Planning Commission is related to the additional height being requested and if the Design Review standards are being met by the proposal, particularly as they relate to the massing and scale of the building.

The impacts of additional building height on the surrounding properties, pedestrian realm and shadowing will be mitigated by the design of the building. The building is broken up into different masses including a residential tower and retail elements on Main Street. This includes large quantities of glass along the street-facing façade and a mid-block plaza/walkway that will help break up the building massing and provided additional street interaction. The tower itself will be broken into different elements including a base with lobby and retail uses, a midrise amenity and a high rise section. These breaks will help reduce the perceived massing of the building and will not present as a monolithic plane along the street-facing elevation. This will help offset additional building shadows on the public realm and neighboring properties and help create wind breaks. Through thoughtful design that addresses the Design Review standards, the proposed building meets the standards related to building height and massing.

Staff asserts that the building height is not out of scale with the anticipated future growth and development in the Central Business District and is the type of development anticipated in the



Downtown Plan. Accordingly, Staff recommends that the additional building height be approved by the Planning Commission.

## **Consideration 2: Adopted City Plans, Goals and Policies Downtown Plan (2016)**

The proposed project is located within the Central Business District (CBD) which is described in the Downtown Plan. It is envisioned that the CBD will continue to be defined by shopping on Main Street, the tallest buildings in the City and arts and cultural institutions. The Plan recognizes the CBD as a growing residential community in an urban setting that includes dense apartment and condo style living supported by local retail, entertainment and community services within easy walking distance. In addition, the site is transit accessible via the Main Street Trax line with stations within 700 feet to both the north and south of the development.

### Supporting Statements in the Downtown Plan

Specific initiatives in the Central Business District section of the plan that support the proposed use include the following:

- *Partner with the Redevelopment Agency (RDA) to establish new mid-block walkways.*
- *Utilize design standards to create a high quality interface between public spaces and private buildings.*
- *Maximize visual transparency into stores and vice versa.*
- *Consider establishing appropriate scaled parks and open space.*
- *Modify height requirements so building heights relate to street widths, shape the skyline and allow sunlight to filter through the space between buildings.*

The proposed building generally contributes to these principles by providing additional housing in a walkable area with easily accessible transit connections. The abundant glass at street level maximizes the visual transparency into the retail spaces as well as the building entrance and private lobby. The design of the building and the materials create a quality interface between the public realm and the building. In addition, this development will provide a mid-block plaza and some park space in the Central Business District. These publicly accessible open spaces are lacking in the downtown area and were identified as a need in the Downtown Plan. Finally, the articulation and modulation in the building design will help to offset the perceived massing while the shape will add to the downtown skyline in a positive way.

### Reference to the Utah Theater in the Downtown Plan

The Downtown Plan (Page 93) includes a specific bullet point under “Central Business District Initiatives” under the Arts & Culture section that reads:

- *Repurpose the Utah Theater as a cultural facility and activity generator.*

Several public comments point to this as establishing a prohibition on the theater being torn down due to this language being included in the Downtown Plan. First and foremost, the purpose of the plan is to set out a framework and guidance for establishing the aspirations outlined by the plan. This is done through the establishment of specific visions, principles, goals and initiatives outlined within the Plan. However, the Plan itself is advisory in nature as defined in Chapter 21A.02.040 – Effect of Adopted Master Plans or General Plan. This is a key point as the goals or initiatives outlined in the plan are not intended to be binding or prescriptive.

In regard to the specific statement cited above, this was an aspirational vision or initiative and investigation and analysis conducted by the RDA and the Administration, it was determined that restoration of the theater was not feasible given the deterioration and upgrades that would be needed

to the structure. Through a public process, the City negotiated with the adjacent property owner and entered into a contract to have the property redeveloped. The RDA agreement with the developer requires the provision of defined public benefits to include among others the following:

1. Mid-block Walkway – the project must include a privately-maintained, publicly-accessible, mid-block walkway that extends into the interior of the block from Main Street.
2. Open Space element – the project must include a park element that is privately owned and maintained but publicly accessible.
3. Affordable Housing – Ten-percent (10%) of the housing units in the development must be affordable and available to those between 60% and 80% AMI.
4. Historic Repurposing – The project must include the reclamation and incorporation of historic theater elements.

The executed contracts between Hines and the RDA require the RDA's review and approval of the development plan and final construction documents to ensure that the RDA's requirements are being met. Additionally, a public easement and restrictive covenants will be recorded on the property to ensure the requirements are implemented in the long term.

The inclusion of historic elements in the project can be seen as partially meeting the “repurpose” portion of the statement. The inclusion of the mid-block walkway and open space elements will provide public access to the project and will help to make the site an activity generator in the Central Business District. This item is discussed in more detail in the Discussion Section below.

### **Plan Salt Lake (2015)**

Plan Salt Lake was adopted in 2015 as the citywide vision for Salt Lake City for the next 25 years. The Plan contains Guiding Principles as well as Initiatives in the various chapters that relate to the proposed use including the following:

- *Create a safe and convenient place for people to carry out their daily lives.*
- *Support neighborhood identity and diversity.*
- *Encourage and support local businesses and neighborhood business districts.*
- *Provide opportunities for and promotion of social interaction.*
- *Locate new development in areas with existing infrastructure and amenities, such as transit and transportation corridors.*
- *Encourage a mix of land uses.*
- *Promote infill and redevelopment of underutilized land.*
- *Accommodate and promote an increase in the City's population.*
- *Ensure access to affordable housing citywide (including rental and very low income)*
- *Direct new growth toward areas with existing infrastructure and services that have the potential to be people oriented.*
- *Promote high density residential in areas served by transit.*
- *Create a complete circulation network and ensure convenient equitable access to a variety of transportation options by:*
  - *Having a public transit stop within 1/4 mile of all residents.*
- *Reduce automobile dependency and single occupancy trips.*
- *Encourage transit-oriented development (TOD).*
- *Incorporate pedestrian oriented elements, including street trees, pedestrian scale lighting, signage, and embedded art, into our rights-of-way and transportation networks.*
- *Promote increased connectivity through mid-block connections.*

The proposed project supports the initiatives listed above. It would help provide more housing into the CBD and add additional commercial space along Main Street. Additional people moving into the CBD would increase the resident population and help to support existing businesses.

### **Growing SLC: A Five-Year Housing Plan – 2018-2022 (2017)**

Growing SLC: A Five-Year Housing Plan – 2018-2022 (aka – the Salt Lake City Housing Plan) was adopted in late 2017 as the City's first housing plan since 2000. The Housing Plan is intended to advance the vision that Salt Lake City is a place for a growing diverse population to find housing opportunities that are safe, secure, and enrich lives and communities. The overall intent of the plan is to increase housing opportunities within the City and the various goals and initiatives support that vision.

The proposed use will add to the City's existing housing stock in the CBD which is seen as an evolving area of urban living with an increasing residential population. The use is in concert with the principles and strategies identified in the Salt Lake City Housing Plan.

### **Consideration 3: Mid-Block Plaza/Walkway and Park Space Details**

The proposed development includes certain defined public benefits that must be included in the development per their agreement with the RDA. These elements include the following:

1. *Mid-block Walkway – the project must include a privately-maintained, publicly-accessible, mid-block walkway that extends into the interior of the block from Main Street.*
2. *Open Space element – the project must include a park element that is privately owned and maintained but publicly accessible.*

The proposed development includes a mid-block plaza/walkway element and a park space element. The proposed plaza will intersect with Main Street and will extend through the development between the Kearns Building and the residential tower. This plaza will end at the parking structure in the rear. A walkway with elevator will be attached to the side of the existing Kearns Building in order to provide a connection to the parking structure which will include the public park element on the roof. While privately owned and maintained, both the plaza and park will be publicly accessible elements.

The design details of the mid-block plaza and park elements and park space are included in the applicant's materials found in [Attachment C](#) of this report. The plaza/walkway and park are RDA requirements and not strict Planning requirements so they are not identified on the Downtown Plan. However, the plaza is a prominent public-facing aspect of the project that ties into the overall street interaction of the project and pedestrian experience at the ground level. This interaction and consideration are addressed by Design Review Standards B and C. The analysis of how these standards have been met can found in [Attachment E](#) of this report.

Standard F of the Design Review Standards specifically addresses the design of any privately owned but publicly available spaces and what elements must be included in those spaces. These details are included in the applicant's materials found in [Attachment C](#) and analyzed in the Design Review analysis found in [Attachment F](#) of this report.

The proposed privately owned open space elements including the mid-block plaza and walkway comply with the applicable Design Review standards. Staff is recommending a Condition of Approval to allow final verification and approval of these elements to take place during the Building Permit review stage.

**DISCUSSION:**

The applicant is proposing a use that is allowed within the zoning district, is in concert with the established nature of the area and supported by the pertinent city adopted master plan documents. The applicant's narrative is included in [Attachment C](#) of this report.

The primary question before the Planning Commission is related to the additional height being requested and if the Design Review standards as they relate primarily to height are being met by the proposal. The request for additional height is subject to meeting the Design Review standards.

Based on the analysis contained in this report and in the Key Considerations, the project generally meets the Design Review standards, and Staff is recommending that the Design Review application be approved by the Planning Commission for the additional building height. Staff is also recommending a condition to allow final verification of certain elements discussed herein to be delegated to staff for review and approval during the Building Permit review stage.

**NEXT STEPS:****Design Review Approved**

If the Design Review application is approved, the applicant will be authorized to apply for all applicable Building and Demolition permits and to file the required applications for the parcel consolidation and lot line adjustments.

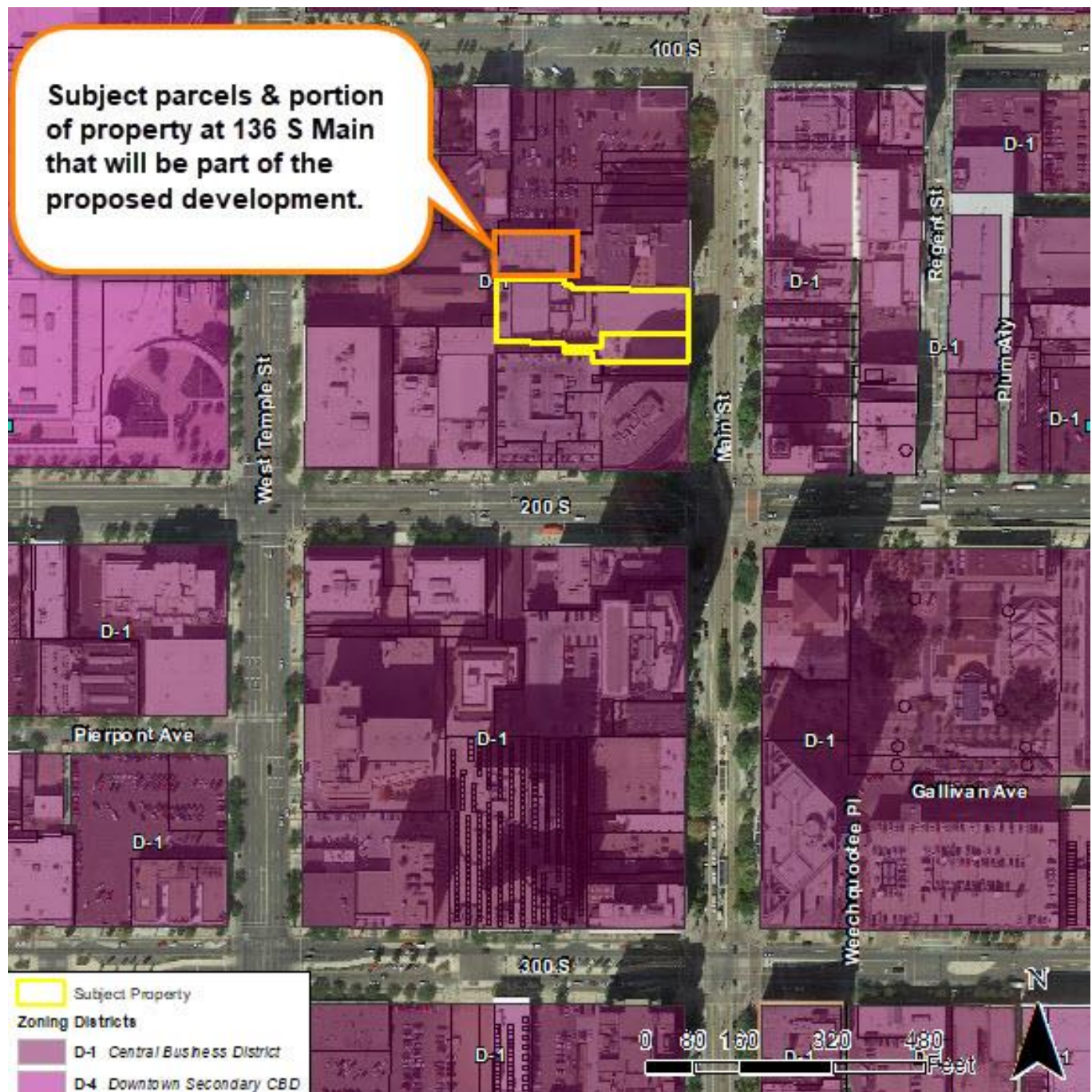
**Design Review Tabled/Continued**

If the Design Review application is tabled by the Planning Commission, the applicant will have the opportunity to make changes to the design and/or further articulate details in order to return to the Planning Commission for further review and a decision on the application.

**Design Review Denial**

If the Design Review application is denied, the applicant has the option to submit an alternate design that meets the relevant standards in the Zoning Ordinance. A building up to 100-feet in height could be constructed in this location as a permitted use and if it met all applicable zoning requirements, would not require a public hearing or Planning Commission decision.

## ATTACHMENT A: Vicinity & Zoning Map





## **ATTACHMENT B: Site Photographs & Existing Conditions**



**Existing buildings on Main Street and interface with Kearns Building**



**Development on Main Street looking north-east**



**Development on Main Street on south side of combined parcels**



**Main Street panorama of development site**





**View from 200 South looking north-east – proposed project will be located between the US Bank Building and Kearns Building**



**Surrounding Development and Zoning**

Surrounding properties in all directions are also zoned D1 – Central Business District. The development of surrounding properties is described as follows:

**North** – Kearns Building – office space. The building is listed on the National Register of Historic Places but is not a City Landmark site.

**South** – Retail and restaurant space.

**West** – Parking and the rear of uses facing 200 S including the rear of the Capitol Theater.

**East** - Across Main Street – various retail and commercial uses.

## **ATTACHMENT C: Applicant's Narrative, Plans & Project Renderings**

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design

studio

Design Review  
**150 S. MAIN**  
Salt Lake City, UT

dwelling

ENTER

usbank



<b>PROJECT NARRATIVE</b>	<b>03</b>
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CONTENT



## PROJECT NARRATIVE

In coordination and cooperation with Salt Lake City and its Redevelopment Agency (RDA), Hines proposes a new tower to the city's downtown skyline, redeveloping the historic Utah theater site. Fronting prominent Main Street, 150 S. Main is poised to contribute to the city's ever-evolving modernization of the built environment and mass transit infrastructure through the downtown district.

A century and a half ago, streetcars bustled along Main Street, the first mass transit in the intermountain west. At the end of the 20th century, the city advanced its mass transit to Utah's Transit Authority's (UTA) TRAX system currently serving Main Street and connecting downtown activity, history, and commerce to the airport and regional destinations throughout the valley.

The tower design capitalizes on the multimodal streetscape and mid-block connectivity running from the western edge of the proposed redevelopment, east to Regent Street, providing density and connectivity at the heart of downtown and contributing to its vitality.

The Type I tower construction will house 400 rental apartments, including 40 affordable housing units (60%-80% AMI), as well as retail tenants and several building amenities for resident use. Additional privately-managed public amenities are part of the site's program (see Site/Park Design Section)

Redevelopment of the historic theater site aims to significantly contribute to the evolution of Main Street and Salt Lake City's skyline with 21st century design and construction.

## PROJECT NARRATIVE



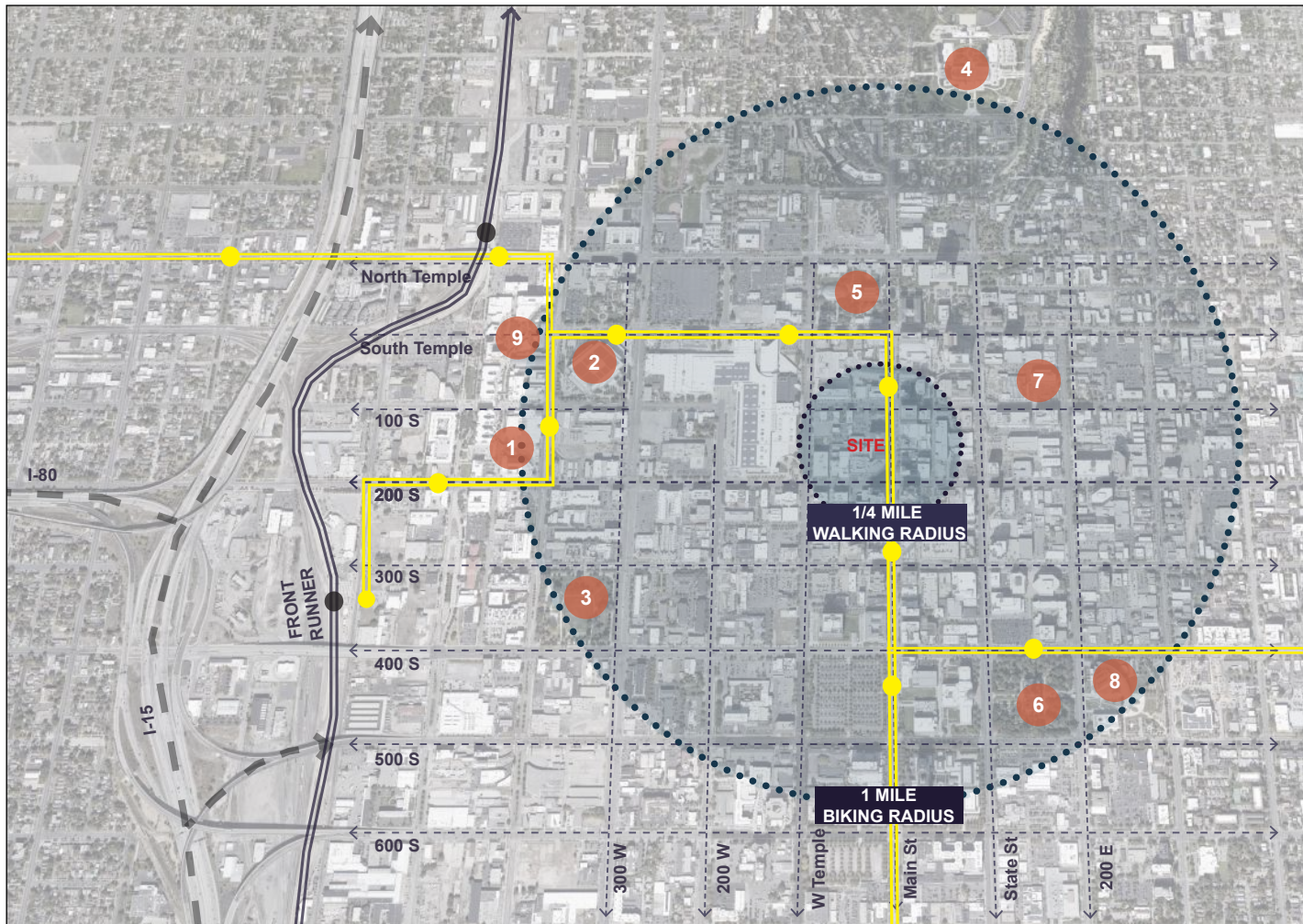
# CONTEXT AND CHARACTER





## CONTEXT AND CHARACTER: DISTRICT





## Nodes

1. Clark Planetarium
2. Vivint Arena (Jazz)
3. Pioneer Park
4. Utah State Capital Building
5. Temple Square
6. Washington Square Park
7. Downtown Harmons
8. City Library
9. Rio Grade Depot

## CONTEXT AND CHARACTER: DISTRICT

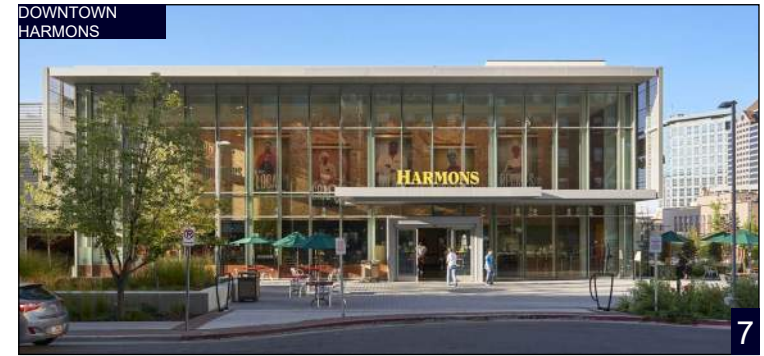




1



4



7



2



5



8



3



6



9

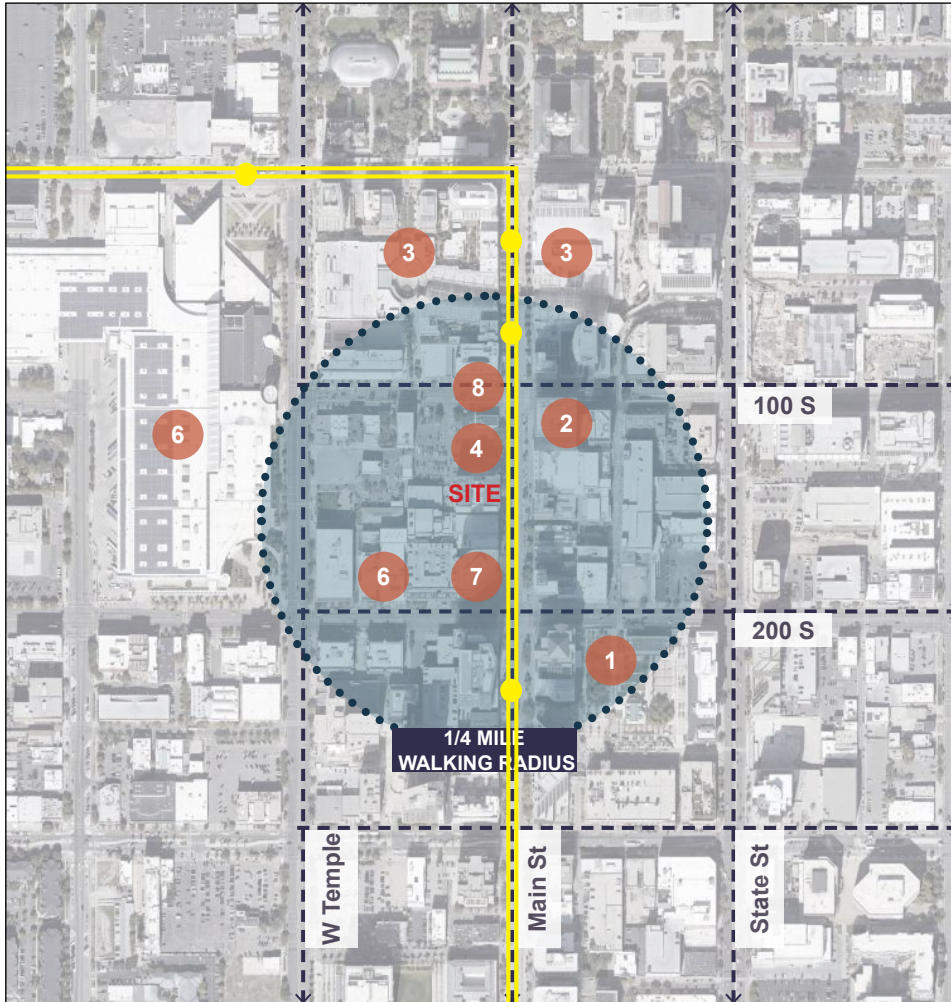
## CONTEXT AND CHARACTER: DISTRICT





## CONTEXT AND CHARACTER: DISTRICT





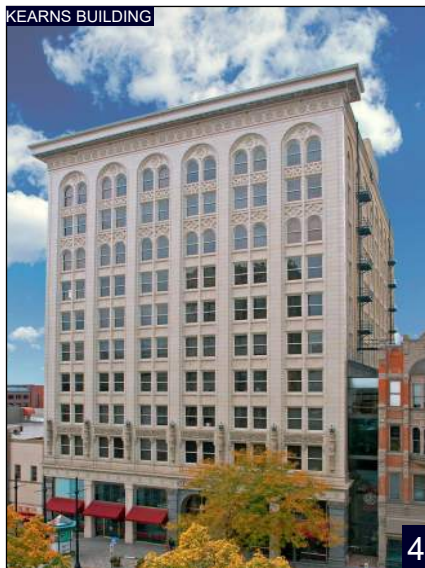
## Nodes

1. Gallivan Center
2. Eccles Theater
3. City Creek Center
4. Kearns Building
5. Salt Palace Convention Center
6. Capital Theater
7. US Bank
8. Zions Bank

## CONTEXT AND CHARACTER: SITE



## SALT LAKE CITY SKYLINE



## CONTEXT AND CHARACTER: SITE





VIEW TO NORTH



VIEW TO EAST

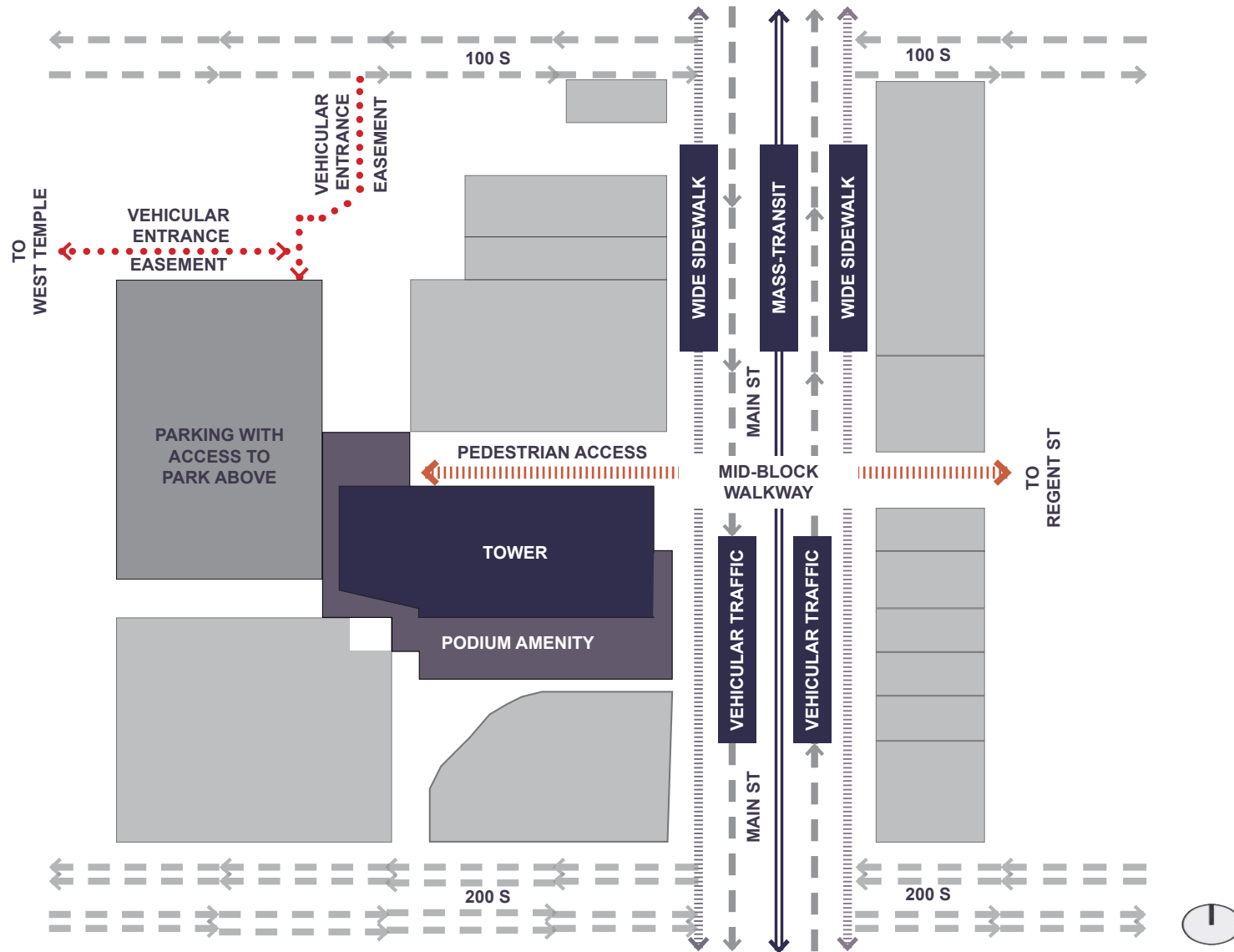


VIEW TO SOUTH



VIEW TO WEST

## CONTEXT AND CHARACTER: SITE



MOBILITY DIAGRAM

## CONTEXT AND CHARACTER: SITE





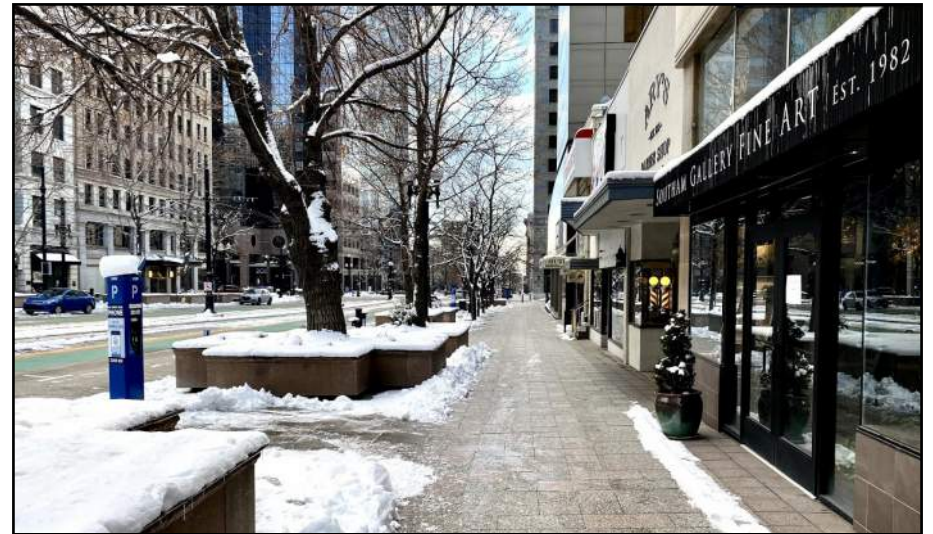
VIEW OF SITE ACROSS MAIN STREET



MAIN STREET LOOKING SOUTH



VIEW OF MID-BLOCK WALKWAY



MAIN STREET STREETScape AT SITE

## CONTEXT AND CHARACTER: SITE



SLC ZONING MAP: D-1

## ZONING NARRATIVE

The purpose of the D-1 Central Business District (CBD), where the subject property (150 S. Main) is located, is to spur and incentivize commercial and economic development within Salt Lake City's most urban and intense areas. Further, the CBD provides a broad range of uses, including very high-density housing, business, office, and retail, creating a 24-hour entertainment and cultural zone desirable to residents and tourists alike. Development within the CBD is intended to be dense with attractive streetscapes creating a safe and walkable pedestrian environment and preserving the urban nature of the downtown area.

The Downtown Plan designates Salt Lake City's downtown as the premier location for sustainable urban living, commerce, and cultural activity with a variety of housing options to meet the diverse needs of the region, to improve downtown livability, and to attract and retain skilled workers. The City's Master Plan envisions the CBD as a growing residential community for those seeking the ultimate urban experience within walking distance to the financial district, Main Street shopping, and the Downtown Art's District.

## CONTEXT AND CHARACTER: ZONING



## ZONING NARRATIVE CON'D

The design of 150 S. Main meets all applicable zoning-specific design standards except the mid-block building height and frontage requirements at the residential lobby entrance. Detail and design reasoning for the requested exceptions:

### Allowable Zoning Height

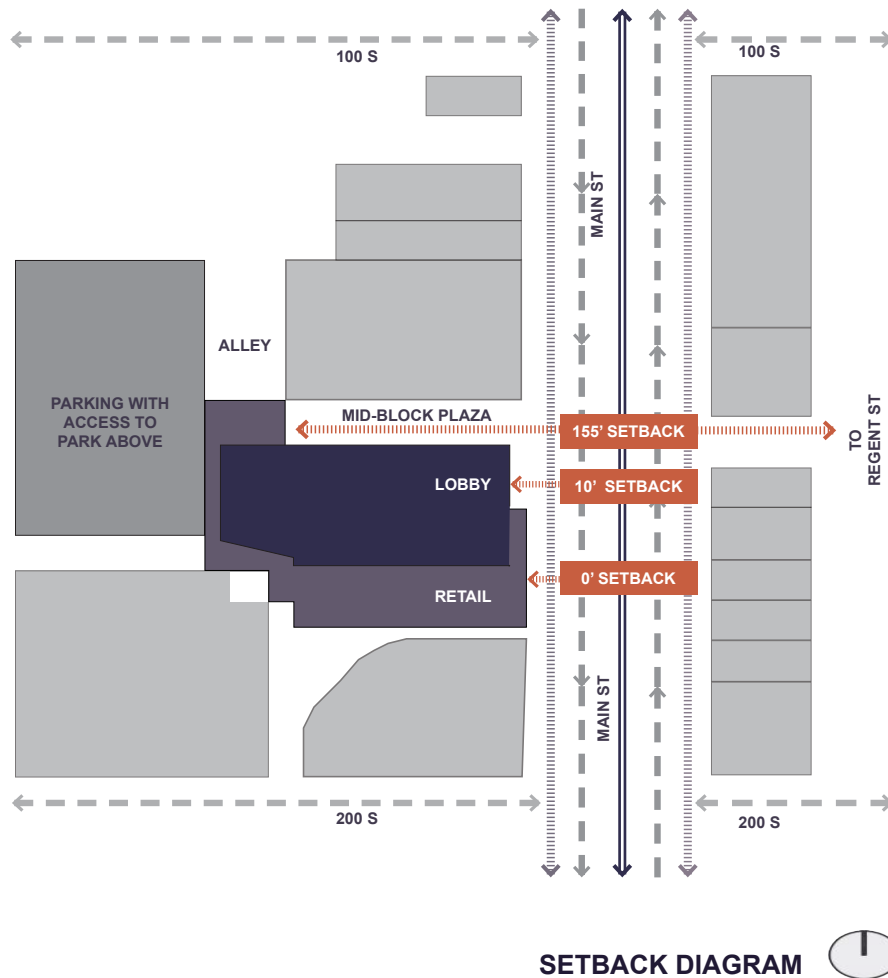
The project is located mid-block between the US Bank Tower and Kearns Office Building on the west side of Main Street. As a constrained mid-block site, the project is governed by city zoning ordinance 21A.30.020, which states “buildings at a mid-block shall be no more than one hundred (100) feet in height; provided, that taller buildings may be authorized through the design review process”. Additionally, the RDA development criteria require a minimum of 30 stories.

In order to meet high-density and complex programmatic requirements on a constrained site, the project team proposes a 31-story building at 368 feet in height, plus an additional 24 feet for rooftop mechanical units and overrun of the high-speed elevators, topping out at 392 feet.

### Zoning Frontage Requirements

Similar to the development pattern along Main Street, the tower’s pedestrian-focused entry facade along Main Street provides three prominent points of access, including entry to the retail space fronting Main Street, entry to the residential lobby, and access to the mid-block plaza leading to an elevated park located above the parking structure at the rear of the property (see Site/Park Design Section). There is a hierarchy of the entries: the retail immediately fronts Main Street with no setback; the residential lobby entrance steps back ten feet from the retail face, signifying a slightly less public entrance; the open mid-block plaza serves as an entrance to the elevated park at the rear of the property.


The design’s mid-block plaza is an extension of Main Street’s mid-block walkway, connecting the tower from the elevated park at the rear of the property to Regent St (to the east) through Main Street’s public realm with pedestrian, vehicular, and mass-transit circulation. This public space and design element provides relief (~30 ft setback) from the neighboring Kearns building to the north, reducing the footprint of the tower and minimizing the tower’s shadow impact.



SETBACK DIAGRAM



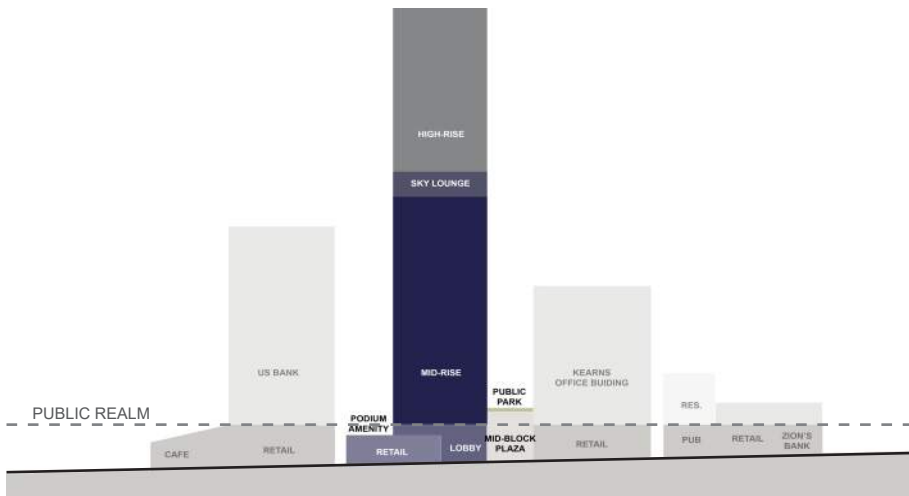
## CONTEXT AND CHARACTER: ZONING



# PROJECT DESIGN



MASTERPLAN



MAIN STREET - STREET SECTION

## DESIGN CONCEPT

Early concept design began with an investigation of building proportions of the site's immediate context, as well as the surrounding downtown fabric. Adjacency to the Kearns building to the north and the US Bank building to the south provide massing and siting cues.

The design team wanted to capitalize on the city and mountain views, while also appropriately responding to Main Street. In addition to the site's context, views, and streetscape, structural considerations further developed the building's efficiency and proportions. These considerations informed the following design objectives:

- 1) Establish a building setback hierarchy for street wall relief and reveal of the tower.
- 2) Define massing with materials and fenestration to reflect contextual cues.
- 3) Strategically locate amenity zones (mass vs. void) to take advantage of view corridors.

-Podium-level amenity to visually connect and activate the streetscape, further emphasizing the pedestrian-scale of the urban realm.

-Mid-rise amenity at a structurally desired-location—two-thirds the building height—to create an aesthetic and experiential moment in the building.

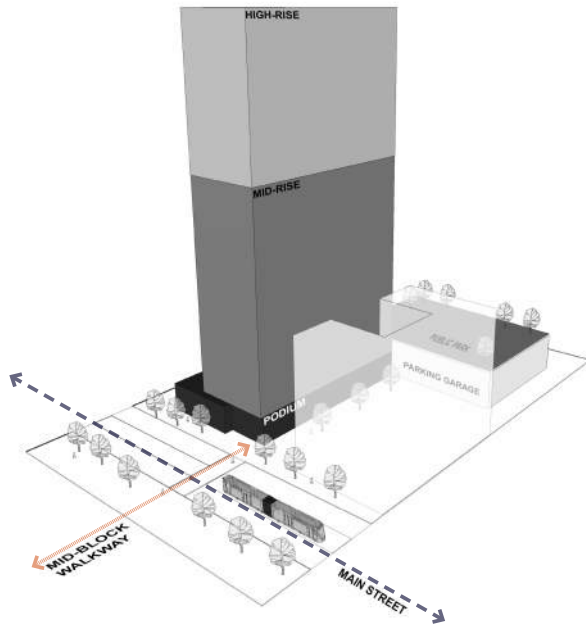
- 4) Prioritize facade features and privacy (for example, fewer residential balconies at locations facing neighboring buildings).

- 5) Add new feature and prominence to the SLC skyline, while also addressing the pedestrian realm—by creating a unique streetscape experience and identity and connecting to the city's multimodal infrastructure at the ground level.

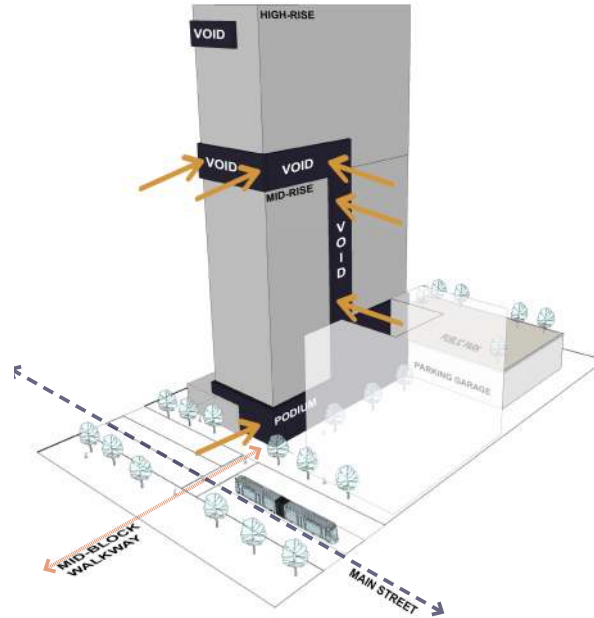
Collectively the project objectives aim to address the site at both the downtown district level and pedestrian level, as well as define the resident experience and an engaged public experience.

## PROJECT DESIGN: CONCEPT

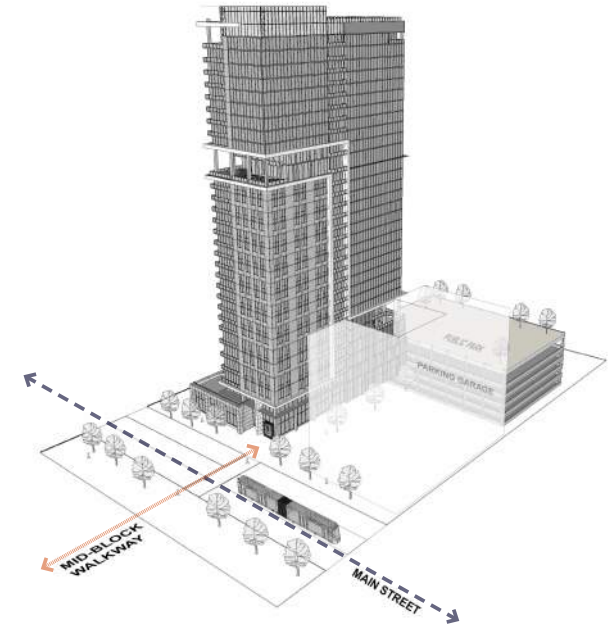




GENERAL MASSING



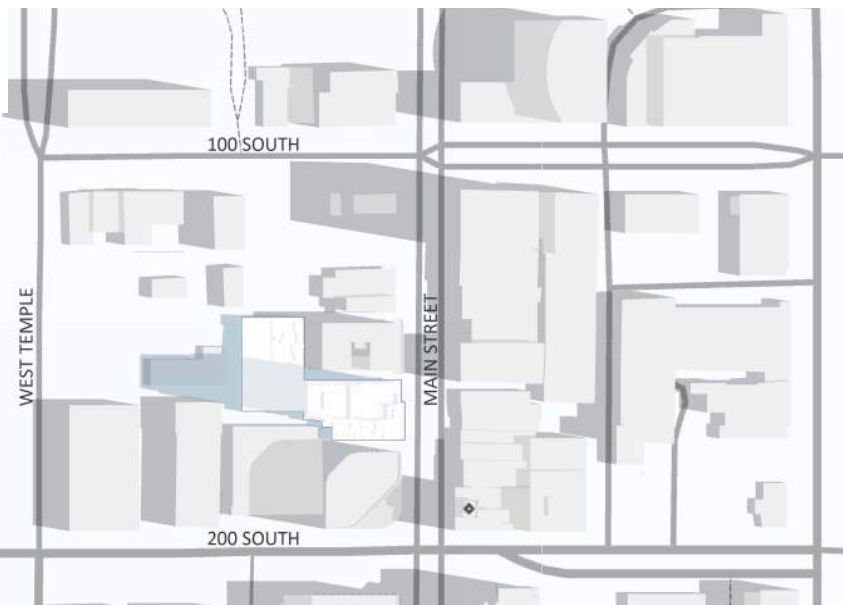
VERTICAL / HORIZONTAL BREAKS



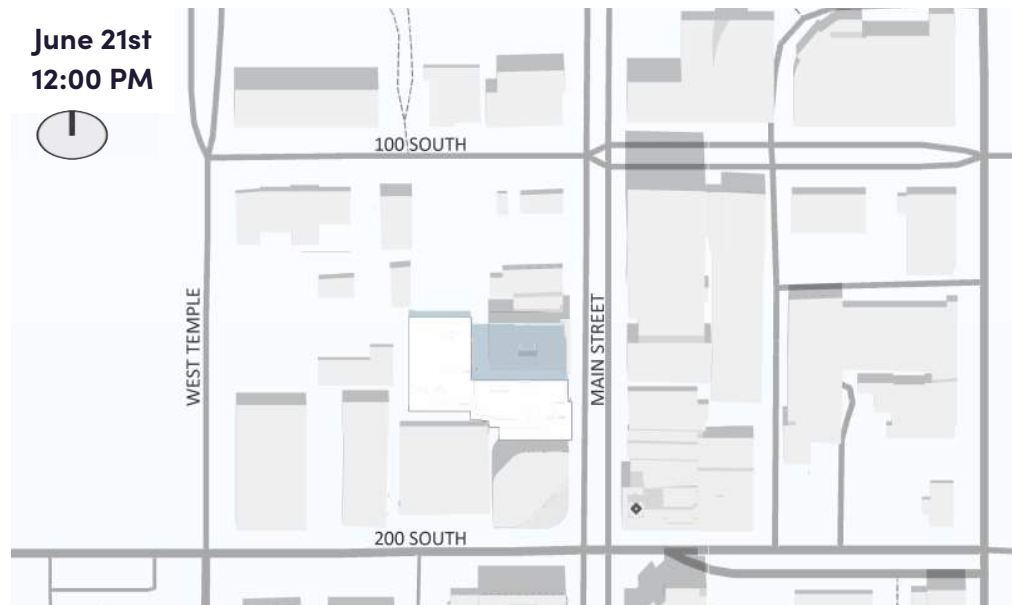
FACADE

## PROJECT DESIGN: FORM, SCALE, AND HEIGHT

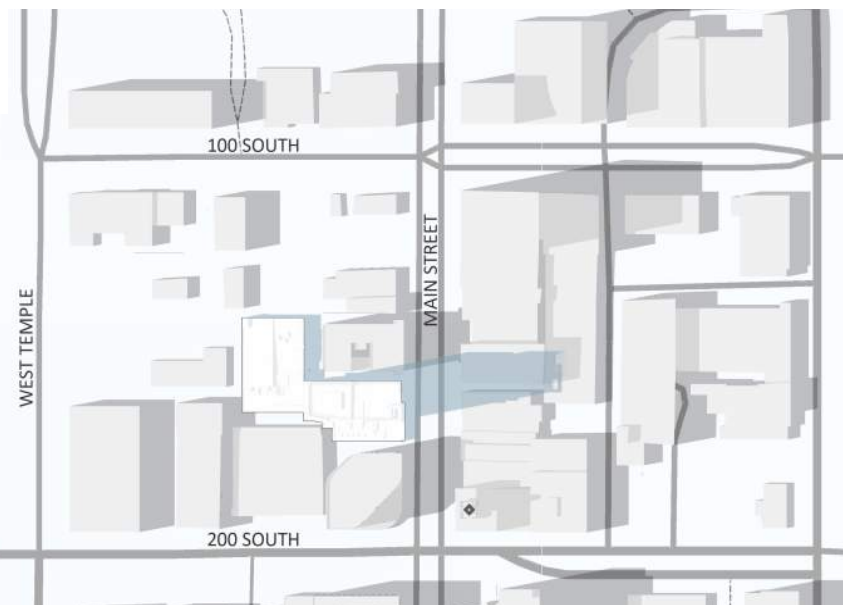
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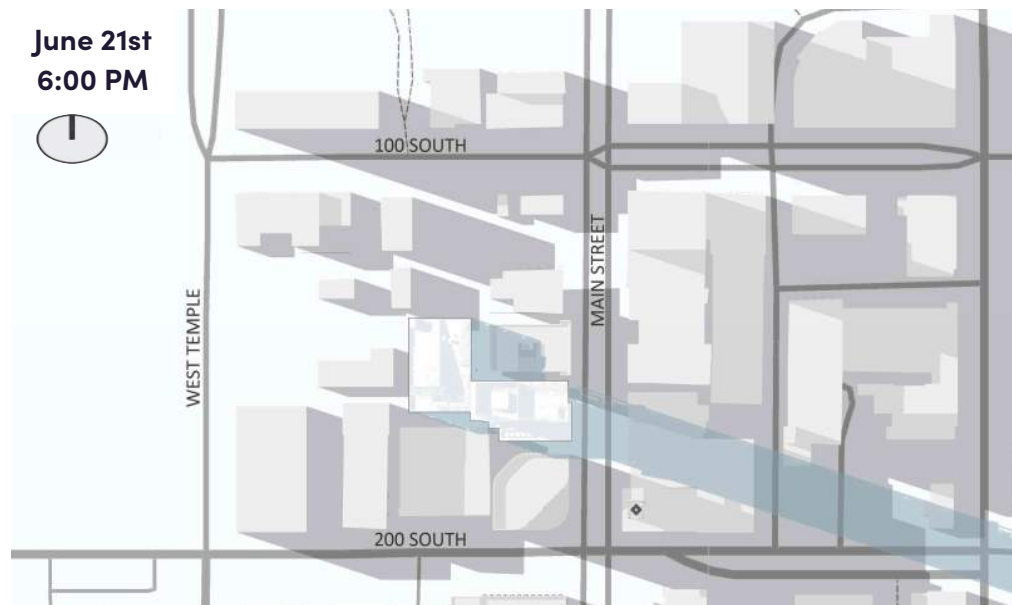
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June 21st  
3:00 PM



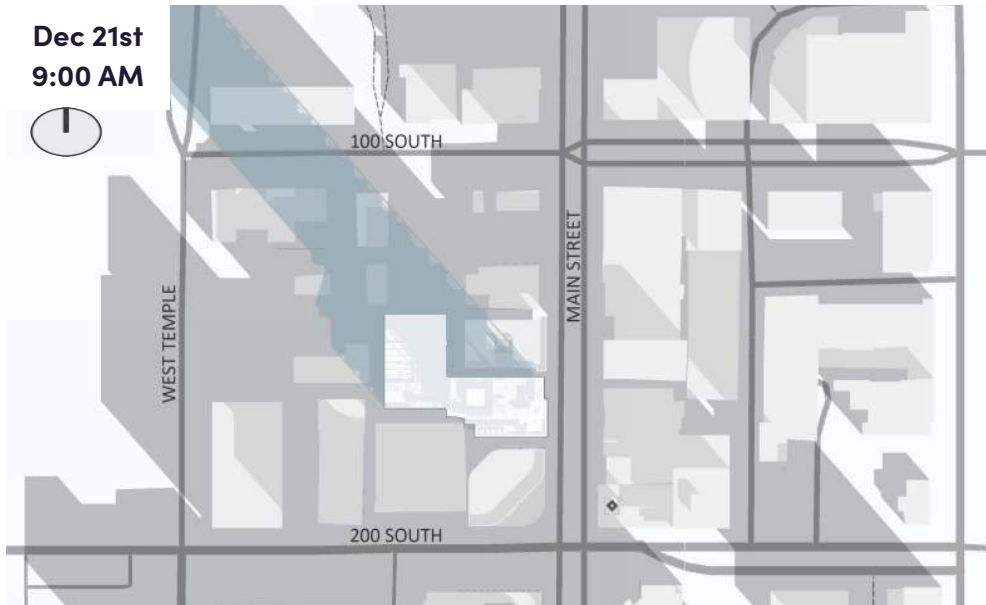
June 21st  
6:00 PM



SUN STUDY: SUMMER SOLSTICE

PROJECT DESIGN: FORM, SCALE, AND HEIGHT

Dec 21st  
9:00 AM



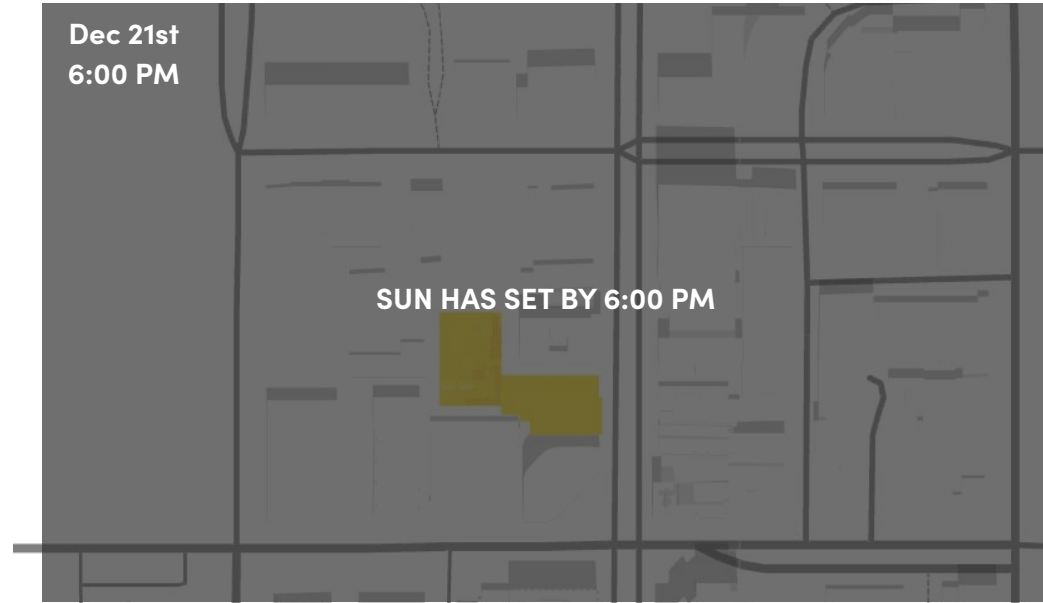
Dec 21st  
12:00 PM



Dec 21st  
3:00 PM



Dec 21st  
6:00 PM



SUN STUDY: WINTER SOLSTICE

PROJECT DESIGN: FORM, SCALE, AND HEIGHT

HIGH-RISE



MID-RISE



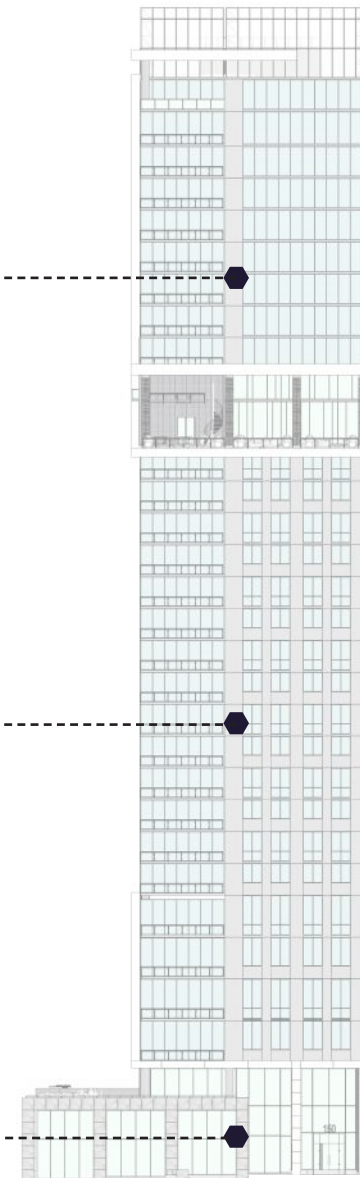
PODIUM



HIGH-RISE

MID-RISE

PODIUM



TYPE I CONSTRUCTION

## PROJECT DESIGN: MATERIALS

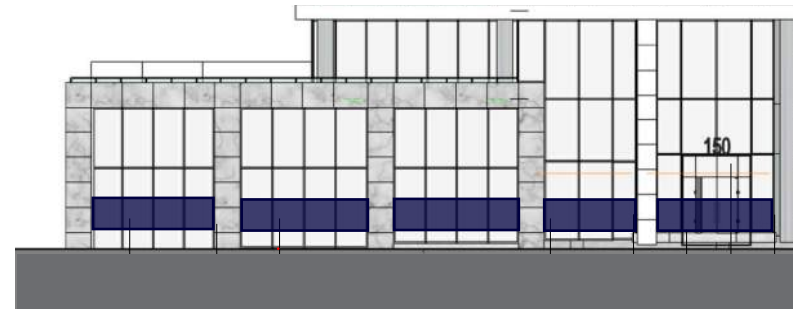
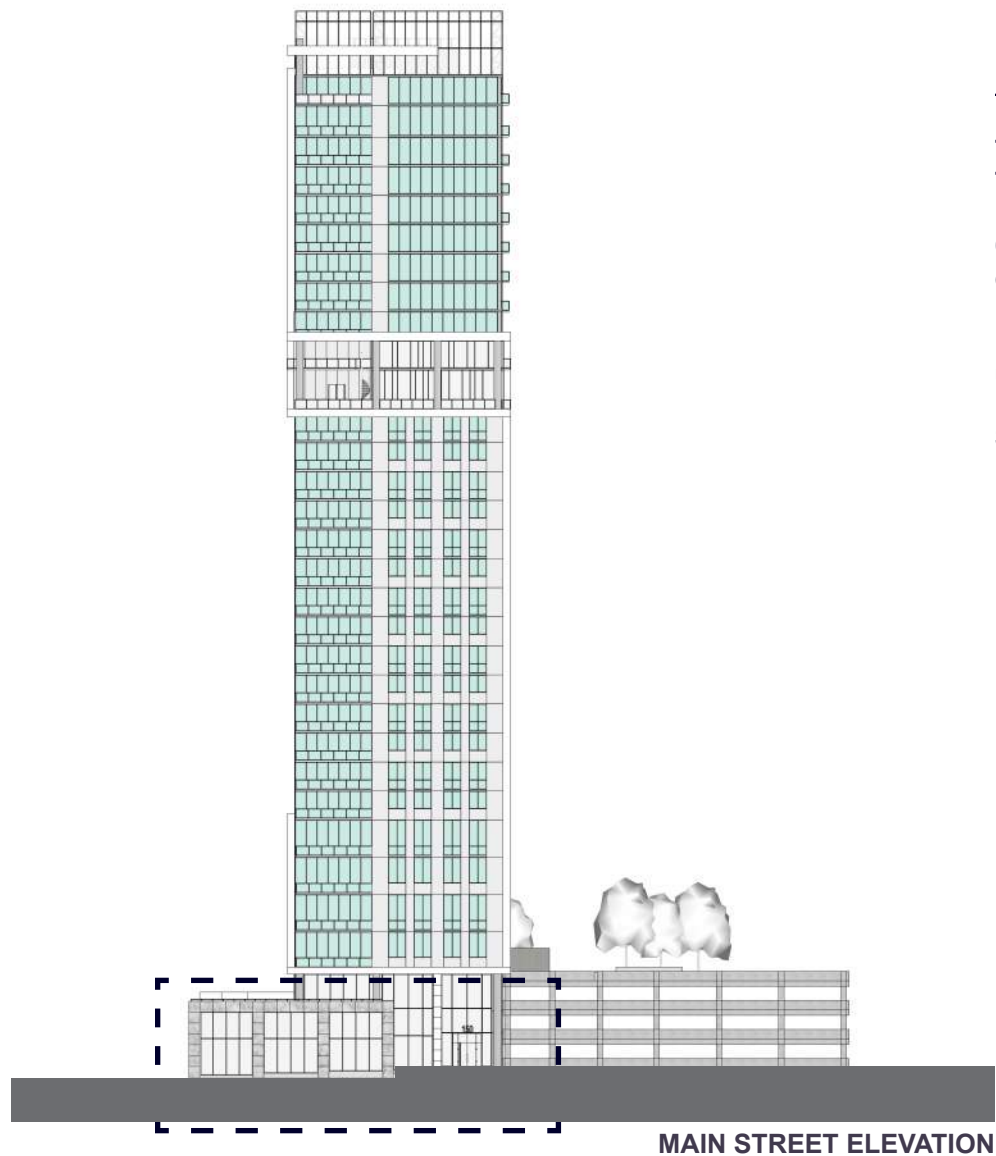
## MAIN STREET GLAZING

The zoning transparency calculation requires a minimum of 60%.  
The ground floor glazing facing Main Street equals 70%.

Of the 641 SF Main Street frontage allowed to be used in the transparency calculation, 448.5 SF is glazing.

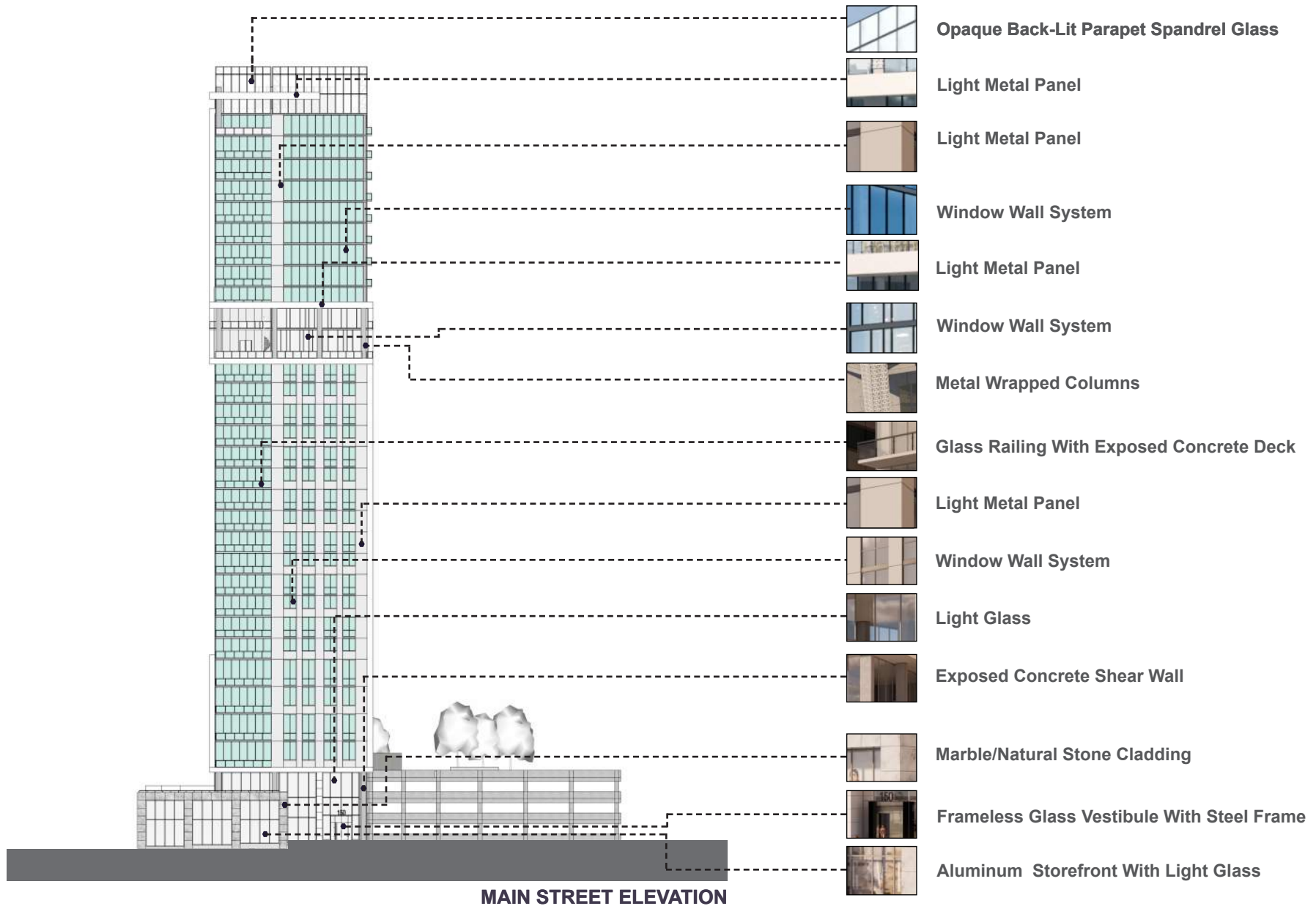
Refer to diagram below. The dark purple band denotes the transparency area used in the calculation, between 3 ft and 8 ft above ground level.

Signage to be placed outside of this band to meet transparency requirement.

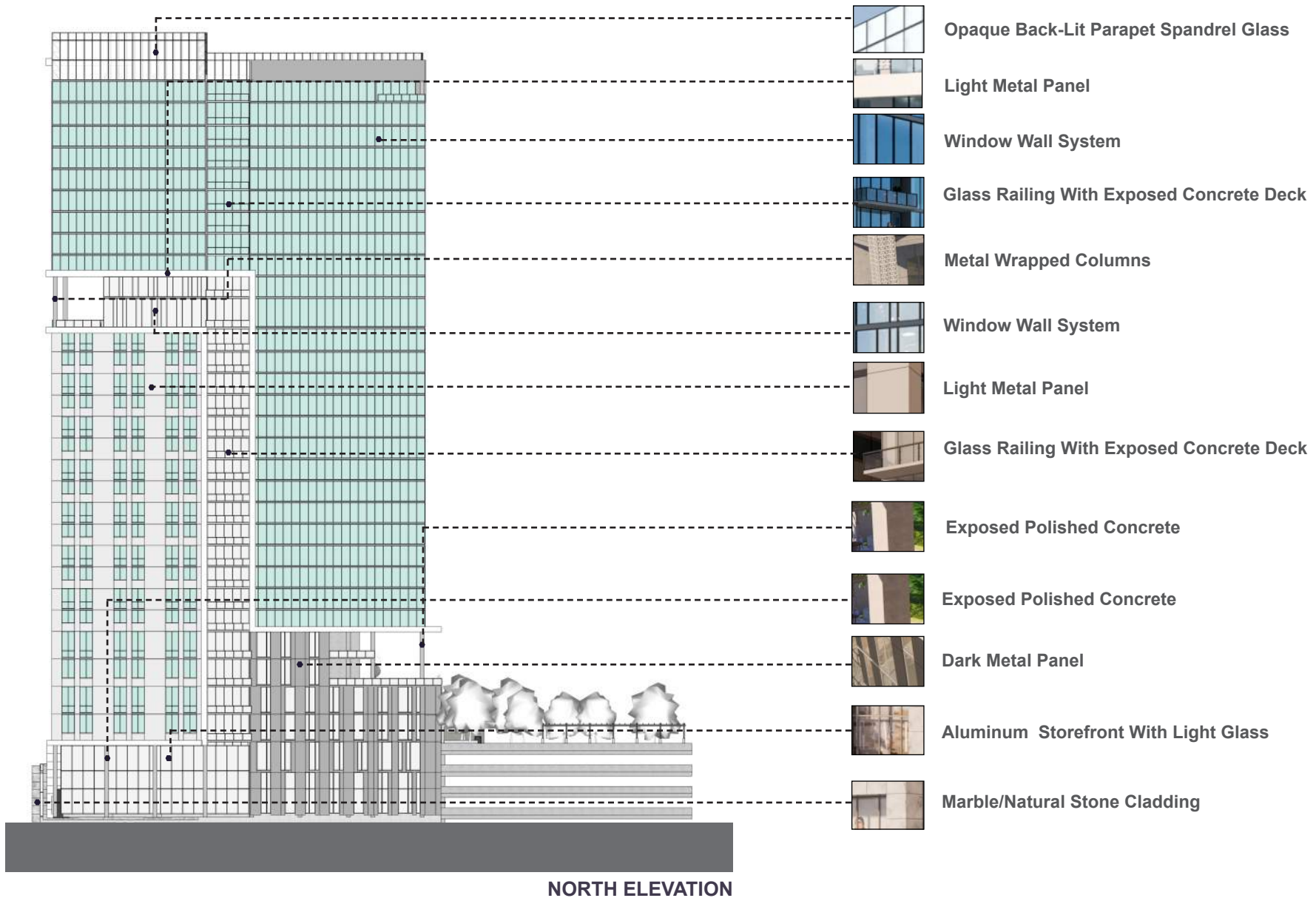


## PROJECT DESIGN: MATERIALS

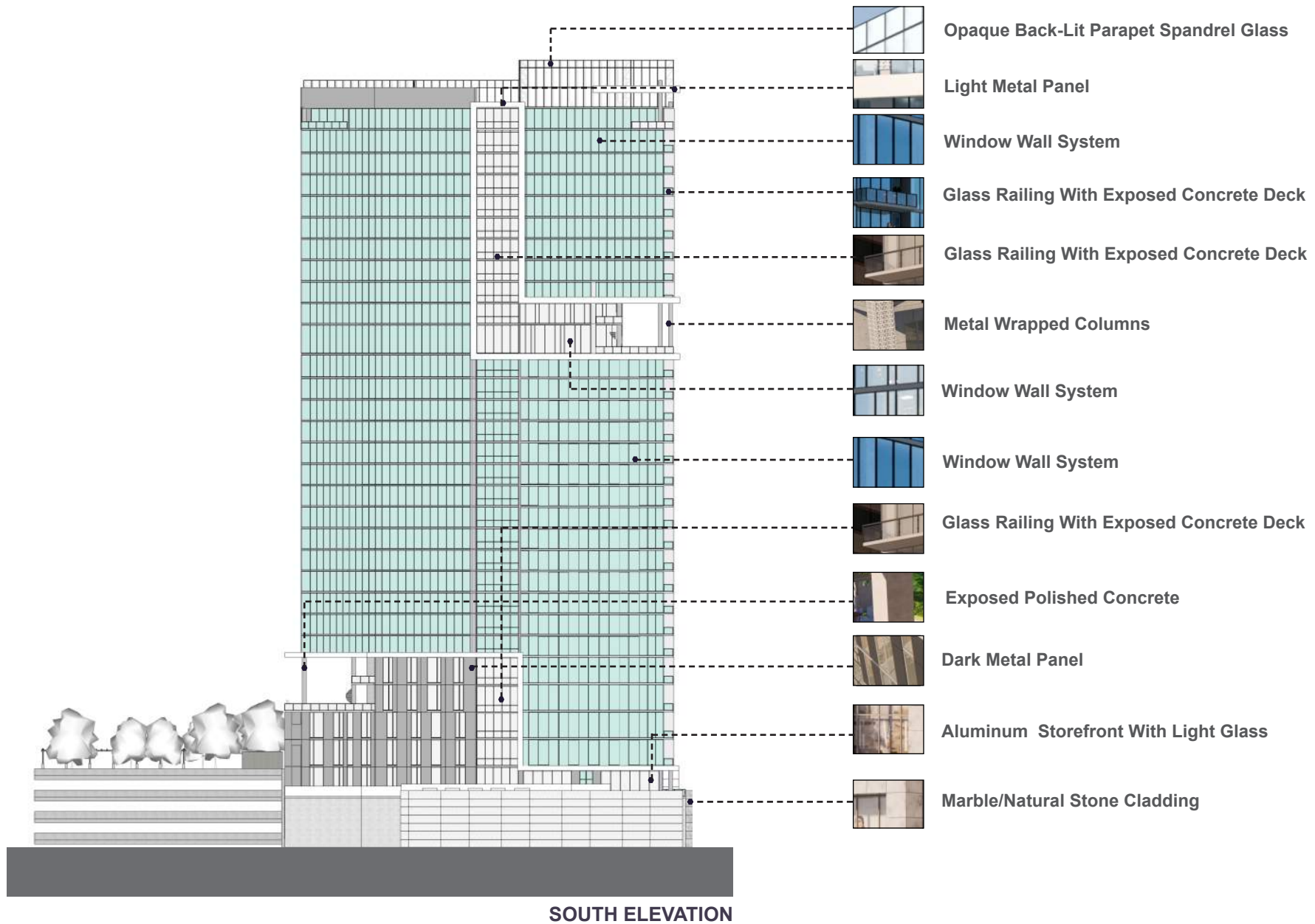




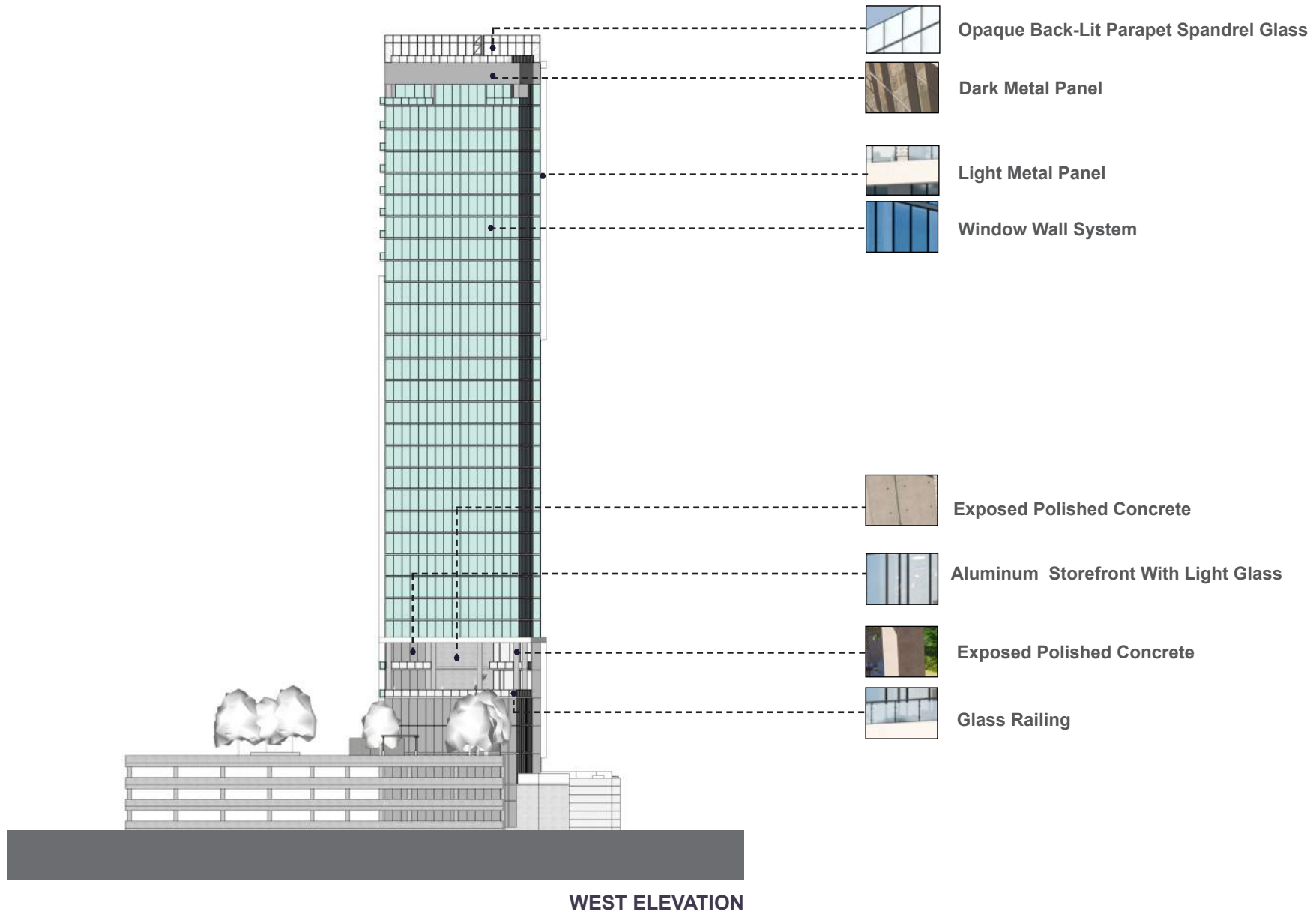
## PROJECT DESIGN: MATERIALS



## PROJECT DESIGN: MATERIALS

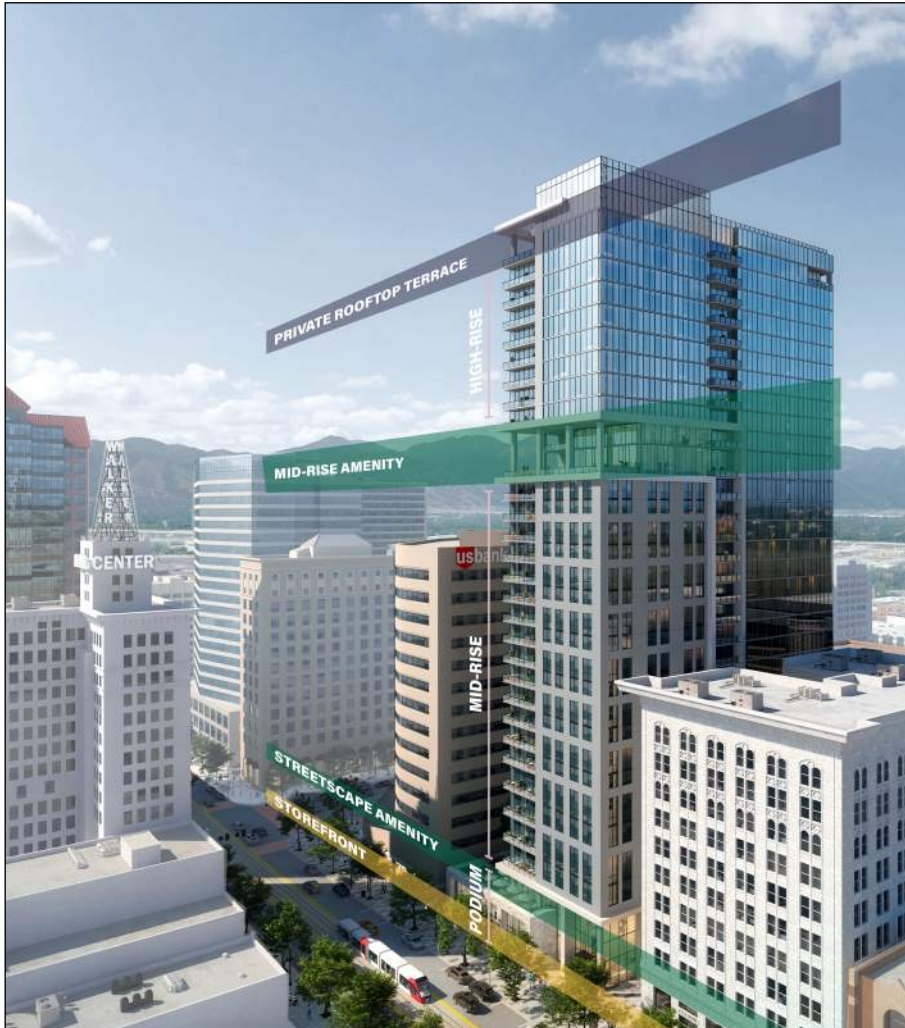


## PROJECT DESIGN: MATERIALS



## PROJECT DESIGN: MATERIALS





## PROJECT DATA

**RETAIL:** 8,400 SF (ground floor)

### RESIDENTIAL UNIT MIX:

**Affordable** - 40 Units / 10%

**Studio** - 75 Units / 18.75%

**1-Bed** - 176 Units / 44%

**2-Bed** - 104 Units / 26%

**Penthouse** - 5 Units / 1.25%

**Total - 400 Units / 100%**

Average unit size = 767 SF

Density = 332.5 dwelling units per acre

### PARKING DECK:

**5 Levels (4 Levels + 1 Basement)**

.5 space per dwelling unit required = 200 spaces minimum

**Standard Spaces** - 185 spaces for Residents and 60 spaces reserved for Kearns building

**ADA Spaces:** 6 spaces

**EV Spaces:** 11 spaces (1 EV space required per 25 spaces provided)

**Total - 262 Spaces**

Bicycle storage located at ground level near parking deck can accommodate more than 13 bikes or the required 5% of the provided parking spaces.

## PROJECT DESIGN: PROJECT DATA

## **PROGRAM**

The tower's program primarily consists of apartments and accessory spaces (i.e. lobby, pool area, sky lounge and open-air terrace), but also includes 8,400 square feet of retail space at the ground floor fronting Main Street. The total number of units is 400, including 40 affordable, 355 market rate and 5 penthouses. The building facade is a combination of glazed curtain wall and stucco / metal panel on metal stud exterior framing. The construction is Type I.

The proposed parking structure's footprint is approximately 122 feet by 185 feet, with one level below grade and four levels above grade, with capacity for 262 vehicles. The parking structure design includes an elevated park covering the entire parking footprint at its roof level (see Site/Park Design Section)

### **Level 1 (double height):**

24 ft height space encompasses the residential lobby, leasing office, back-of-house, and retail space. Three prominent points of entry provide a grand first-impression of the building, and include access to the retail space, to the residential lobby, and the mid-block plaza connecting to the elevated park (see Site/Park Design Section).

### **Level 2:**

Private patios adjoin the south-facing units above the retail space, as well as a co-working amenity space, with a patio overlooking Main Street, for residents to work remotely.

### **Levels 3 and 4:**

Forty (40) affordable housing units.

### **Level 5:**

A private pool overlooks Pantages Park located on the roof of the connected parking structure. The level also includes restrooms, showers, and a large clubhouse amenity space for resident use.

### **Level 6:**

A fitness center with direct access to the pool deck below via a spiral stair.

### **Levels 7-20 and Levels 23-30:**

Typical residential floorplate is designed at 13,265 square feet with 82.3% efficiency, consisting of fourteen (14) residential units, three elevators, two stair towers, one trash room, and one electrical room.

### **Levels 21 and 22:**

A large amenity sky lounge on the east half of the tower, as well as an open two-story terrace overlooking the city and mountains to the east.

### **Level 31:**

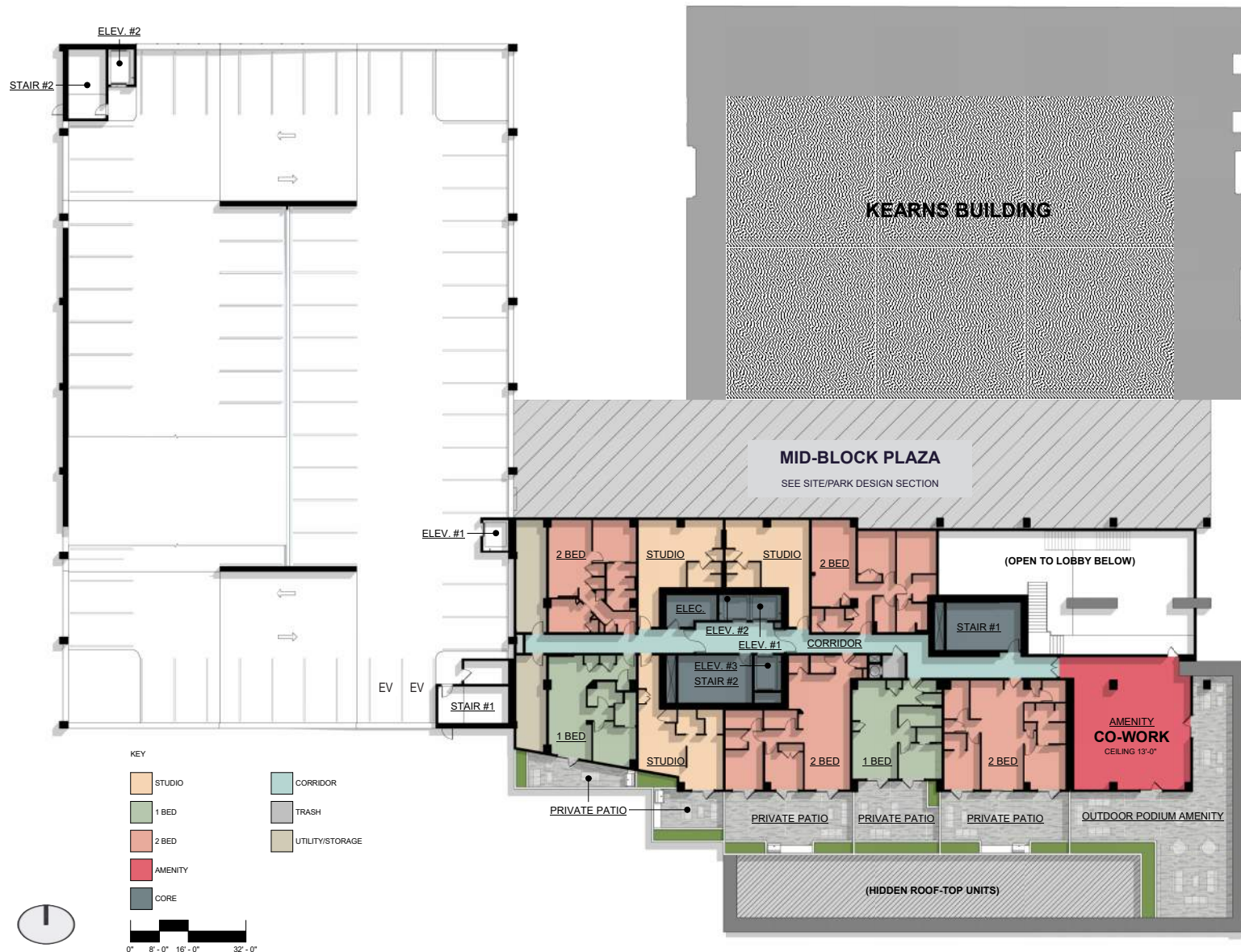
Five penthouse units with unobstructed views of the surrounding city, valley, and mountains.

## **PROJECT DESIGN: PROGRAM**



GROUND FLOOR

## PROJECT DESIGN: PLANS AND SECTIONS



**LEVEL 2: PRIVATE PATIO UNITS**

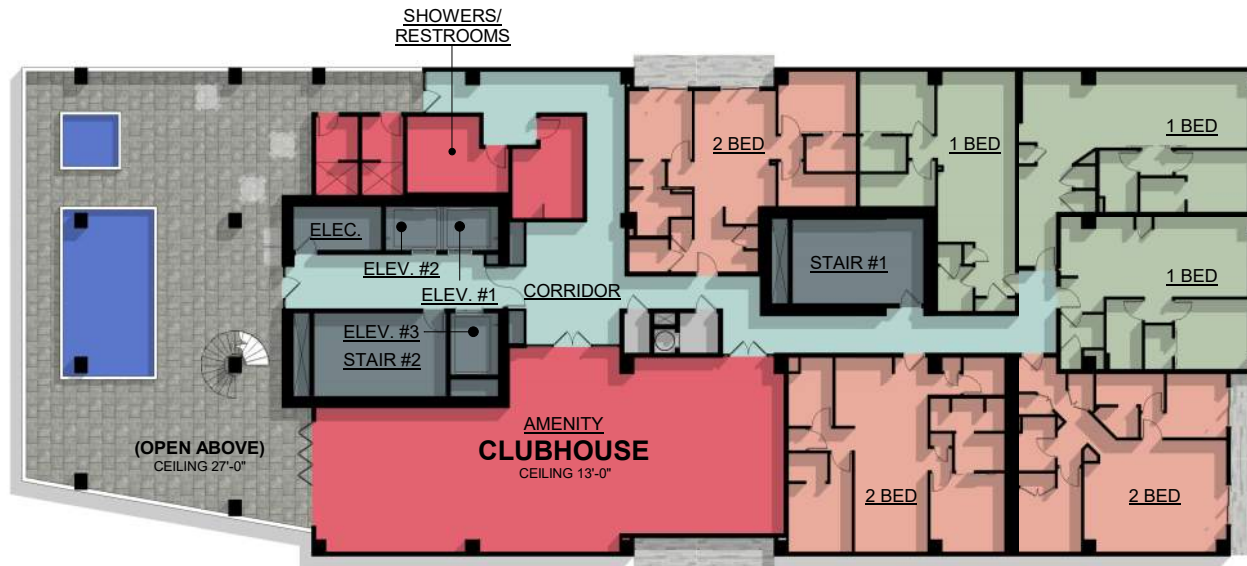
## PROJECT DESIGN: PLANS AND SECTIONS





**LEVELS 3 AND 4: AFFORDABLE UNITS**

## PROJECT DESIGN: PLANS AND SECTIONS



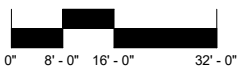
LEVEL 5: AMENITY DECK



LEVEL 6: AMENITY DECK

KEY

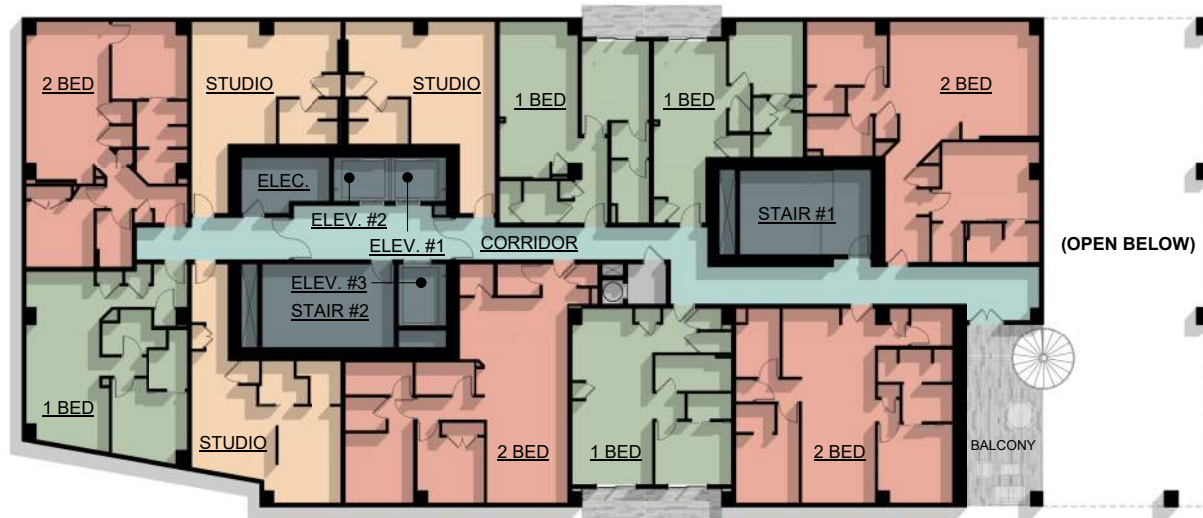
- STUDIO
- 1 BED
- 2 BED
- AMENITY
- CORE
- CORRIDOR
- TRASH



## PROJECT DESIGN: PLANS AND SECTIONS

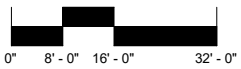


LEVEL 21: MID-RISE AMENITY DECK



LEVEL 22: MID-RISE AMENITY DECK

KEY

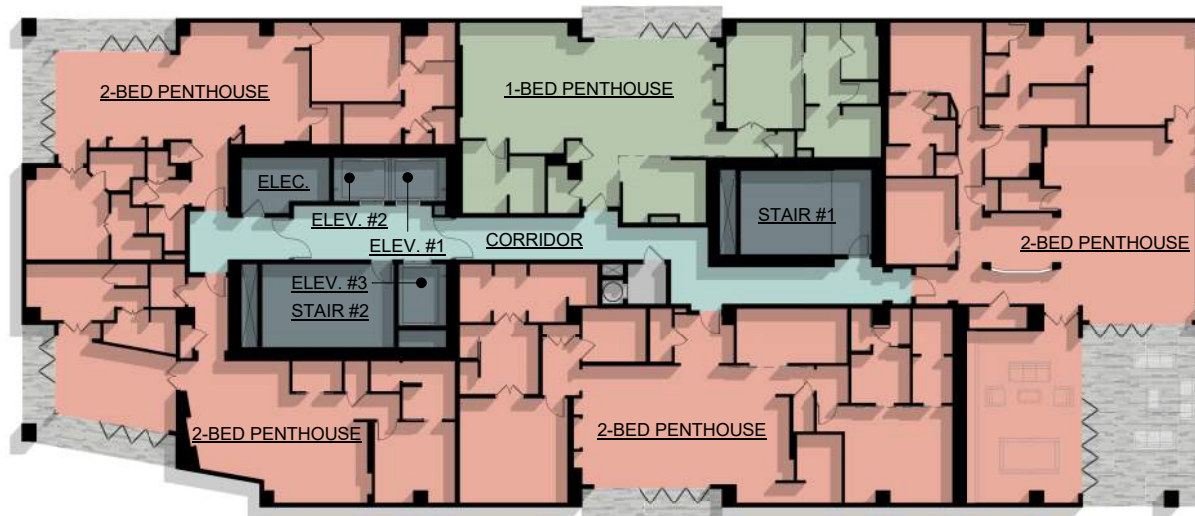


## PROJECT DESIGN: PLANS AND SECTIONS





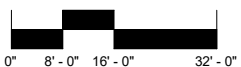
LEVELS 7-20, 23-30: TYPICAL FLOOR PLATE



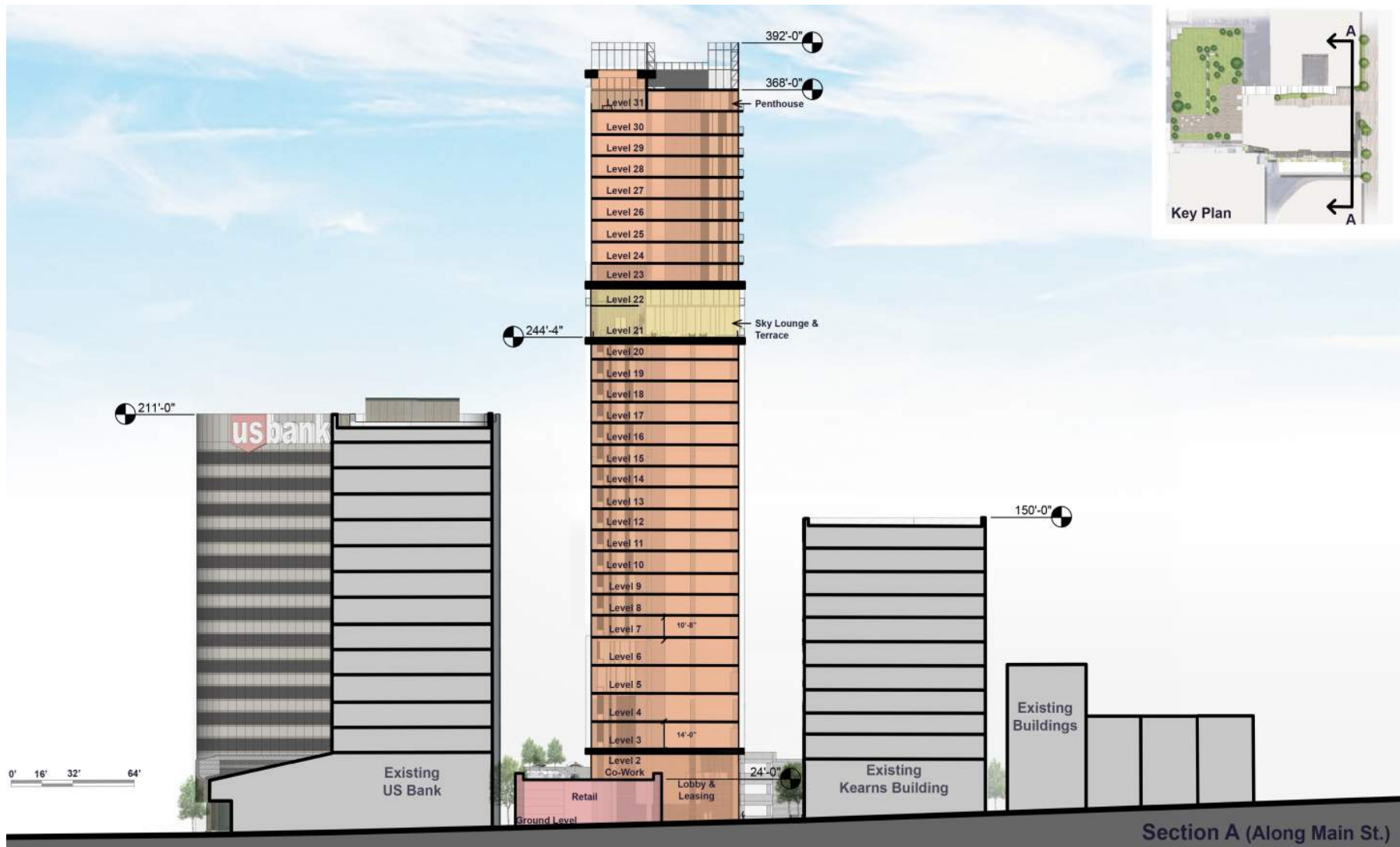
LEVEL 31: PENTHOUSE SUITES

KEY

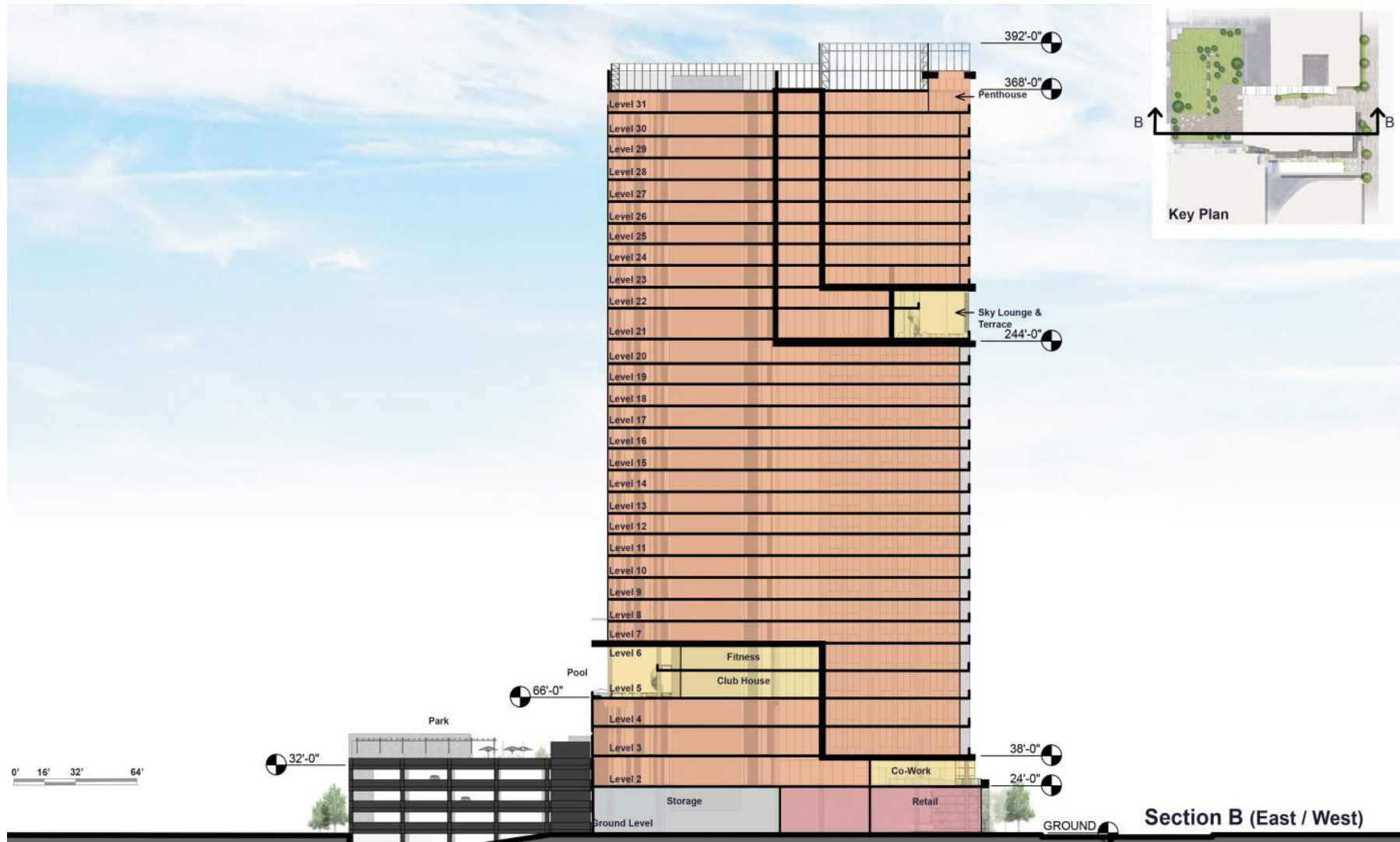
- STUDIO
- 1 BED
- 2 BED
- AMENITY
- CORE
- CORRIDOR
- TRASH



## PROJECT DESIGN: PLANS AND SECTIONS



## PROJECT DESIGN: PLANS AND SECTIONS



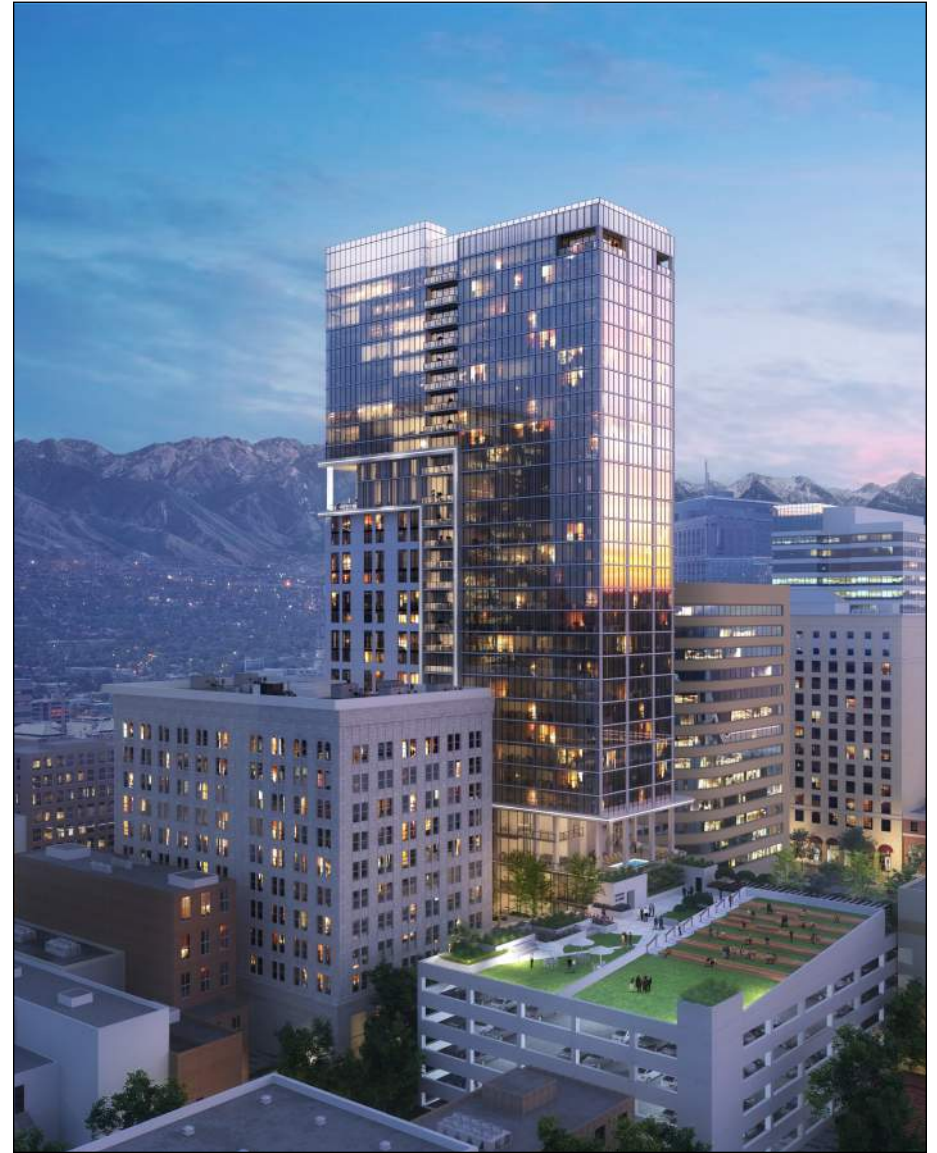
## PROJECT DESIGN: PLANS AND SECTIONS





# RENDERINGS





## RENDERING: DUSK





RENDERING: DAYTIME





## RENDERING: MID-BLOCK WALKWAY





## RENDERING: STREETScape





RENDERING: POOL AMENITY DECK





RENDERING: SKY LOUNGE





RENDERING: SKY LOUNGE

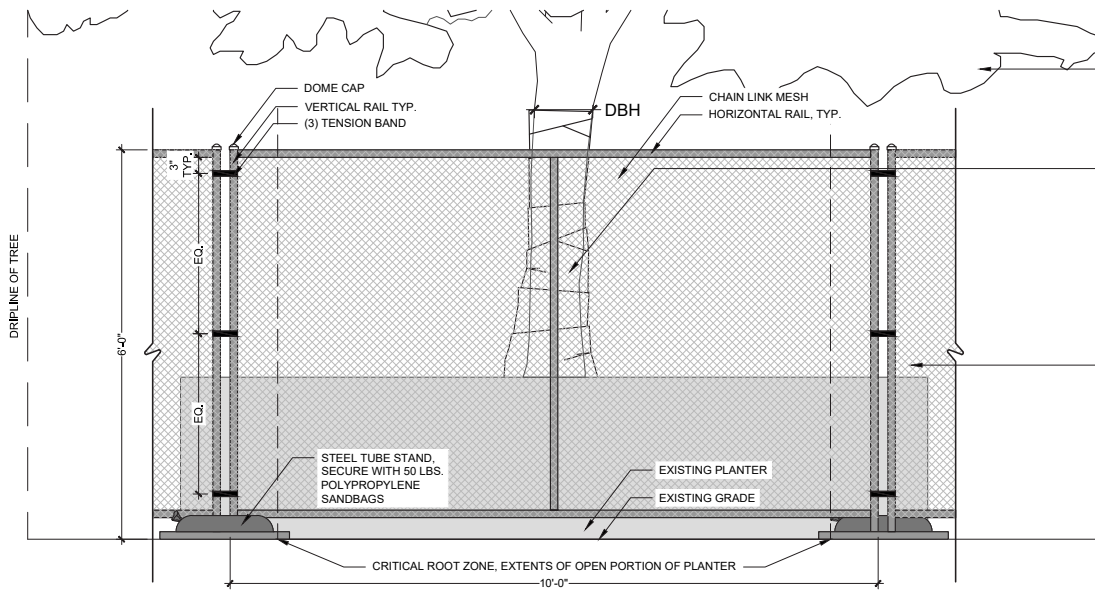
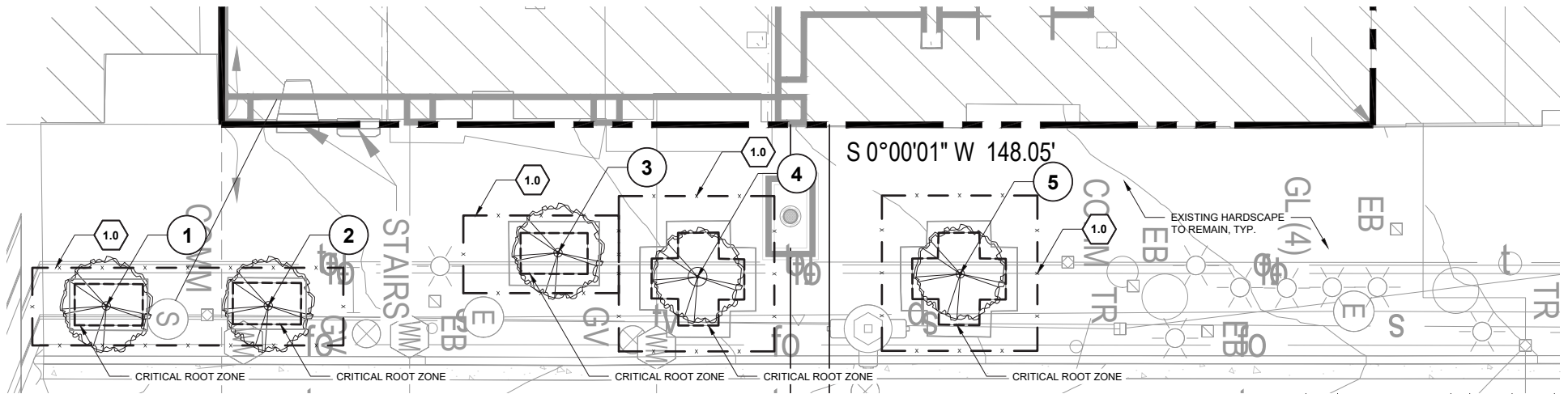




# SITE/PARK DESIGN







SECTION

NOTES:

\* DBH: DIAMETER AT BREAST HEIGHT

\* TREE PROTECTION ZONE IS DEFINED AS THE EXTENTS OF THE EXISTING PLANTER

#### ZONE 3: LOWER CANOPY PROTECTION

CONTACT LANDSCAPE ARCHITECT AND SALT LAKE CITY URBAN FORESTRY DEPARTMENT IF ANY PRUNING IS NEEDED PRIOR TO WORK IF POTENTIAL FOR DAMAGE EXISTS.

#### ZONE 2: TRUNK PROTECTION

REQUIRED IF CONSTRUCTION EQUIPMENT INVOLVED WITHIN THE CRITICAL ROOT ZONE (PERMITTED INSIDE THE TREE PROTECTION AREA ONLY IF EQUIPMENT IS OPERATED EXCLUSIVELY ON EXISTING HARDSCAPE AND NO SOIL COMPACTION TAKES PLACE.) ALL EXCAVATION WITHIN THE CRITICAL ROOT ZONE OF ANY TREE IF APPROVED BY LANDSCAPE ARCHITECT AND SALT LAKE CITY URBAN FORESTRY DEPARTMENT SHALL BE NON MECHANICALLY HAND EXCAVATED.

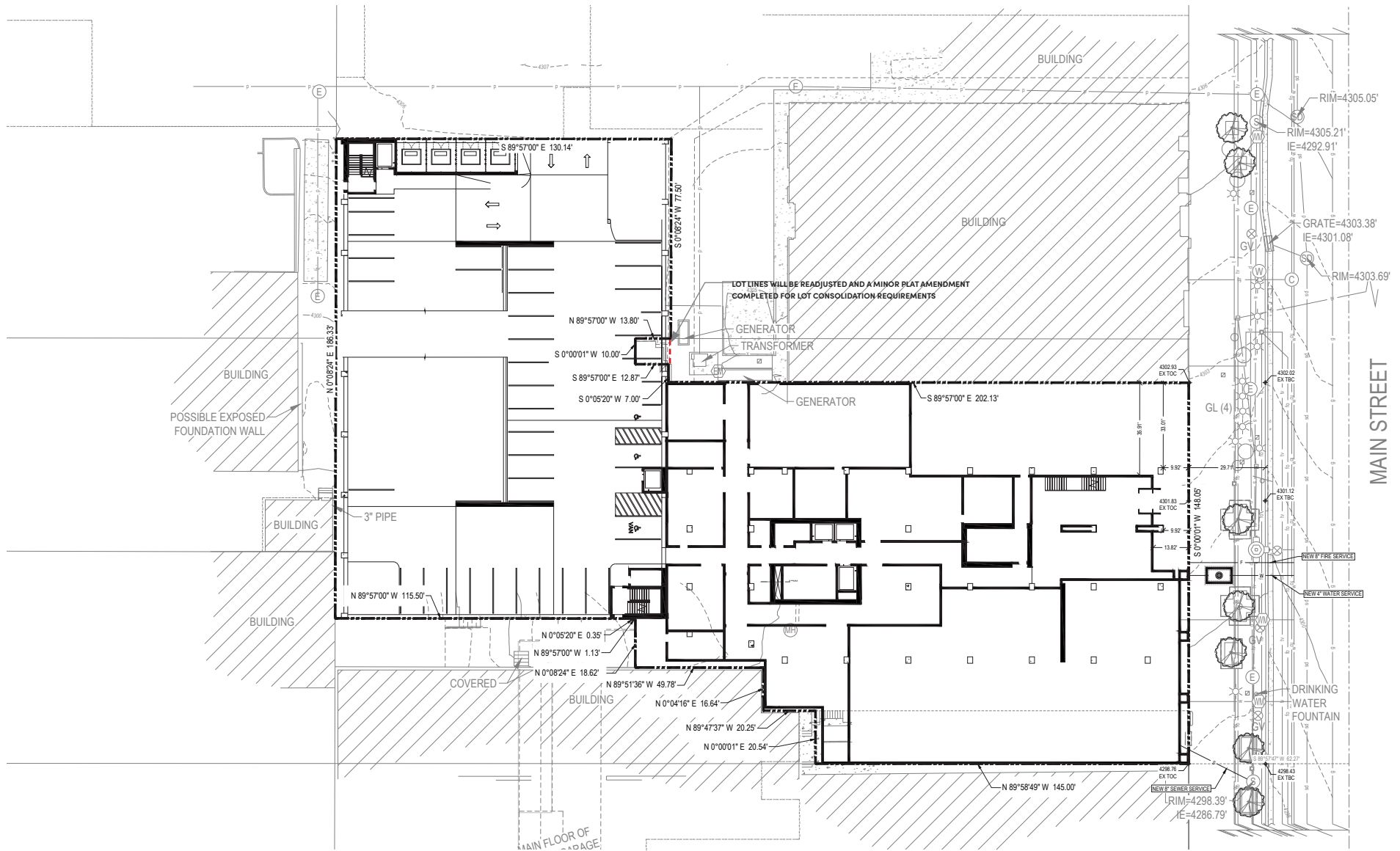
#### ZONE 1: ROOT PROTECTION

TREE PROTECTION FENCE, 6' MINIMUM HEIGHT, PLACE AT LIMITS OF TREE PROTECTION ZONE. REMOVE AT END OF CONSTRUCTION, OBTAIN CONSENT OF LANDSCAPE ARCHITECT PRIOR TO REMOVAL. TREE PROTECTION ZONE SIGNAGE (IN ACCORDANCE WITH SALT LAKE CITY URBAN FORESTRY DEPARTMENT SIGNAGE) MUST BE POSTED ON EACH LINEAR SPAN OF FENCING. TREES MUST BE FENCED WITH SEMI-PERMANENT, CHAIN LINK FENCE.

### EXISTING TREE INVENTORY

Tree Inventory	Tree Number	Tree Species	Tree Size (DBH)	Location	Condition	Status
	1	Gleditsia triacanthos	8"	Public	Good	Proposed Preserved
	2	Acer platanoides	12"	Public	Good	Proposed Preserved
	3	Acer platanoides	12"	Public	Good	Proposed Preserved
	4	Tilia cordata	24"	Public	Good	Proposed Preserved
	5	Tilia cordata	10"	Public	Good	Proposed Preserved
<b>Total Tree Count:</b>						
<b>Total Tree DBH (in.) to be Preserved</b>			66"			
<b>Total Tree DBH (in.) to be Removed</b>			0"			

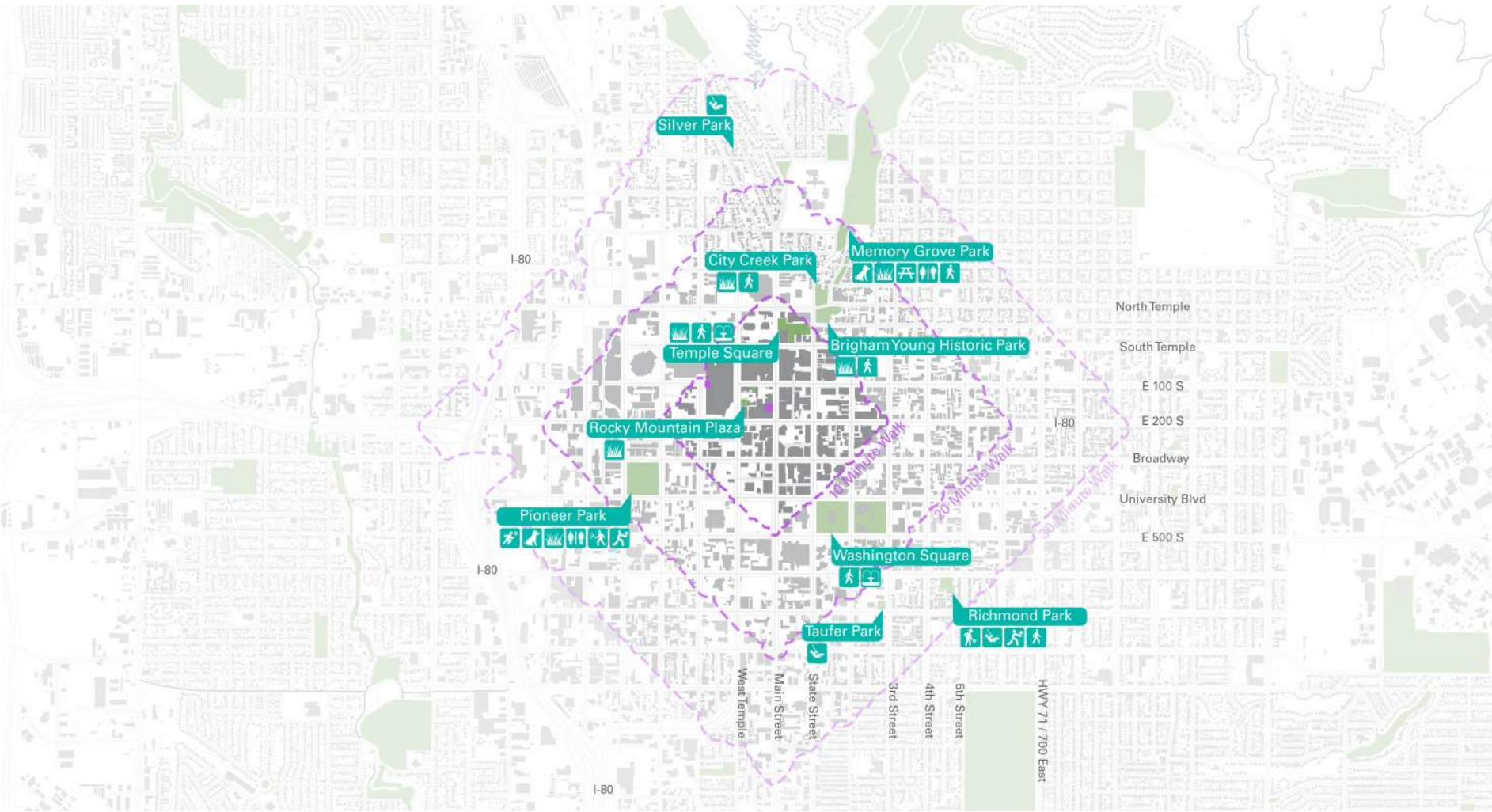
## SITE DESIGN: R.O.W. LANDSCAPE



## SITE DESIGN: UTILITIES

# PARK GAPS

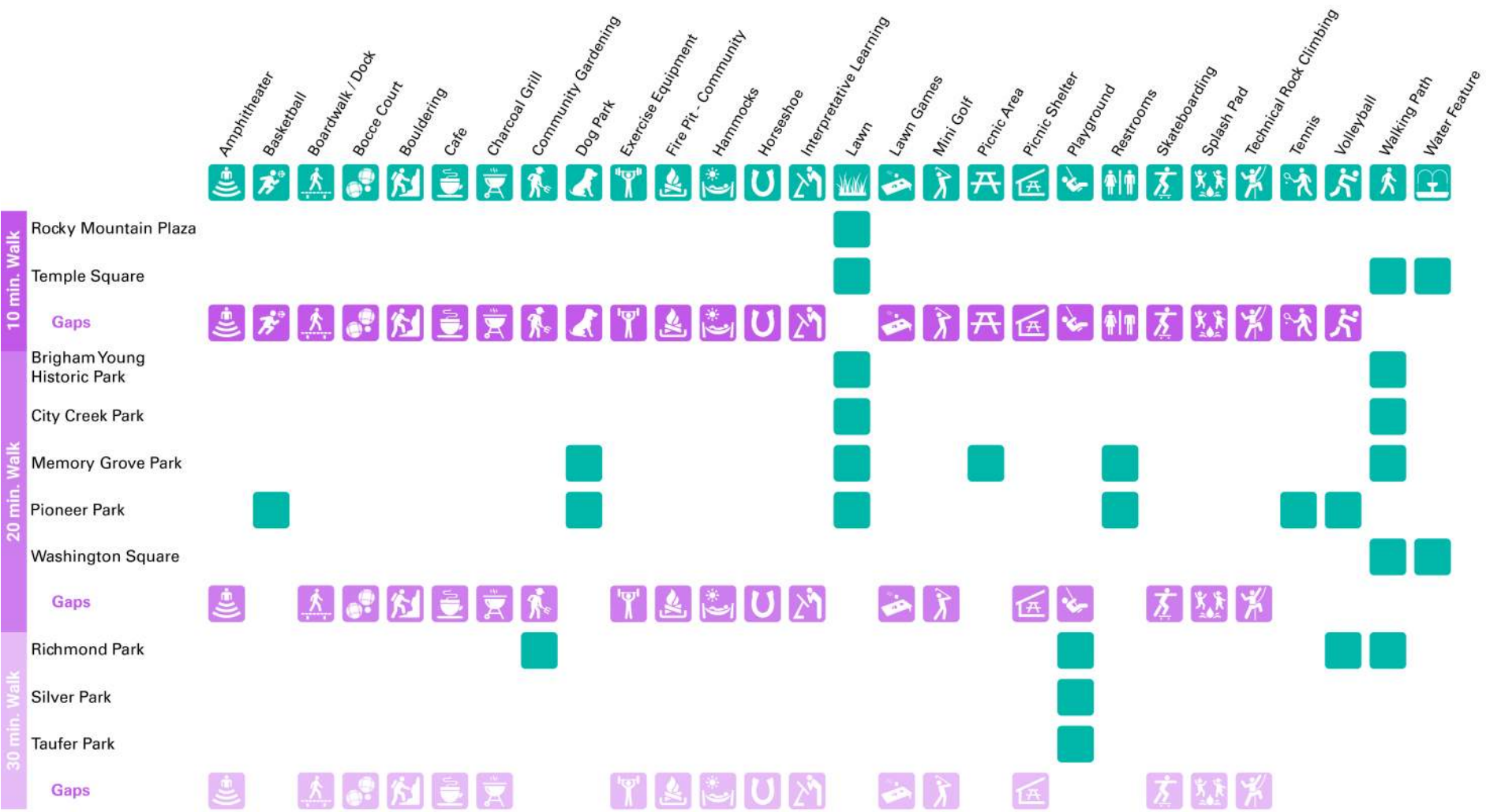
PARKS DESERT  
A LACK OF PROGRAMMING IN THE DOWNTOWN CORE



## PARK DESIGN: CONCEPT

# PARK GAPS

PARKS DESERT  
A LACK OF PROGRAMMING IN THE DOWNTOWN CORE



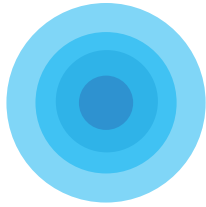
## PARK DESIGN: CONCEPT



## USER PROFILES

### SITE USERS

HOW DO WE DESIGN FOR ENERGY AND VIBRANCY



#### EVENT //

Big event, heavy logistics, brings people year after year to experience something they know or have heard about



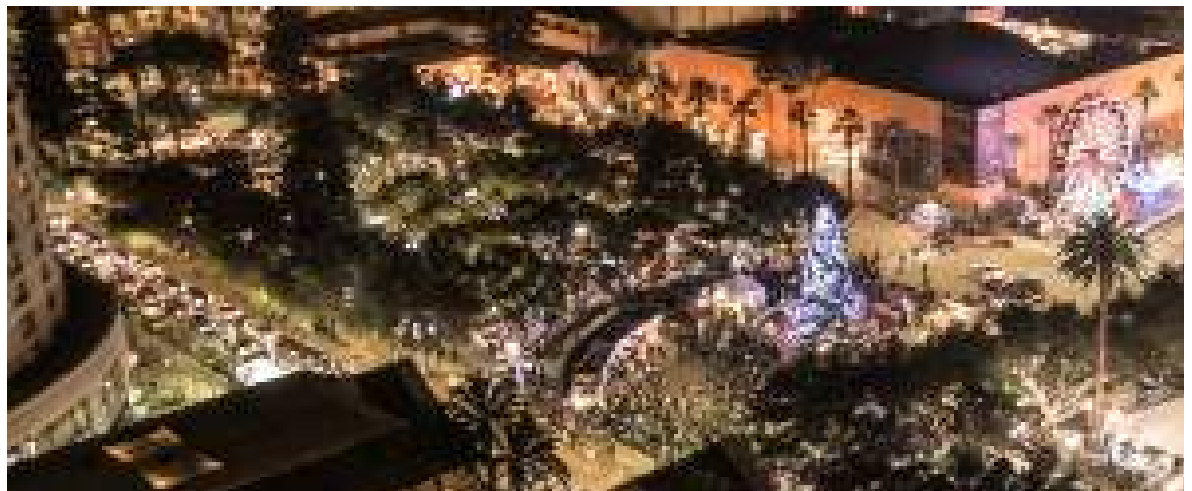
#### ACTIVE //

Something people, "in the know", know about...sense of spectacle, heavy rotation to encourage repeat visitation.



#### EVERYDAY //

Most challenging, has to rely heavily on creating a "great" place. (Great=Comfortable). Need shade, solar access, views, good lighting, art, wide/safe sidewalks, ped dominated, good music, food, comfortable seating, multi scale spaces, places to hang for multiple hours and people watch

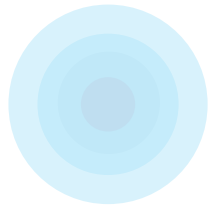


## PARK DESIGN: CONCEPT

## USER PROFILES

### SITE USERS

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## Soaking up **SUN** and **sounds**

BY BILL ARNOLD  
DANIEL@DAILYCOMMUNITYMAG.COM

Couples swayed to the music, kids hula-hooped and firefighters lined up the scene at the Summer Kickoff Concert at Centennial Center Park.

Denver-based band Groove a Lions, a funk-soul group, opened up the concert before Chris Daniels and the Kings, a Denver-based blues band, performed during the event's second half. More than 200 people attended the event, which ran in the late afternoon and evening June 9 at 13650 E. Peakview Ave.

Fire trucks parked in the lot, where kids donned miniature firefighter uniforms and helmets to participate in safety drills.

Decky Dvorak, a 36-year-old Centennial resident, brought her 6-year-old son, Thomas, who took part in the exercise

led by South Metro Fire Rescue personnel.

"He always on boys when they come out here," Dvorak said.

Kim Spuhler, community risk reduction specialist for South Metro Fire, led kids through an activity course that involved spraying water and crawling low to practice avoiding smoke.

"We're planting the seed for the next generation of firefighters," said Spuhler, who said the exercise aimed to teach safety and passion for the fire service.

More than a dozen kids also took part in a hula-hooping contest that included challenging tricks.

"I think this is great for the city," said Steve Valdez, 60, sitting near the rows of vendors in the parking lot. His wife runs the Devil Dog Grill, which served food at the event.

"Next year, I'm going to invite all my friends and family," Valdez said.



Members of Chris Daniels and the Kings, a Denver-based blues band, perform at the Summer Kickoff Concert on June 9 at Centennial Center Park. The band performed a rendition of "What a Wonderful World" by Louis Armstrong. (PHOTO BY BILL ARNOLD)

Couples sway to the music at the Summer Kickoff Concert at Centennial Center Park. More than 200 people attended the event.



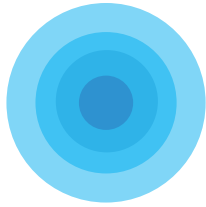
Kim Spuhler, community risk reduction specialist for South Metro Fire Rescue, leads kids dressed in firefighters' gear through a fire-safety exercise. Kids sprayed water, crawled low under a piece of fabric that simulated smoke and rescued a large stuffed animal during their drill. (PHOTO BY BILL ARNOLD)

## PARK DESIGN: CONCEPT

## USER PROFILES

### SITE USERS

HOW DO WE DESIGN FOR ENERGY AND VIBRANCY



#### EVENT //

Big event, heavy logistics, brings people year after year to experience something they know or have heard about



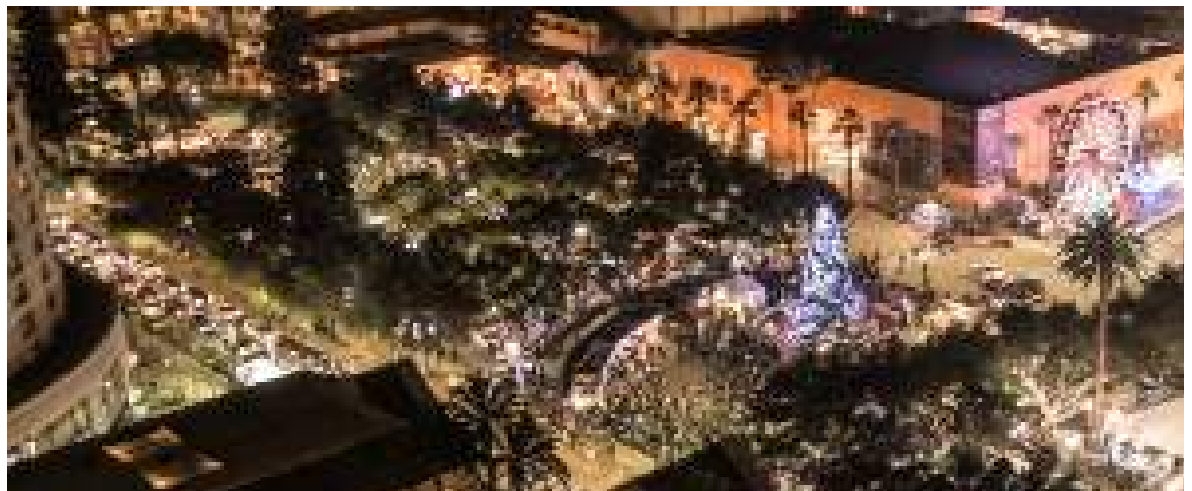
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## PARK DESIGN: CONCEPT

# USER PROFILES

## SITE USERS

HOW DO WE DESIGN FOR ENERGY AND VIBRANCY



### EVENT //

- Santa in the Park (Nov 29-Dec.24)
- Thanksgiving Day Turkey Burn
- Under the Stars Light and Laser Show



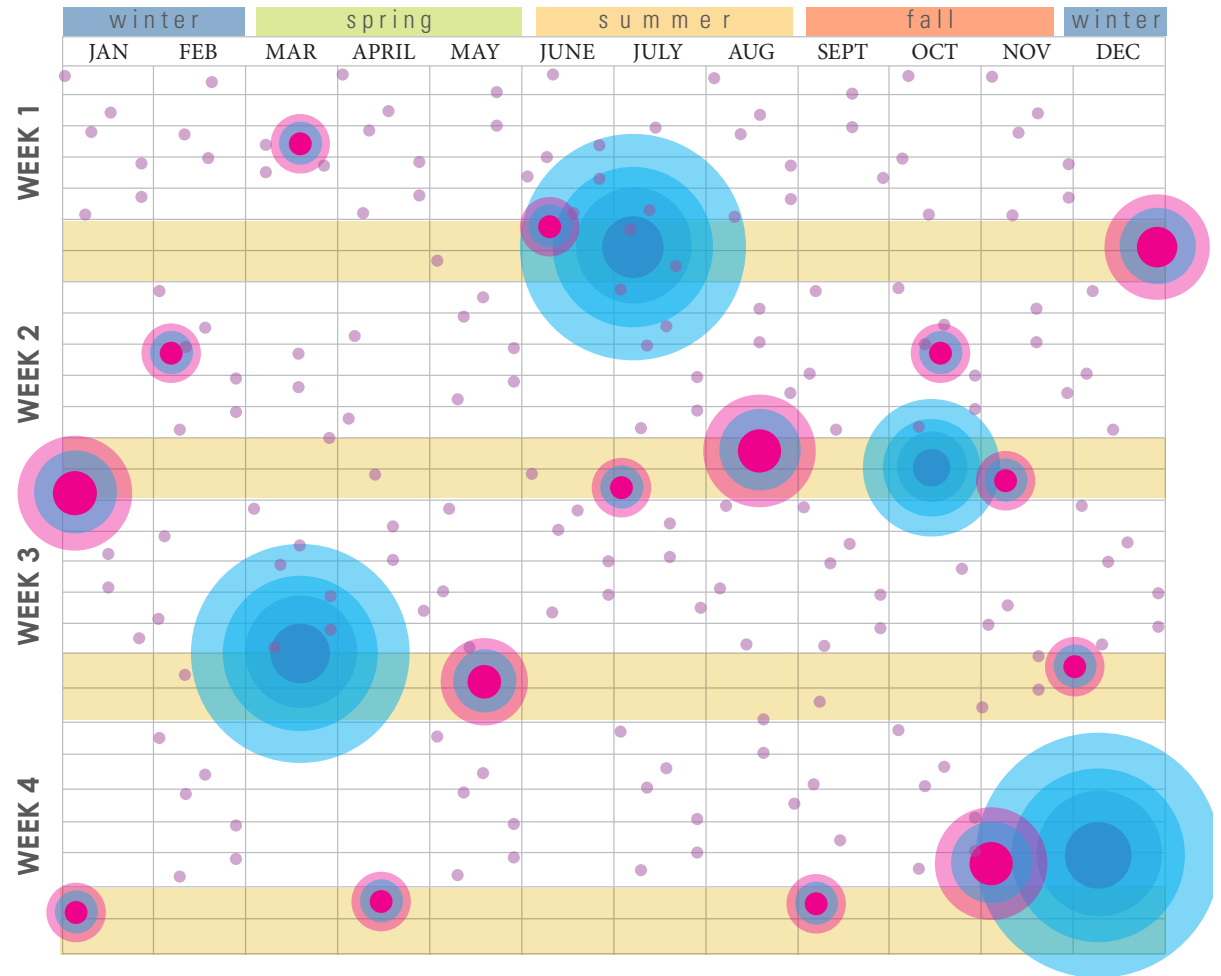
### ACTIVE //

- Chalk Arts Festival
- Great American Tailgate
- Blues, Brew & Que Festival

### EVERYDAY //



- Comfortable seating at all times
- Casual places for groups to make their own
- Active tenants that program outdoor space



## PARK DESIGN: CONCEPT



# PANTAGES PASSAGE

150 MAIN STREET  
PLAN



## MID-BLOCK DESIGN: CONCEPT



## MID-BLOCK DESIGN: CONCEPT





## MID-BLOCK DESIGN: CONCEPT



## MID-BLOCK DESIGN: CONCEPT





## MID-BLOCK DESIGN: CONCEPT

# PANTAGES PARK

150 MAIN STREET  
PLAN

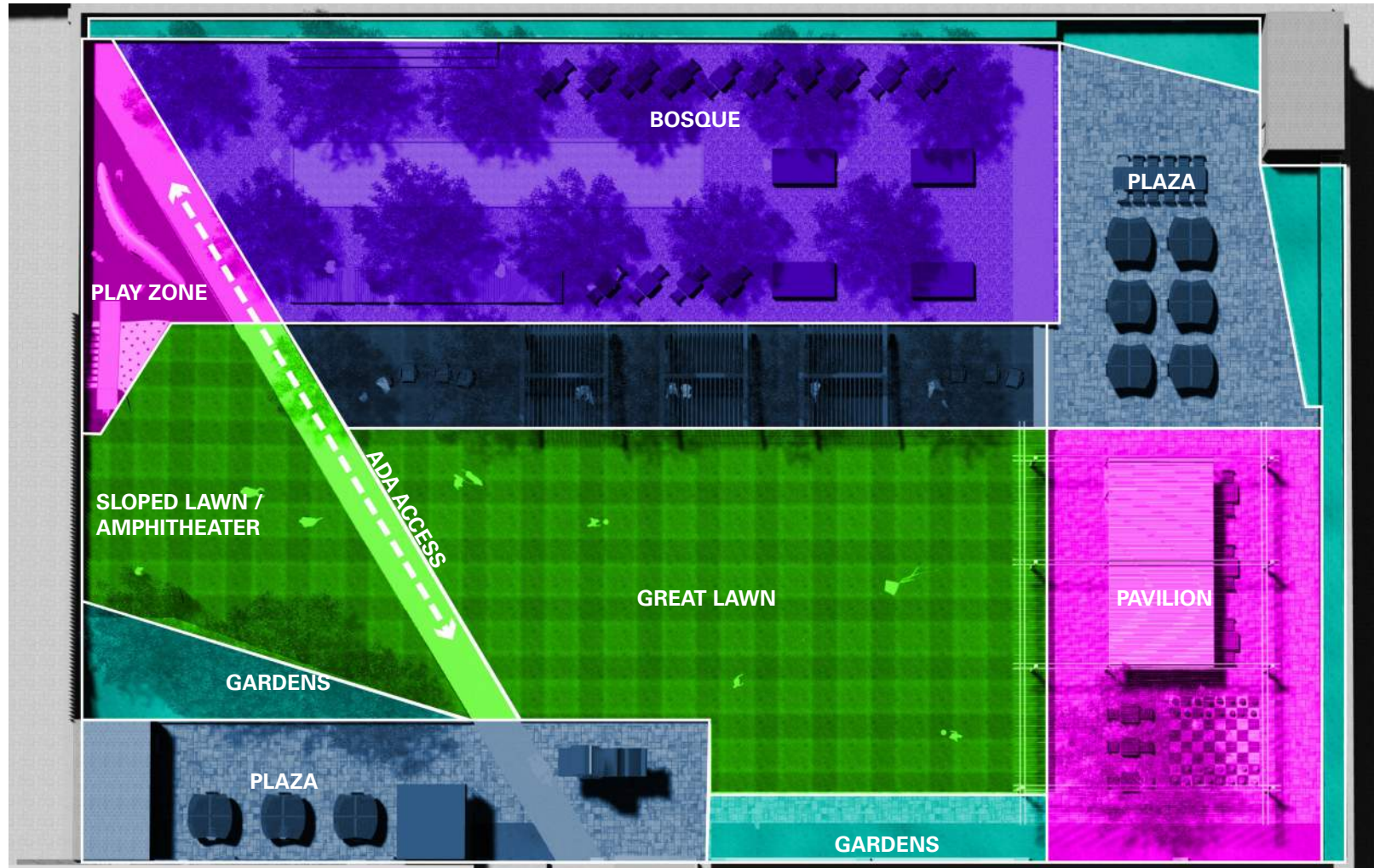


## PARK DESIGN: CONCEPT



# PANTAGES PARK

150 MAIN STREET  
PROGRAMMING PLAN

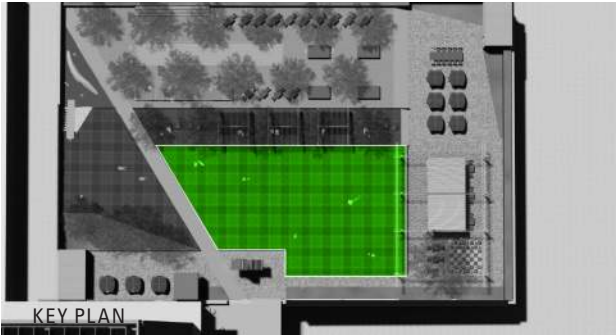


## PARK DESIGN: CONCEPT



PARK PRECEDENTS

FLEXIBLE LAWN  
PICNICS, PICK-UP GAMES, GROUP FITNESS

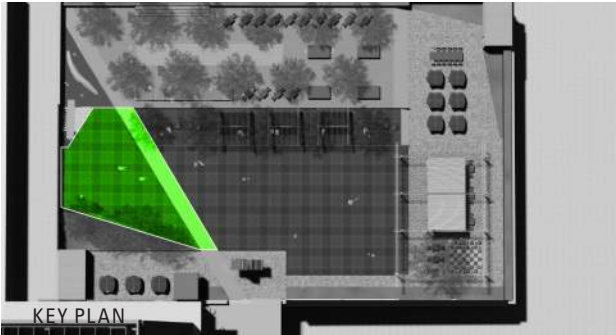


PARK DESIGN: CONCEPT



# PARK PRECEDENTS

SLOPED AMPHITHEATER AND GARDENS  
URBAN RESPITE, GARDENS, MOVIES IN THE PARK, PERFORMANCES



## PARK DESIGN: CONCEPT



PARK PRECEDENTS

PLAY ZONE  
ACTIVE, ENGAGING, FUN

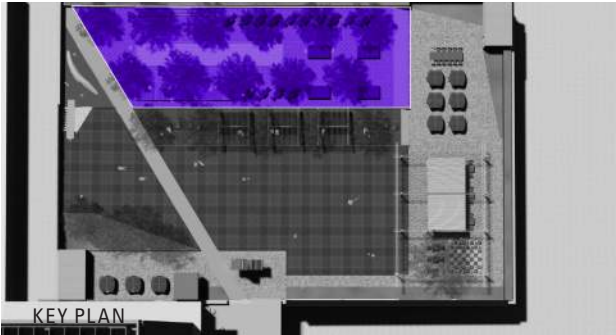


PARK DESIGN: CONCEPT



# PARK PRECEDENTS

BOSQUE  
GAMES, URBAN PLAY, SEATING, ART, SHADE



## PARK DESIGN: CONCEPT



PARK PRECEDENTS

SWINGS  
REST, PLAY, SHADE, ICON

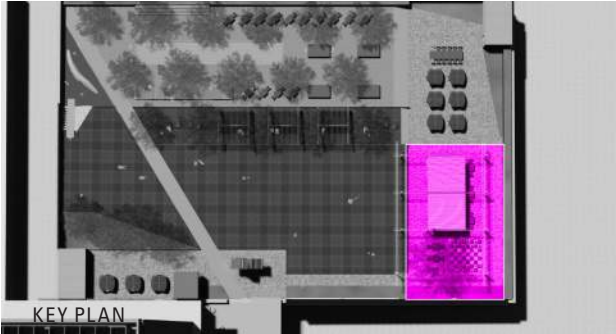


PARK DESIGN: CONCEPT



# PARK PRECEDENTS

PAVILION  
FOOD AND BEVERAGE, PERFORMANCE SPACE, RENTALS, RESTROOMS, SHADE

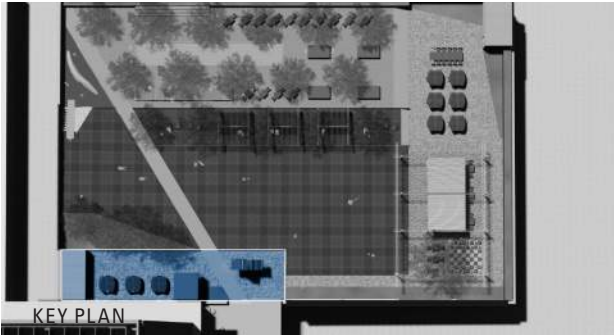


## PARK DESIGN: CONCEPT



PARK PRECEDENTS

SCULPTURAL SIGN  
SPECTACLE, ICON, IDENTITY, PLACEMAKING

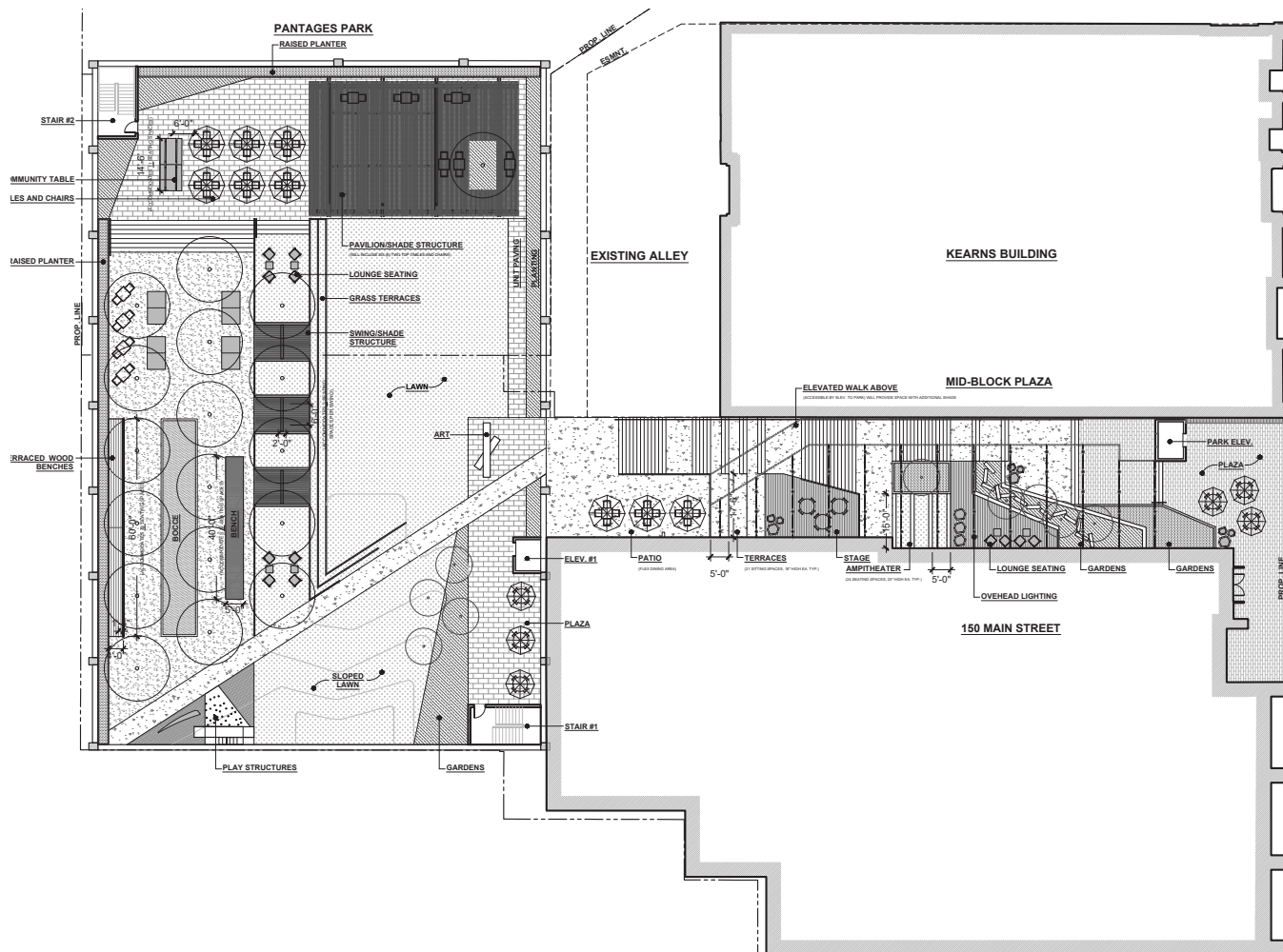


PARK DESIGN: CONCEPT





## PARK DESIGN: CONCEPT



#### SITE AREAS:

- PANTAGES PARK AREA = 22,814 SF
- MID-BLOCK PEDESTRIAN PLAZA 7,075 SF

#### MID-BLOCK DESIGN STANDARD REQUIREMENTS:

- SITTING SPACE OF AT LEAST ONE SITTING SPACE FOR EACH TWO HUNDRED FIFTY (250) SQUARE FEET SHALL BE INCLUDED.

**MID-BLOCK PLAZA:**

  - REQUIRES: 28 SEATING AREAS
  - DESIGN MEETS CRITERIA:
    - 36 MOVEABLE/LOUNGE CHAIRS
    - 45 SEATWALL SEATING LOCATIONS ON TERRACES/AMPHITHEATER (ASSUMES A MIN. OF 30" PER LINEAR FOOT OF SEATWALL FOR EACH SITTING SPACE)

**PARK:**

  - REQUIRES: 91 SEATING AREAS
  - DESIGN MEETS CRITERIA:
    - 64 MOVEABLE/LOUNGE CHAIRS
    - 11 SPOTS AT COMMUNITY TABLE
    - 104 SEATING LOCATIONS ON BENCHES (ASSUMES A MIN. OF 30" PER LINEAR FOOT OF BENCH EACH SITTING SPACE)
    - 6 SEATING LOCATIONS AT SWING/SHADE STRUCTURES
- A MIXTURE OF SHADED AREAS THAT PROVIDE SEASONAL SHADE.

DESIGN MEETS THIS CRITERIA:

  - REFER TO SUN/SHADOW STUDY OF THE SITE AS THE PROPOSED BUILDING WILL PROVIDE REGULAR SHADE
  - PROPOSED OVERHEAD WALKWAY WILL PROVIDE ADDITIONAL SHADE
  - 10,000 SF, OR NEARLY HALF OF THE PARK, WILL BE IN SHADE VIA THE PAVILION AND TREES
- TREES IN PROPORTION TO THE SPACE (MINIMUM OF (1) ONE 2" CALIPER TREE PER 800 SF).

REQUIRES: 37 TREES

DESIGN DOES NOT MEET THIS CRITERIA. THIS IS NOT ONE OF THE REQUIREMENTS THE PROJECT IS PURSUING GIVEN THAT THE MID-BLOCK SPACE IS IN SHADE NEARLY ALL DAY, YEAR-ROUND. ADDITIONALLY THE SCALE OF THE PARK/MID-BLOCK SPACE, AND THEIR LOCATION BEING PREDOMINANTLY ON STRUCTURE IS NOT CONDUCTIVE TO HIGH CANOPY COVERAGE.
- WATER FEATURES OR PUBLIC ART.

REQUIRES: ONE (1) WATER FEATURE OR ONE (1) PUBLIC ART COMPONENT

DESIGN MEETS CRITERIA:

  - ART IS PROVIDED AT THE TERMINUS OF THE MID-BLOCK PLAZA
  - THERE WILL BE ART ON THE UNDERSIDE OF THE OVERHEAD WALK IN THE MID-BLOCK PLAZA
- OUTDOOR DINING AREAS

DESIGN MEETS CRITERIA: THERE ARE A VARIETY OF AREAS SHOWN ON THE PLAN THAT COULD PROVIDE OUTDOOR DINING.
- OTHER AMENITIES NOT LISTED ABOVE THAT PROVIDE A PUBLIC BENEFIT.

DESIGN MEETS CRITERIA: ADDITIONAL AMENITIES THAT PROVIDE PUBLIC BENEFIT INCLUDE:

  - OVERHEAD LIGHTING AS AN EXTENSION OF THE REGENT STREET PLAZA THAT WILL CONNECT THE PUBLIC TO THE SPACE AND DRAW THEM IN TO THE PLAZA AND UP TO THE PARK.
  - A PUBLICLY ACCESSIBLE ELEVATOR TO PROVIDE EQUITABLE ACCESS TO THE PARK. THIS HAS HIGH VISIBILITY AT THE ENTRY TO THE MID-BLOCK PLAZA AND WILL BECOME AN ICONIC ELEMENT OF THE SPACE.
  - A PLAY ZONE IN THE PARK THAT ENSURES A MORE DIVERSE CROSS-SECTION OF THE DEMOGRAPHIC BENEFITS FROM PUBLICLY-OWNED PRIVATE SPACE THAT IS NOT OUTLINED IN THE REQUIREMENTS.

**5 OUT OF THE 6 DESIGN CRITERIA ARE MET PER THE PLAN**

## PARK DESIGN: SITE CRITERIA





# DESIGN REVIEW STANDARDS

## **SLC Design Review Standard - B**

**Development shall be primarily oriented to the sidewalk, not an interior courtyard or parking lot.**

1. Primary entrances shall face the public sidewalk (secondary entrances can face a parking lot).
2. Building(s) shall be sited close to the public sidewalk, following and responding to the desired development patterns of the neighborhood.
3. Parking shall be located within, behind, or to the side of buildings.

## **Compliance of Standard - B**

1-2. The main entry of the proposed tower, referred to here as 150 S. Main, is oriented towards the Main Street sidewalk. Similar to the development pattern along Main Street, the tower's pedestrian-focused entry facade along Main Street provides three prominent points of access, including entry to the retail space fronting Main Street, entry to the residential lobby, and access to the elevated park (see Site/Park Design Section) located above the parking structure at the rear of the property. There is a hierarchy of the entries: the retail immediately fronts Main Street with no setback; the residential lobby entrance steps back about ten feet from the retail face, signifying a slightly less public entrance; the elevated park is accessed from Main Street via an open, activated, and landscaped mid-block plaza.

3. Parking is located at the rear of the tower with vehicular access via an access easement from 100 South and West Temple. Pedestrians access the parking structure via the tower and the mid-block plaza.

## **SLC Design Review Standard - C**

**Building facades shall include detailing and glass in sufficient quantities to facilitate pedestrian interest and interaction.**

1. Locate active ground floor uses at or near the public sidewalk.
2. Maximize transparency of ground floor facades.
3. Use or reinterpret traditional storefront elements like sign bands, clerestory glazing, articulation, and architectural detail at window transitions.
4. Locate outdoor dining patios, courtyards, plazas, habitable landscaped yards, and open spaces so that they have a direct visual connection to the street and outdoor spaces.

## **Compliance of Standard - C**

1. Active ground-floor uses at / near the public sidewalk include retail frontage, main residential lobby, and a landscaped mid-block plaza with access to an elevated park (see Site/Park Design Section).
2. Glazing at the retail frontage is 2-stories in height, and 3-stories at the residential lobby entry. The glazing also wraps the corner of the residential lobby extending the transparency for pedestrians walking along the mid-block plaza.
3. The retail facade is delineated with pilasters breaking up the retail glazing into typical storefront spacing and coordinating with main street rhythm.
4. The mid-block plaza to provide outdoor gathering and connection to the elevated park; the plaza physically and visually connects the Main Street public realm to the elevated park at the rear of the property. Note: The mid-block plaza and park design are under review with the SLC RDA. (See Site/Park Design Section)

## **DESIGN REVIEW STANDARDS**

## **SLC Design Review Standard - D**

**Large building masses shall be divided into heights and sizes that relate to human scale.**

1. Relate building scale and massing to the size and scale of existing and anticipated buildings, such as alignments with established cornice heights, building massing, step-backs, and vertical emphasis.
2. Modulate the design of a larger building using a series of vertical or horizontal emphases to equate with the scale (heights and widths) of the buildings in the context and reduce the visual width or height.
3. Include secondary elements such as balconies, porches, vertical bays, belt courses, fenestration, and window reveals.
4. Reflect the scale and solid-to-void ratio of windows and doors of the established character of the neighborhood or that which is desired in the master plan.

## **Compliance of Standard - D**

1. The retail massing relates to the ground-level band massing of the building (170 S. Main Street) immediately south of the project site. The retail massing also relates to the typical storefront rhythm and scale experienced along Main Street, including along the front facade to the Kearns building immediately north of the property.

The mid-rise massing portion of the building relates to several existing buildings in the Central Business District (CBD), including 170 S. Main Street to the south and mid-rises located to the north at City Creek Center.

The proposed building relates in overall height to several buildings in the CBD, including 222 S. Main Street, however many towers within the CBD typically have a wider footprint, and associated mass, fronting the street. The project design proposes a more slender base and frontage towards Main Street, maximizing pedestrian permeability and connectivity.

2. Multiple amenity zones provide horizontal breaks and massing relief referenced from contextual building forms. The front facade materials and massing are also vertically organized: a more solid form with punched openings at the north end of the mid-rise portion of the tower, a more light and transparent form floating above in the high-rise portion of the tower, and a slender stack of balconies at the southeast corner emphasizing building program and scale (particularly floor-to-floor heights).

3. In addition to the larger amenity zones, secondary elements (balconies, vertical bays, fenestration, and window reveals) have been incorporated into the design of each facade, emphasizing the residential use of the tower.

4. The scale and ratio of doors at the ground level relate to the typical street frontage along Main Street (storefront scale and rhythm of transparency and entry).

## **DESIGN REVIEW STANDARDS**



## **SLC Design Review Standard - E**

**Building facades that exceed a combined contiguous building length of two hundred feet (200') shall include:**

1. Changes in vertical plane (breaks in facade);
2. Material changes; and
3. Massing changes.

## **Compliance of Standard - E**

The lot frontage for the proposed building is less than 150 feet in width. The proposed building width at the ground floor along Main Street is about 115 feet; the mid-block plaza is approximately 33 feet wide and 193 feet long.

1-3. Vertical breaks in the Main Street facade occur over the retail space at the second level, matching the facade break in the adjacent building south of the subject property, and at a recessed area over the residential lobby space at the third level, providing another break and relief in the front facade experienced at the pedestrian level. Materials and massing likewise change at these facade breaks to further delineate the change in building program.

## **SLC Design Review Standard - F**

**If provided, privately-owned public spaces shall include at least three (3) of the six (6) following elements:**

1. Sitting space of at least one sitting space for each two hundred fifty (250) square feet shall be included in the plaza. Seating shall be a minimum of sixteen inches (16") in height and thirty inches (30") in width. Ledge benches shall have a minimum depth of thirty inches (30");
2. A mixture of areas that provide seasonal shade;
3. Trees in proportion to the space at a minimum of one tree per eight hundred (800) square feet, at least two inch (2") caliper when planted;
4. Water features or public art;
5. Outdoor dining areas; and
6. Other amenities not listed above that provide a public benefit.

## **Compliance of Standard - F**

SLC Design Review Standard is noted by the design team, and the design of the privately-owned and managed public spaces (activated mid-block plaza and elevated park) to meet three of the above six elements. The team anticipates complying with elements 2, 4, and 5 at a minimum. (See Site/Park Design Section)

## **DESIGN REVIEW STANDARDS**

## **SLC Design Review Standard - G**

**Building height shall be modified to relate to human scale and minimize negative impacts. In downtown and in the CSHBD Sugar House Business District, building height shall contribute to a distinctive city skyline.**

1. Human scale:

- a. Utilize setbacks to design a building that relate to the height and scale of adjacent and nearby buildings, or where identified, goals for future scale defined in adopted master plans.
- b. For buildings more than three stories or buildings with vertical mixed use, compose the design of a building with distinct base, middle, and top sections to reduce the sense of apparent height.

2. Negative impacts:

- a. Modulate taller buildings vertically and horizontally so that it steps up or to its neighbors.
- b. Minimize shadow impacts of building height on the public realm and semi-public spaces by varying building massing. Demonstrate impact from shadows due to building height for the portions of the building that are subject to the request for additional height.
- c. Modify tall buildings to minimize wind impacts on public and private spaces, such as the inclusion of a wind break above the first level of the building.

3. Cornices and rooflines:

- a. Shape and define rooflines to be cohesive with the building's overall form and composition.
- b. Include roof forms that complement the rooflines of surrounding buildings.
- c. Green roof and roof deck: Include a green roof and/or accessible roof deck to support a more visually compelling roof landscape and reduce solar gain, air pollution, and the amount of water entering the stormwater system.

## **Compliance of Standard - G**

1. The building's height and mass are broken into three groups: the podium level, emphasizing pedestrian activity along Main Street; the mid-rise level, responding to several contextual buildings within the CBD; and the high-rise level, relating to other towers of the SLC skyline. Amenity zones provide vertical relief through massing setbacks.

2. The design's activated and landscaped mid-block plaza is an extension of Main Street's mid-block walkway, connecting the tower from the elevated park at the rear of the property to Regent St (to the east) through Main Street's public realm. As a result, this public space and design element provides relief (~30 ft setback) from the neighboring Kearns building to the north, reducing the footprint of the tower and minimizing the tower's shadow impact. The tower is also setback from Main Street (~10 ft), aiding in massing relief to the street wall. The amenity zones provide further massing relief.

3. Similar to several commercial buildings within the CBD, the design proposes flat roofs with glazed parapets terminating the high-rise curtain-wall form. The project design includes a substantial green roof in the form of an elevated park above the parking structure at the rear of the building (see Site/Park Design Section).

## **DESIGN REVIEW STANDARDS**

## **SLC Design Review Standard - H**

**Parking and on-site circulation shall be provided with an emphasis on making safe pedestrian connections to the sidewalk, transit facilities, or mid-block walkway.**

### **Compliance of Standard - H**

Parking is located at the rear of the tower property with vehicular access via an access easement from 100 South and West Temple. Pedestrians access the parking structure via the tower or the mid-block plaza that serves as an extension of Main Street's mid-block walkway, connecting the tower from the elevated park at the rear of the property to Regent Street (to the east) through Main Street's public realm with pedestrian, vehicular, and mass-transit circulation.

## **SLC Design Review Standard - I**

**Waste and recycling containers, mechanical equipment, storage areas, and loading docks shall be fully screened from public view and shall incorporate building materials and detailing compatible with the building being served. Service uses shall be set back from the front line of the building or located within the structure.**

### **Compliance of Standard - I**

Service-use areas are not visible to the public and are located at the rear of the building, or within the parking structure. The rooftop mechanical units above the retail area are screened from view with landscaping at the third-level resident patios and at the large, community-use patio adjacent to the co-working space. Transformers are located at the rear alley, near the parking structure, away from the public access.

## **SLC Design Review Standards - J**

**Signage shall emphasize the pedestrian / mass transit orientation.**

1. Define specific spaces for signage that are integral to building design, such as commercial sign bands framed by a material change, columns for blade signs, or other clearly articulated band on the face of the building.
2. Coordinate signage locations with appropriate lighting, awnings, and other projections.
3. Coordinate sign location with landscaping to avoid conflicts

### **Compliance of Standard - J**

SLC Design Review Standard noted by the design team. Signage to be reviewed by deferred submittal.

## **DESIGN REVIEW STANDARDS**

## **SLC Design Review Standards - K**

**Lighting shall support pedestrian comfort and safety, neighborhood image, and dark sky goals.**

1. Provide streetlights as indicated in the Salt Lake City Lighting Master Plan.
2. Outdoor lighting should be designed for low-level illumination and to minimize glare and light trespass onto adjacent properties and up-lighting directly to the sky.
3. Coordinate lighting with architecture, signage, and pedestrian circulation to accentuate significant building features, improve sign legibility, and support pedestrian comfort and safety

## **Compliance of Standard - K**

SLC Design Review Standard noted by the design team. The hardscape and landscape design of the exterior amenities and circulation to comply with the City's lighting requirements. (See Site/Park Design Section)

## **SLC Design Review Standard - L**

**Streetscape improvements shall be provided as follows:**

1. One street tree chosen from the street tree list consistent with the city's urban forestry guidelines and with the approval of the city's urban forester shall be placed for each thirty feet (30') of property frontage on a street. Existing street trees removed as the result of a development project shall be replaced by the developer with trees approved by the city's urban forester.

2. Hardscape (paving material) shall be utilized to differentiate privately-owned public spaces from public spaces. Hardscape for public sidewalks shall follow applicable design standards. Permitted materials for privately-owned public spaces shall meet the following standards:
  - a. Use materials that are durable (withstand wear, pressure, damage), require a minimum of maintenance, and are easily repairable or replaceable should damage or defacement occur.
  - b. Where practical, as in lower-traffic areas, use materials that allow rainwater to infiltrate into the ground and recharge the water table.
  - c. Limit contribution to urban heat island effect by limiting use of dark materials and incorporating materials with a high Solar-Reflective Index (SRI).
  - d. Utilize materials and designs that have an identifiable relationship to the character of the site, the neighborhood, or Salt Lake City.
  - e. Use materials (like textured ground surfaces) and features (like ramps and seating at key resting points) to support access and comfort for people of all abilities.
  - f. Asphalt shall be limited to vehicle drive aisles.

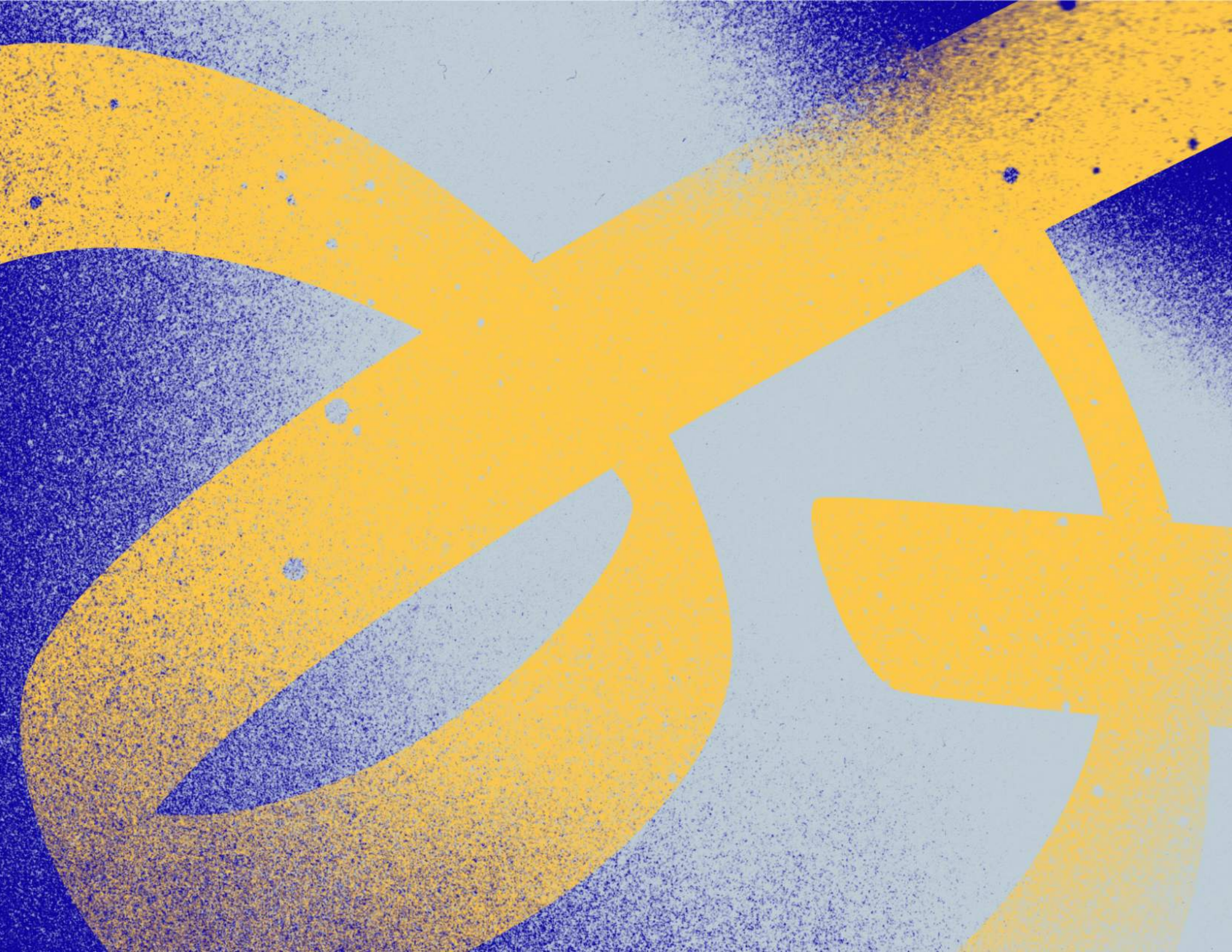
## **Compliance of Standard - L**

SLC Design Review Standard is noted by the design team, and the design of the public spaces (including those privately owned and managed) to meet the criteria of the standards listed.

1. Requirement is noted; project team to protect existing street trees during construction.
2. Hardscape along Main Street within the R.O.W. to be preserved and protected during construction. Team anticipates coordination with City engineer(s) if hardscape is determined to be removed during construction (with reinstallation following construction). Hardscape in privately-owned public spaces to comply with the design review standard requirements.

## **DESIGN REVIEW STANDARDS**







# dwell design studio

360 W 300 S, Unit 102  
Salt Lake City, UT 84101  
385-273-3888  
dwelldesignstudio.com

Original Narrative submitted 01-01-2021

## SLC Design Review Standard

**Development shall be primarily oriented to the sidewalk, not an interior courtyard or parking lot.**

1. Primary entrances shall face the public sidewalk (secondary entrances can face a parking lot).
2. Building(s) shall be sited close to the public sidewalk, following and responding to the desired development patterns of the neighborhood.
3. Parking shall be located within, behind, or to the side of buildings.

## Compliance of Standard

Yes

## Project Explanation

1-2. The main entry of the proposed tower, referred to here as the Main St Apartments, is oriented towards the Main St sidewalk. Similar to the development pattern along Main St, the tower's pedestrian-focused entry facade along Main St provides three prominent points of access, including entry to the retail space fronting Main St, entry to the residential lobby, and access to the activated grand stair leading to the elevated park located above the parking structure at the rear of the property. There is a hierarchy of the entries: the retail immediately fronts Main St with no setback; the residential lobby entrance steps back about ten feet from the retail face, signifying a slightly less public entrance; the public stair to the elevated park is accessed from Main St via an open, activated, and landscaped corridor plaza.

3. Parking is located at the rear of the tower property with vehicular access via 100 South and West Temple. Pedestrians access the parking structure via the activated and landscaped corridor plaza.

## SLC Design Review Standard

**Building facades shall include detailing and glass in sufficient quantities to facilitate pedestrian interest and interaction.**

1. Locate active ground floor uses at or near the public sidewalk.
2. Maximize transparency of ground floor facades.
3. Use or reinterpret traditional storefront elements like sign bands, clerestory glazing, articulation, and architectural detail at window transitions.
4. Locate outdoor dining patios, courtyards, plazas, habitable landscaped yards, and open spaces so that they have a direct visual connection to the street and outdoor spaces.

## Compliance of Standard

Yes





## Project Explanation

1. Active ground-floor uses at / near the public sidewalk include retail frontage, main residential lobby, and a landscaped corridor plaza with access to an elevated park.
2. Glazing at the retail frontage is 2-stories in height, and 3-stories at the residential lobby entry. The glazing also wraps the corner of the residential lobby extending the transparency for pedestrians walking along the corridor plaza.
3. The retail facade is delineated with pilasters breaking up the retail glazing into typical storefront spacing and coordinating with main street rhythm.
4. The activated corridor public plaza provides outdoor gathering and connection to a habitable park; the plaza physically and visually connects the Main St public realm to the elevated park at the rear of the property.

## SLC Design Review Standard

### **Large building masses shall be divided into heights and sizes that relate to human scale.**

1. Relate building scale and massing to the size and scale of existing and anticipated buildings, such as alignments with established cornice heights, building massing, step-backs and vertical emphasis.
2. Modulate the design of a larger building using a series of vertical or horizontal emphases to equate with the scale (heights and widths) of the buildings in the context and reduce the visual width or height.
3. Include secondary elements such as balconies, porches, vertical bays, belt courses, fenestration and window reveals.
4. Reflect the scale and solid-to-void ratio of windows and doors of the established character of the neighborhood or that which is desired in the master plan.

## Compliance of Standard

Yes

## Project Explanation

1. The retail massing relates to the ground-level band massing of the building (170 S. Main St) immediately south of the project site. The retail massing also relates to the typical storefront rhythm and scale experienced along Main St, including along the front facade of the Kearns building immediately north of the property.  
The mid-rise massing portion of the building relates to several existing buildings in the Central Business District (CBD), including 170 S. Main St to the south and mid-rises located to the north at City Creek Center.  
The proposed building relates in overall height to several buildings in the CBD, including 222 S. Main St., however many towers within the CBD typically have a wider footprint, and associated mass, fronting the street. The project design proposes a more slender base and frontage towards Main St, maximizing pedestrian permeability and connectivity.
2. Three street-facing amenity zones provide horizontal breaks and massing relief referenced from contextual building form. The front facade materials and massing are also vertically organized: a more solid form with punched openings at the north end of the mid-rise portion of the tower, a more light and transparent form floating above it in the high-rise portion of the tower, and a slender stack of balconies at the southeast corner emphasizing building program and scale (particularly floor-to-floor heights).
3. In addition to the larger amenity terraces, secondary elements (balconies, vertical bays, fenestration and window reveals) have been incorporated into the design of each facade, emphasizing the residential use of the tower.
4. The scale and ratio of doors at the ground level relate to the typical street frontage along Main St (storefront scale and rhythm of transparency and entry).

## SLC Design Review Standard

**Building facades that exceed a combined contiguous building length of two hundred feet (200') shall include:**

1. Changes in vertical plane (breaks in façade);
2. Material changes; and
3. Massing changes.

## Compliance of Standard

Yes

## Project Explanation

The lot frontage for the proposed building is less than 150 feet in width. The building width at the ground floor along Main St is ~115 feet; the corridor plaza is ~33 feet wide.

1-3. Vertical breaks in the Main St facade occur over the retail space at the second level, matching the facade break in the adjacent building south of the subject property, and at a recessed area over the residential lobby space at the third level, providing another break and relief in the front facade experienced at the pedestrian level. Materials and massing likewise change at these facade breaks to further delineate the change in building program.

## SLC Design Review Standard

**If provided, privately-owned public spaces shall include at least three (3) of the six (6) following elements:**

1. Sitting space of at least one sitting space for each two hundred fifty (250) square feet shall be included in the plaza. Seating shall be a minimum of sixteen inches (16") in height and thirty inches (30") in width. Ledge benches shall have a minimum depth of thirty inches (30");
2. A mixture of areas that provide seasonal shade;
3. Trees in proportion to the space at a minimum of one tree per eight hundred (800) square feet, at least two-inch (2") caliper when planted;
4. Water features or public art;
5. Outdoor dining areas; and
6. Other amenities not listed above that provide a public benefit.

## Compliance of Standard

Design to comply with standard

## Project Explanation

SLC Design Review Standard is noted by the design team, and the design of the privately-owned and managed public spaces (activated corridor plaza and elevated park) to meet three of the above six elements. The team anticipates complying with elements 2, 4, and 5 at a minimum.

## SLC Design Review Standard

**Building height shall be modified to relate to human scale and minimize negative impacts. In downtown and in the CSHBD Sugar House Business District, building height shall contribute to a distinctive city skyline.**

### 1. Human scale:

- a. Utilize setbacks to design a building that relate to the height and scale of adjacent and nearby buildings, or where identified, goals for future scale defined in adopted master plans.
- b. For buildings more than three stories or buildings with vertical mixed use, compose the design of a building with distinct base, middle and top sections to reduce the sense of apparent height.

### 2. Negative impacts:

- a. Modulate taller buildings vertically and horizontally so that it steps up or down to its neighbors.
- b. Minimize shadow impacts of building height on the public realm and semi-public spaces by varying building massing. Demonstrate impact from shadows due to building height for the portions of the building that are subject to the request for additional height.
- c. Modify tall buildings to minimize wind impacts on public and private spaces, such as the inclusion of a wind break above the first level of the building.

### 3. Cornices and rooflines:

- a. Shape and define rooflines to be cohesive with the building's overall form and composition.
- b. Include roof forms that complement the rooflines of surrounding buildings.
- c. Green roof and roof deck: Include a green roof and/or accessible roof deck to support a more visually compelling roof landscape and reduce solar gain, air pollution, and the amount of water entering the stormwater system.

## Compliance of Standard

Yes

## Project Explanation

- 1. The building's height and mass are broken into three groups: the podium level, emphasizing pedestrian activity along Main St; the mid-rise level, responding to several contextual buildings within the CBD; and the high-rise level, relating to the tallest towers of the SLC skyline. Amenity zones provide vertical relief through massing setbacks, and define each group of levels, creating a base, middle, and top for the building.
- 2. The design's activated and landscaped corridor plaza is an extension of Main Street's midblock, connecting the tower from the elevated park at the rear of the property to Regent St (to the east) through Main St's public realm with pedestrian, vehicular, and mass-transit circulation. As a result, this public space and design element provides relief (~30 ft offset) from the neighboring Kearns building to the north, reducing the footprint of the tower and minimizing the tower's shadow impact. The tower is also setback from Main St (~10 ft), aiding in massing relief to the street wall. The amenity zones described above provide further massing relief.
- 3. Similar to several commercial buildings within the CBD, the design proposes flat roofs with glazed parapets terminating the high-rise curtain wall form. The project design includes a substantial green roof in the form of an elevated park above the parking structure at the rear of the building.

#### SLC Design Review Standard

**Parking and on-site circulation shall be provided with an emphasis on making safe pedestrian connections to the sidewalk, transit facilities, or midblock walkway.**

#### Compliance of Standard

Yes

#### Project Explanation

Parking is located at the rear of the tower property with vehicular access via 100 South and West Temple. Pedestrians access the parking structure via the landscaped, corridor plaza that serves as an extension of Main Street's midblock, connecting the tower from the elevated park at the rear of the property to Regent St (to the east) through Main St's public realm with pedestrian, vehicular, and mass-transit circulation.

#### SLC Design Review Standard

**Waste and recycling containers, mechanical equipment, storage areas, and loading docks shall be fully screened from public view and shall incorporate building materials and detailing compatible with the building being served. Service uses shall be set back from the front line of building or located within the structure. (Subsection 21A.37.050.K.)**

#### Compliance of Standard

Yes

#### Project Explanation

Service-use areas are not visible to the public and are located at rear of building, within the building, or within the parking structure. The rooftop mechanical units above the retail area are screened from view with landscaping at the third-level resident patios and at the large, community-use patio adjacent to the workshare space. Transformers at the parking structure are gated from public access.

#### SLC Design Review Standard

**Signage shall emphasize the pedestrian / mass transit orientation.**

1. Define specific spaces for signage that are integral to building design, such as commercial sign bands framed by a material change, columns for blade signs, or other clearly articulated band on the face of the building.

2. Coordinate signage locations with appropriate lighting, awnings, and other projections.

3. Coordinate sign location with landscaping to avoid conflicts.

#### Compliance of Standard

Yes

#### Project Explanation

1-3. Vertical and horizontal banding is incorporated into the retail facade design, providing signage opportunity for retail tenants. Signage to be coordinated with other design disciplines for design cohesion and to avoid conflicts with other design elements.

## SLC Design Review Standard

### Lighting shall support pedestrian comfort and safety, neighborhood image, and dark sky goals.

1. Provide streetlights as indicated in the Salt Lake City Lighting Master Plan.
2. Outdoor lighting should be designed for low-level illumination and to minimize glare and light trespass onto adjacent properties and up-lighting directly to the sky.
3. Coordinate lighting with architecture, signage, and pedestrian circulation to accentuate significant building features, improve sign legibility, and support pedestrian comfort and safety.

## Compliance of Standard

Design to comply with standard

## Project Explanation

SLC Design Review Standard is noted by the design team. The hardscape and landscape design of the exterior amenities and circulation to comply with the City's lighting requirements.

## SLC Design Review Standard

### Streetscape improvements shall be provided as follows:

1. One street tree chosen from the street tree list consistent with the city's urban forestry guidelines and with the approval of the city's urban forester shall be placed for each thirty feet (30') of property frontage on a street. Existing street trees removed as the result of development project shall be replaced by the developer with trees approved by the city's urban forester.
2. Hardscape (paving material) shall be utilized to differentiate privately-owned public spaces from public spaces. Hardscape for public sidewalks shall follow applicable design standards. Permitted materials for privately-owned public spaces shall meet the following standards:
  - a. Use materials that are durable (withstand wear, pressure, damage), require a minimum of maintenance, and are easily repairable or replaceable should damage or defacement occur.
  - b. Where practical, as in lower-traffic areas, use materials that allow rainwater to infiltrate into the ground and recharge the water table.
  - c. Limit contribution to urban heat island effect by limiting use of dark materials and incorporating materials with a high Solar-Reflective Index (SRI).
  - d. Utilize materials and designs that have an identifiable relationship to the character of the site, the neighborhood, or Salt Lake City.
  - e. Use materials (like textured ground surfaces) and features (like ramps and seating at key resting points) to support access and comfort for people of all abilities.
  - f. Asphalt shall be limited to vehicle drive aisles.

## Compliance of Standard

Yes

## Project Explanation

SLC Design Review Standard is noted by the design team, and the landscape design of the public spaces (including those privately owned and managed) to meet the criteria of the standard above.

1. Requirement is noted, and the design team will plan for five (5) street trees approved by the city's urban forester.
2. The design proposes hardscape for the privately-owned and managed public spaces that is different in size, material, and color than the existing pavers along Main St, distinguishing the project from the publicly-managed streetscape.

# ATTACHMENT D: Development Standards

## D-1 – Central Business District

The subject property is located within the D-1 – Central Business District. The purpose of the D-1 district from Chapter 21A.30.020 follows:

*The purpose of the D-1 central business district is to provide for commercial and economic development within Salt Lake City's most urban and intense areas. A broad range of uses, including very high density housing, are intended to foster a twenty four (24) hour activity environment consistent with the area's function as the business, office, retail, entertainment, cultural and tourist center of the region. Development is intended to be very intense with high lot coverage and large buildings that are placed close together while being oriented toward the pedestrian with a strong emphasis on a safe and attractive streetscape and preserving the urban nature of the downtown area. This district is appropriate in areas where supported by applicable master plans. The standards are intended to achieve established objectives for urban design, pedestrian amenities and land use control.*

The modification for additional building height is being requested through the Design Review process.

### Applicable General Zoning Standards:

#### D-1 Development Standards – Summarized from Chapter 21A.030.020

Requirement	Standard	Proposed	Compliance
<b>Lot Area/Lot Width</b>	No minimum specified	Lot Area – 21,800 square feet Lot Width – 114 feet (north) and 125 feet (south)	<b>Complies</b>
<b>Front &amp; Corner Side Yards</b>	No minimum yard required; however, no yard shall exceed 5-feet except as authorized through the Design Review process.	Front setback proposed at 10 feet for lobby entry	<b>Does not comply.</b> May be approved by Planning Commission through Design Review
<b>Interior Side/Rear Yard</b>	None required	NA	NA
<b>Maximum Height</b>	Mid-block areas – maximum of 100 feet in height unless additional height is authorized through the Design Review process.	Approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be	<b>Does not comply.</b> May be approved by Planning Commission for additional height through the Design



		approximately 392 feet.	Review process
<b>–Right of Way Landscaping</b>	Landscaping along sidewalks required. Must be set back a minimum of 2-feet from back of street curb and located in conformance with any adopted beautification plan.	Street trees to be retained and additional provided in conjunction with Urban Forester	<b>Complies</b>
<b>Design Standards</b>	<p>The D-1 zone requires that the following design standards found in Chapter 21A.37 be met.</p> <p>Ground floor glass – 60% required when the project is within the Main Street retail core. Glass is measured from 3 to 8 feet above grade and must provide unhampered and unobstructed visibility into the building for a depth of at least 5 feet (21A.37.050.C)</p>	The details provided by the applicant show that the ground floor glass included in this range is approximately 70%.	<b>Complies</b>
<b>Off-Street Parking Requirements</b>	<p>Parking requirements in the D-1 zoning district are as follows:</p> <p>Residential: 1/2 parking space per dwelling unit</p> <p>Commercial: No spaces required up to 25,000 square feet usable floor area.</p> <p>The commercial use would be exempt from additional parking as it is approximately 8,400 square feet in size. The 400 residential units would require 200 parking spaces total.</p> <p>EV parking requirements are 1 EV space per 25 spaces so 10 EV spaces would be required.</p> <p>Bicycle parking are 5% of the provided parking spaces so parking for 13 bicycles would be required.</p>	The proposed parking garage includes a total 262 parking spaces. There are 185 regular spaces provided for residents as well as 6 ADA compliant spaces and 11 spaces for electric vehicles. Bicycle parking is being provided at the ground level and there is space for 13 bicycles. An additional 60 parking spaces are reserved for the neighboring Kearns Building. The current parking garage which is being replaced currently provides parking for that building.	<b>Complies</b>

# ATTACHMENT E: Analysis of Design Review Standards

## DESIGN REVIEW STANDARDS

**21A.59.050: Standards for Design Review:** The standards in this section apply to all applications for design review as follows:

For applications seeking modification of base zoning design standards, applicants shall demonstrate how the applicant's proposal complies with the standards for design review that are directly applicable to the design standard(s) that is proposed to be modified.

For applications that are required to go through the design review process for purposes other than a modification to a base zoning standard, the applicant shall demonstrate how the proposed project complies with each standard for design review. If an application complies with a standard in the base zoning district or with an applicable requirement in chapter 21A.37 of this title and that standard is directly related to a standard found in this section, the Planning Commission shall find that application complies with the specific standard for design review found in this section. An applicant may propose an alternative to a standard for design review provided the proposal is consistent with the intent of the standard for design review.

Standard	Finding	Rationale
A. Any new development shall comply with the intent of the purpose statement of the zoning district and specific design regulations found within the zoning district in which the project is located as well as the City's adopted "urban design element" and adopted master plan policies and design guidelines governing the specific area of the proposed development.	<b>Complies</b>	<p>The intent of the D-1 – Central Business District found in Chapter 21A.30.020 speaks to a broad range of uses being allowed and desired in the zoning district with an emphasis on the pedestrian experience and the commercial aspects of the zone. The zone recognizes that development will potentially be intense and include large buildings with high lot coverage in a densely developed area.</p> <p>Multi-family residential uses are allowed and commercial uses are required in the Main Street retail core at the first floor level. Commercial uses could include retail goods establishments, retail service establishments or restaurants, public service portions of businesses, department stores, art galleries, motion picture theaters or performing arts facilities.</p> <p>The proposed multi-family housing is a permitted use in the D-1 zone. The height and scale of the proposed development is appropriate and reasonable given the context of the site. The project also includes approximately 8,400 square feet of commercial space along Main Street.</p>

		<p>The tenants are not yet defined but there are a number of uses that could take place within the commercial space.</p> <p>The proposed use complies with the applicable master plans and City policies as discussed in the Key Considerations section of this report.</p>
<p>B. Development shall be primarily oriented to the sidewalk, not an interior courtyard or parking lot.</p> <ol style="list-style-type: none"> <li>1. Primary entrances shall face the public sidewalk (secondary entrances can face a parking lot).</li> <li>2. Building(s) shall be sited close to the public sidewalk, following and responding to the desired development patterns of the neighborhood.</li> <li>3. Parking shall be located within, behind, or to the side of buildings.</li> </ol>	<b>Complies</b>	<p>The project is oriented toward Main Street is sited close to the sidewalk as required within the D-1 zone. This includes the retail space along Main Street which is set back 5 feet from the sidewalk. The main residential lobby entrance is set back 10 feet from the sidewalk which helps to separate and delineate the public vs private spaces in the project. The mid-block plaza faces Main Street and allows pedestrians to access the elevated park in the rear of the development.</p> <p>The entrances do not face a parking lot. The parking is located within a parking garage that will be located in the rear of the building as required.</p> <p>This standard has been met.</p>
<p>C. Building facades shall include detailing and glass in sufficient quantities to facilitate pedestrian interest and interaction.</p> <ol style="list-style-type: none"> <li>1. Locate active ground floor uses at or near the public sidewalk.</li> <li>2. Maximize transparency of ground floor facades.</li> <li>3. Use or reinterpret traditional storefront elements like sign bands, clerestory glazing, articulation, and architectural detail at window transitions.</li> <li>4. Locate outdoor dining patios, courtyards, plazas, habitable landscaped yards, and open spaces so that they have a direct visual connection to the street and outdoor spaces.</li> </ol>	<b>Complies – Verification during Building Permit Review</b>	<p>The building has been designed with considerable street level glass and a connection to Main Street as required in the D-1 zone and Main Street Retail Core. This includes the required commercial and retail space along Main Street. The front façade of the retail portion of the project includes 70% glazing at a height of 3 and 8 feet above grade. The glazing is approximately 2 stories in height. At the lobby entrance, the glazing is 3 stories in height. The lobby include additional transparency in order to extent the transparency.</p> <p>The retail space is intended to continue the established pattern and rhythm along Main Street and includes typical storefront elements.</p>

		<p>Details on the mid-block plaza and private park elements provided by the applicant can be found in <a href="#">Attachment C</a> of this report.</p> <p>Based on their location, they achieve item 4 of this standard and will provide a direct visual connection to Main Street.</p> <p>Final review of Standard 4 will be delegated to staff for verification during the building permit review in conjunction with the details required in Standard F.</p>
<p>D. Large building masses shall be divided into heights and sizes that relate to human scale.</p> <ol style="list-style-type: none"> <li>1. Relate building scale and massing to the size and scale of existing and anticipated buildings, such as alignments with established cornice heights, building massing, step-backs and vertical emphasis.</li> <li>2. Modulate the design of a larger building using a series of vertical or horizontal emphases to equate with the scale (heights and widths) of the buildings in the context and reduce the visual width or height.</li> <li>3. Include secondary elements such as balconies, porches, vertical bays, belt courses, fenestration and window reveals.</li> <li>4. Reflect the scale and solid-to-void ratio of windows and doors of the established character of the neighborhood or that which is desired in the master plan.</li> </ol>	<b>Complies</b>	<p>The applicant's narrative found in <a href="#">Attachment C</a> further articulates how this standard is being met.</p> <ol style="list-style-type: none"> <li>1. The retail elements of the proposed building will be in harmony with the existing retail spaces along Main Street and will continue the established rhythm. The residential tower itself will be taller than immediately adjacent buildings such as the Kearns but will relate to the size and scale of other buildings in the CBD. The applicant points out that other tall buildings typically have a wider base and mass along the street while this tower is a thinner or slender in design.</li> <li>2. The building is well modulated and uses different amenity zones to create breaks in the building and the perceived massing. This includes the mid-rise amenity deck as well as a variety of openings including balconies that help to create solids and voids in the design which helps to reduce the perceived massing.</li> <li>3. The building includes large amenity terraces, balconies and windows on all sides that help break up solid surfaces and to create visual interest.</li> <li>4. The ground-level façade facing Main Street is intended to integrate into the rhythm and flow of the existing retail space along the street.</li> </ol>

		Staff feels that these standards have been met.
E. Building facades that exceed a combined contiguous building length of two hundred feet (200') shall include: <ol style="list-style-type: none"> <li>1. Changes in vertical plane (breaks in facade);</li> <li>2. Material changes; and</li> <li>3. Massing changes.</li> </ol>	<b>Not Applicable</b>	Does not apply. The total length of the property frontage along Main Street is approximately 125-feet so the façade does not exceed the 200-foot dimension.
F. If provided, privately-owned public spaces shall include at least three (3) of the six (6) following elements: <ol style="list-style-type: none"> <li>1. Sitting space of at least one sitting space for each two hundred fifty (250) square feet shall be included in the plaza. Seating shall be a minimum of sixteen inches (16") in height and thirty inches (30") in width. Ledge benches shall have a minimum depth of thirty inches (30");</li> <li>2. A mixture of areas that provide seasonal shade;</li> <li>3. Trees in proportion to the space at a minimum of one tree per eight hundred (800) square feet, at least two inch (2") caliper when planted;</li> <li>4. Water features or public art;</li> <li>5. Outdoor dining areas; and</li> <li>6. Other amenities not listed above that provide a public benefit.</li> </ol>	<b>Complies – Verification during Building Permit Review</b>	<p>The privately-owned public spaces include both a mid-block plaza and roof-top park amenity on the parking garage. The “Design Review Responses” narrative included a notation that the design will meet three of the required six elements with elements 2, 4 and 5 met at minimum. Additional details on the design of the mid-block plaza and park element can be found in the applicant’s materials in <a href="#">Attachment C</a>. This item is also discussed in the Key Considerations section of this report in Consideration 3 - Mid-Block Walkway (Plaza) and Park Space.</p> <p>The proposed plaza and park spaces comply with these standards as proposed. Final review will be delegated to staff for verification during the building permit review stage of the project.</p>
G. Building height shall be modified to relate to human scale and minimize negative impacts. In downtown and in the CSHBD Sugar House Business District, building height shall contribute to a distinctive City skyline. <ol style="list-style-type: none"> <li>1. Human scale: <ol style="list-style-type: none"> <li>a. Utilize step backs to design a building that relate to the height and scale of adjacent and nearby buildings, or where identified, goals for future scale defined in adopted master plans.</li> <li>b. For buildings more than three (3) stories or buildings with vertical mixed use, compose the design of a building with distinct base, middle and top sections to reduce the sense of apparent height.</li> </ol> </li> <li>2. Negative impacts:</li> </ol>	<b>Complies</b>	<p>The applicant’s narrative included in <a href="#">Attachment C</a> outlines how they feel this standard is being met.</p> <p>The building is broken into 3 distinct sections to help minimize the perceived building massing to minimize negative impacts. The design includes a podium level with retail and common space functions, a midrise level and a high rise level. The high rise level is intended to relate to other tall buildings in the CBD and contribute to the City’s skyline. The net effect of the design also creates a building with a distinct base, middle and top and creates natural steps within the building.</p> <p>The building includes horizontal step backs through the mid-block plaza</p>

<p>a. Modulate taller buildings vertically and horizontally so that it steps up or down to its neighbors.</p> <p>b. Minimize shadow impacts of building height on the public realm and semi-public spaces by varying building massing. Demonstrate impact from shadows due to building height for the portions of the building that are subject to the request for additional height.</p> <p>c. Modify tall buildings to minimize wind impacts on public and private spaces, such as the inclusion of a wind break above the first level of the building.</p> <p>3. Cornices and rooflines:</p> <p>a. Cohesiveness: Shape and define rooflines to be cohesive with the building's overall form and composition.</p> <p>b. Complement Surrounding Buildings: Include roof forms that complement the rooflines of surrounding buildings.</p> <p>c. Green Roof and Roof Deck: Include a green roof and/or accessible roof deck to support a more visually compelling roof landscape and reduce solar gain, air pollution, and the amount of water entering the stormwater system.</p>		<p>element, thereby eliminating a massive single plane along the street-facing elevation. The residential lobby will be set back 10 feet as requested through the design review process. This will also help reduce the massing along the front. In combination with the setback residential lobby, the plaza will provide a break between this building and the Kearns Building to the north which will help alleviate the shadowing on neighboring buildings. The applicant has included a shadow study in their application materials found in Attachment C. Shadowing will be substantial but not unexpected given the height of the building. This is a common and expected condition in the CBD with any tall building.</p> <p>The building terminates at a flat roof and includes glazed parapets at the top which is similar to other designs in the CBD. As such, the building relates to others in the CBD.</p> <p>The development includes a park element on the parking garage roof so will meet the green roof/roof deck standards.</p> <p>Staff finds that these standards have been met.</p>
<p>H. Parking and on-site circulation shall be provided with an emphasis on making safe pedestrian connections to the sidewalk, transit facilities, or mid-block walkway.</p>	<p><b>Complies</b></p>	<p>The project incorporates parking in a garage in the rear with vehicular access from both 100 South and West Temple. The public sidewalk will run along the front of the project on Main Street and mid-block plaza will connect through the project to parking garage and park feature. Safe circulation into and through the site and to nearby transit connection will be accommodated. This standard has been met.</p>
<p>I. Waste and recycling containers, mechanical equipment, storage areas, and loading docks shall be fully screened from public view and shall incorporate</p>	<p><b>Complies</b></p>	<p>Building service areas will be located either in the rear of the building, in the building or in the parking structure. Landscaping will</p>



building materials and detailing compatible with the building being served. Service uses shall be set back from the front line of building or located within the structure. (See subsection 21A.37.050K of this title.)		be used to screen mechanical units in some areas and transformers will be located in the parking garage and will be gated to prevent public access. This standard has been met.
<p>J. Signage shall emphasize the pedestrian/mass transit orientation.</p> <ol style="list-style-type: none"> <li>1. Define specific spaces for signage that are integral to building design, such as commercial sign bands framed by a material change, columns for blade signs, or other clearly articulated band on the face of the building.</li> <li>2. Coordinate signage locations with appropriate lighting, awnings, and other projections.</li> <li>3. Coordinate sign location with landscaping to avoid conflicts.</li> </ol>	<b>Conditional of Approval Verification during Building Permit Review</b>	<p>Primary building signage will be provided under a separate application. Compliance with signage approval is delegated to staff and will be verified at the building permit stage.</p> <p>The retail façade design will be configured in a way with banding that will allow for signs for retail tenants. The tenants are not yet defined.</p> <p>Staff is recommending as a condition of approval that signage must be provided that states the mid-block plaza and park space are open to the public.</p>
<p>K. Lighting shall support pedestrian comfort and safety, neighborhood image, and dark sky goals.</p> <ol style="list-style-type: none"> <li>1. Provide streetlights as indicated in the Salt Lake City Lighting Master Plan.</li> <li>2. Outdoor lighting should be designed for low-level illumination and to minimize glare and light trespass onto adjacent properties and up lighting directly to the sky.</li> <li>3. Coordinate lighting with architecture, signage, and pedestrian circulation to accentuate significant building features, improve sign legibility, and support pedestrian comfort and safety.</li> </ol>	<b>Condition of Approval Verification during Building Permit Review</b>	<p>The Design Standards in Chapter 21A.37 specify that lighting must not trespass onto adjacent properties. This standard includes provision for exterior building lighting and parking lots. Neither would apply in this case as the exterior provision does not apply to the D-1 zone and the parking is contained within a structure.</p> <p>However, the applicant has indicated that their lighting would support the standards found in this section and has asserted that “The hardscape and design of the exterior amenities to comply with the City’s lighting requirements”. This will be included as a condition of approval. Compliance with this standard will be verified at the building permit stage.</p>

<p>L. Streetscape improvements shall be provided as follows:</p> <ol style="list-style-type: none"> <li>1. One street tree chosen from the street tree list consistent with the City's urban forestry guidelines and with the approval of the City's Urban Forester shall be placed for each thirty feet (30') of property frontage on a street. Existing street trees removed as the result of a development project shall be replaced by the developer with trees approved by the City's Urban Forester.</li> <li>2. Hardscape (paving material) shall be utilized to differentiate privately-owned public spaces from public spaces. Hardscape for public sidewalks shall follow applicable design standards. Permitted materials for privately-owned public spaces shall meet the following standards: <ol style="list-style-type: none"> <li>a. Use materials that are durable (withstand wear, pressure, damage), require a minimum of maintenance, and are easily repairable or replaceable should damage or defacement occur.</li> <li>b. Where practical, as in lower-traffic areas, use materials that allow rainwater to infiltrate into the ground and recharge the water table.</li> <li>c. Limit contribution to urban heat island effect by limiting use of dark materials and incorporating materials with a high Solar-Reflective Index (SRI).</li> <li>d. Utilize materials and designs that have an identifiable relationship to the character of the site, the neighborhood, or Salt Lake City.</li> <li>e. Use materials (like textured ground surfaces) and features (like ramps and seating at key resting points) to support access and comfort for people of all abilities.</li> <li>f. Asphalt shall be limited to vehicle drive aisles.</li> </ol> </li> </ol>	<p style="text-align: center;"><b>Condition of Approval</b></p> <p style="text-align: center;"><b>Verification during Building Permit Review</b></p>	<p>There are currently existing street trees located along Main Street. Plans show a tree protection plan to retain these trees. The applicant's narrative indicates that a total of five (5) street trees will be included along Main Street with approval from the City's Urban Forester. Existing trees that are removed will be subject to replacement.</p> <p>Hardscape details for the privately owned and managed public areas will be distinguished from those that exist along Main Street in order to differentiate the project's private spaces from the public streetscape.</p> <p>The mid-block plaza details are unclear as to the number of trees that will be provided. As this will be privately owned public space, the trees are not subject to requirements from the Urban Forester. However, staff suggests that the applicant consider how flow and consistency between this pedestrian element and that experienced on Main Street could be maintained when designing the landscaping for the plaza.</p> <p>Staff is including meeting this standard as a condition of approval in order to allow the applicant to work with Urban Forestry at the Building Permit stage to ensure compliance with the number of required street trees and the process for any removal and replacement permits.</p>
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## **ATTACHMENT F: Public Process and Comments**

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

### **Public Notices:**

- Notice of the project and a formal letter requesting comments was sent to the Chair of the Downtown Community Council and Downtown Alliance on March 8, 2021.
- Staff sent an early notification announcement postcard about the project to all residents and property owners located within 300 feet of the project site on March 8, 2021. The mailed notice included project details, that recognized community organizations were aware of the proposal and included information on how to access the online open house and give public input on the project.
- Staff hosted an online Open House to solicit public comments on the proposal. The Online Open House period started on March 8, 2021 and ended on April 26, 2021.
- Staff and the applicant attended an online meeting of the Downtown Alliance Development Committee held on April 7, 2021.
- The 45-day recognized organization comment period expired on April 26, 2021.

### **Public Hearing Notice:**

- Public hearing notice mailed: July 1, 2021
- Public hearing notice sign posted on property: July 1, 2021
- Public notice posted on City and State websites & Planning Division list serve: July 1, 2021

### **Public and Recognized Organization Comments:**

The Downtown Alliance submitted a formal letter dated April 15, 2021 recommending approval of the project. A copy of that letter is included on the following page of this report.

To date approximately 90 public comments have been submitted to staff via email in relation to the proposal. The majority of comments received were in opposition to the project based on the removal of the historic Utah Theater and the redevelopment of the site for apartments. The combined redacted public comments received via email can be found on the following pages of this report.

Many of the comments received by staff cite opposition to previous actions taken by the RDA, Administration and City Council in relation to the disposition of the Utah Theater property. Staff's response is that these issues are outside of the scope and purview of the Planning Division and Planning Commission and do not relate to the application for Design Review being considered by the Planning Commission. The Planning Commission and Staff are charged with reviewing and applying the Planning standards applicable to the project under consideration.



April 15, 2021

Salt Lake City Planning Division  
ATTN: David Gellner  
451 South State Street, Room 406  
Salt Lake City, Utah 84111

RE: File PLNPCM2021-00024 | 150 Main Street Apartments - Design Review Comments

Planning Division,

Per the request from David Gellner, we offer the comments below regarding the design review for the 150 South Main Street Apartment project.

We support the proposed design for 150 Main Street Apartments as proposed in file PLNPCM2021-00024. We sought input from over 50 downtown stakeholders. We shared the design proposal with the Downtown Alliance board and relevant committees. None objected to the proposed plans. Some lauded the quality of the design and the positive impact on Main Street and the neighborhood. Below is a summary of relevant Alliance comments.

**Height:** We support the proposed plan for a 296-foot building. We believe the design contributes positively to the city skyline and that the housing density is a positive addition to downtown. The outdoor common area on floors 21 and 22 are a dramatic amenity that will attract residents and workforce talent to live downtown.

**Lobby entrance setback:** We support the proposed lobby entrance setback and believe that it appropriately prioritizes public access to the planned retail entrance, which has no setback.

**Affordable housing:** We understand that the proposed 40 units of affordable housing meets the requirements set forth in the sales agreement. We applaud all additions to affordable housing stock.

**Pantages Park:** We understand that a design for the Pantages Park feature on top of the parking deck is not being reviewed at this time and that a separate petition will be submitted later. Downtown does not currently have adequate park and greenspace. We welcome the addition of publicly accessible greenspace.

The Downtown Alliance acknowledges community members' sentiment for the Pantages Theater that once operated at this location and shares their affection for the history of this site. We appreciate the project developers' plans for incorporating some of the remnants of the theater in the project design.

We commend Dwell and Hines for their attention to the surroundings and their solutions for a very challenging development site. We believe the project contributes positively to downtown and the capital city.

Best regards,

A handwritten signature in black ink, appearing to read 'Dee Brewer', with a long horizontal flourish extending to the right.

Dee Brewer  
Executive Director, Downtown Alliance

## Gellner, David

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**From:** Casey McDonough <[REDACTED]>  
**Sent:** Monday, April 19, 2021 1:28 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney; [REDACTED]; Casey McDonough  
**Subject:** (EXTERNAL) Re: Public Comment - 150 S Main Street Apartments...  
**Importance:** High  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

David,

The following are my public comments about the proposed 150 S Main Street Apartments Design Review application currently in the Open House phase:

1. When weighing this proposed development against what is being lost for it, I believe it is a bad decision for our City. The loss of the Utah Pantages Theater, a theater with arguable more historic relevance than the Capital Theater and on every measure, which in itself is saying something. I believe the Planning Commission has the authority and powers to stop this development because they are tasked with ensuring applications but to them conform with general plan conformity. The Plan Salt Lake Master Plan, adopted in December 2015, the result of 81 events and 3,3035 comments received after 43 public meetings held at 43 locations held across the City, was not small feat to understand where the citizens of Salt Lake wanted our City to go moving into the future. That plan has a list of guiding principles. Principal 2 calls for growing responsibly. Is it responsible growth to lose irreplaceable historic buildings with more than 100 years of social, cultural, and historical context, connected not only to our City but to the State, Intermountain West, our Nation, and even the world? Principle 4 calls for a mobility network that is safe providing real choices and connecting people with places. The RDA and developer's assertion that this project will provide a mid-block walkway is not true and what is being proposed which is flights of stairs and elevators to a in affect land locked open space on a parking garage, does not meet the intent of this principal. Principal 5 and 6 and 7 call for air that is healthy, to minimize our impact on the environment and protecting the natural environment. It is a long understood, but not often talked about fact, that historic preservation and keeping, reusing, and restoring buildings, historic or not, reduces our impact on the environment on all fronts. Principal 8 calls for a beautiful city that is people focused. Can a retail and residential tower that would replace a building that could be used like the Capital and Eccles Theaters are used, bringing people together from every race, religion, and economic class together to have a shared experience together? Principal 9 calling for maintaining places that provide a foundation for the City to affirm its past is an easy continuation of the last principal. Saving and restoring the Utah Pantages Theater maintains a more than 100-year-old theater that connects people to our past, a past of shared experience through multiple generations, a past connected to our City, State, Nation, and beyond. Principal 10 wants vibrant, diverse, and accessible artistic and cultural resources that showcase the communities long standing commitment to a strong creative culture. The proposed development falls short on every front in this regard, a saved and restored theater can only meet this goal. Principal 13 calls for a local movement that is responsive and transparent. The current deal, created and negotiated mostly behind closed doors, in conflict with not only the RDA's own strategic goals, but the specific call to save and repurpose the Utah Pantages Theater called for in the Downtown Master Plan adopted in 2016, the same year our wonderful Eccles Theater opened. As I research and read City plans, I find more and more evidence that the proposed development is measured as less of what the residents of Salt Lake City want, and saving and restoring the Utah Pantages Theater is more of what they



want. You have the authority and power to stop what too many cities now can only lament for their lack of wherewithal and foresight, the loss of irreplaceable historic buildings like the Utah Pantages Theater. You now consider a decision like those in City government weighed when they considered the fate of our City & County Building. I am fortunate I don't have to look back and wonder why they concluded the City & County Building wasn't worth it, didn't have any parking, was too expensive to save and restore, that its history on so many fronts was just not that important, and that I would get so much more if I just tore it down and replaced it. Please don't make the mistake of believing this is anything less and do not approve this application for all these reasons, and all the reasons I outline as follows.

2. The public information sheet outlines that the proposed project will include 40 affordable housing units but gives not details about what type of units are being provided and what "affordable" exactly means. The simplest meaning of "affordable" is "inexpensive or reasonably priced." Without a true understanding about what this means, how can the City expect the public to make any meaningful comments about it.
3. The public information sheet states that the building will include a mid-block walkway. However, the drawings don't show a mid-block walkway as defined by City code. The Park & Mid-Block Exhibit look to show six flights of stairs leading from Main Street to the top of the parking garage, then parking garage stairs and elevators at the parking garage corners leading to points unknown. The Planning Commissions own mid-block walkway design guidelines call for connectivity with "physical connections through city blocks." Multiple flights of stairs leading up to a space where you then go down flights of stairs in a parking garage or a parking garage elevator is not a mid-block walkway. The developers Design Review materials don't even call the access a mid-block walkway and use the term mid-block plaza. This is not what the developers and City have been telling the public was going to be provided. The developers and City have been telling the public they are getting a mid-block walkway. What these plans show seems to be a bait and switch on the part of the developers and the City telling the public they will be getting a mid-block walkway when they actually are not.
4. The public information sheet states that the building will include a park amenity on the separate parking structure. The Park & Mid-Block Exhibit show a green space on top of a parking garage, but what is shown has not real detail and looks much more sparse than anything the developers or the City has shown the public. The City code requires certain information for site plan review when it is deemed complete. One of those requirements is landscape plans subject to other standards in the code that include numerous and detailed information that is missing from the information presented to the public. One can only assume the City deemed this Design Review application complete which is why it reached the public comment phase, because if that were true, there would be the code required landscaping plan and information included here so the public could comment on it. Furthermore, what is being provided is not a park. It will be a limited access publicly accessible space, with time and place restrictions. That means even if I concluded what is not a mid-block walkway was used as one, I will only be able to use it during limited hours. This realization is another bait and switch to the public by the City and the developers.
5. This project and its proposal to demolish the historic Utah Pantages Theater is in direct conflict with the 2016 City adopted Downtown Master Plan. That plan specifically calls to "Repurpose the Utah Theater as a cultural facility and activity generator." That same master plan makes no such mention of any other building as it does for saving the Utah Pantages Theater. That mandate made by the people of Salt Lake City after widespread public input affirms that I must save and restore the theater. This is further evidenced by the code requirement that this development have general plan conformity, meeting the objectives and policies of the adopted plans, which this proposal does not meet.
6. Saving and restoring the theater meets the most basic terms of the site plan review purpose statement items. A. calls for a project's compatibility with its environment and with other land uses and buildings existing in the surrounding area. The historic Capital Theater, Kearns Building, Daft Block, Walker Center, Continental Bank Building, Bamberger Building, and Eagle Emporium area all nearby. The Capital Theater and Kearns Building are adjacent to the Utah Pantages Theater. The context of this new tower is misplaced and more out of

context from its environment than in-line with it. The Capital Theater and Eccles Theater make the location of the Utah Pantages Theater much more compatible with its environment than a retail and residential tower. Purpose statement C. calls for the quantity, quality, utility, size, and type of a project's required open space area and proposed landscaping improvements. But there is little specific information in the application to determine if that is being met or not. Purpose statement D. calling for the quantity, quality, utility, and type of a project's required community facilities fails for all those same reasons.

7. There seems to be nothing in the Design Review application materials addressing the code required standards for site plan review that require the police and fire departments review of the site plan to determine adequate access or other aspects of public access. The space on the parking garage looks to be a dead-end space, and even if lighted would create a possible dangerous space. The public wants to know how those concerns would be mitigated but the application doesn't seem to address it at all, even with it is a requirement of the applicant in the code.
8. The application seems to be missing any real information about the changes to the property lines, to easements with the Capitol Theater and their loading dock access, etc. The code required the application to include the boundaries of the subject property, all existing property lines, setback lines, etc. but seems to include a convoluted representation of what existing or proposed property lines are and will be.
9. The understanding is that this application is being phased, but there is not real information in the open house or application letting the public know what that means. There also seems to be not code specific information about the City's authorizing a phased application and only text about what constitutes a complete application. How can the public give meaningful comment on an application that seems incomplete on many fronts, possible others the public hasn't highlighted? How can the public trust their government when multi-billion-dollar developers look to have an advantage that other don't when submitting applications like this one? How can the Planning Commission make informed decisions when they are making those decisions with what someone at the City has deemed a complete application, but to the public obviously is incomplete? If only for the fact that this application is being phased in some unknowns or unclear way, which means any decision at any phase will never be a truly informed one, not for the Planning Commission, but most importantly for the public.
10. This application is the result of a purchase and sale agreement made by the RDA with the developers. That purchase and sale agreement includes numerous public amenities that this application lacks some or any meaningful details about. A bait and switch that the City and the public would get a mid-block walkway when that is not what is being provided. So little information about a limited access and restricted public space on the parking garage, that to believe the public could give any relevant comment on would be laughable if it were not alarming. No mention of theater artifacts that are to be salvaged and repurposed as part of that purchase and sale agreement, and the RDA's promise to the public. No easily understood information about what public housing is being provided and what affordable means. To understand even the types and number of each type of units one has to know to look at certain floor plans and calculate that for themselves. Without these details, can the public give their input under the spirit of the code? Without these details, can the planning staff and the Planning Commission even know if they have a complete application. Without all that and everything else outlined in these comments, is any conclusion really a valid one without significant legal liability for the City at large? Doesn't the Planning Commission have a responsibility to ensure the application includes everything the developers are required to give the city as part of the purchase and sale agreement? There are far too many questions and not nearly enough answers.

For all the reasons I have commented on, this application should not proceed until a complete application is received, also addressing any phasing, also addressing all waivers or exceptions being given to the applicant and the reasons why. Even if a complete application is received with all the details I've made comments about, it should simply be deemed unacceptable and not approvable for its clear, obvious, and specific conflict with the requirement of the

Downtown Community Master Plan that in affect prohibits the demolition of the Utah Theater and requires it be saved to be repurposed and used as an activity generator.

Casey O'Brien McDonough

[REDACTED]

Salt Lake City, Utah 84102

[REDACTED]

## Gellner, David

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**From:** Save The SLC Pantages Theater [REDACTED] >  
**Sent:** Sunday, April 25, 2021 2:01 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]; Casey McDonough  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Dear Mr. Gellner,

We don't know each other and we've never met, but you strike me as a very reasonable man. You and the rest of the Planning Commission currently have an awesome responsibility and opportunity before you. It is the role of the Planning Commission to exist outside of politics, outside the mayor, outside the city council. Your role is to the people, the community, and the future of what is best for Salt Lake City. Your role is to follow the City Master Plan as put forth by the voters and fulfill the grand vision for the betterment of Salt Lake and create the reality we are all dreaming of building. I'm very certain that you personally don't take this responsibility lightly and I thank you for your thoughtful and very serious dedication to your position. It is an honor to message you today about our treasured Utah Pantages Theater.

No matter how you slice it, this current proposal from Hines/LaSalle to destroy the theater and replace it with luxury apartments is a colossal failure for our community and the people of Salt Lake City. Everyone loves our theater and in the last two years, I have heard from hundreds of people directly not only about their personal stories with the theater, but how excited they are to see it saved and reopened for the enjoyment of the entire state of Utah. Not only does this deal destroy our theater, but it was a deal put together behind closed doors where a company that manages nearly \$150 billion in real estate holdings steals a theater that is a historical and national treasure for \$0. You and the Planning Commission have a direct responsibility to stop this deal, deny their zoning and height variance, and protect an irreplaceable artistic and cultural treasure. Their project can be built a dozen different places downtown instead but we only have one theater which is really unparalleled across all of America. It can never be replaced. It is one of the oldest and most grand movie palaces ever built and if lost would be something Utah and Salt Lake City would never recover from. It's hard to describe how massive of a failure that would be for all of us.

On top of that, this current deal also displaces beloved local businesses and cannot be allowed to go through. Twisted Roots is a black-owned, African business that has spent the last decade building up their customers and clientele. They are well-loved and forcing them to move from their location in the heart of downtown for the greed of one billionaire corporation is inhumane and outrageous. The same goes for the other shops there: Ary's Barbershop, Southam Gallery Fine Art, and Beckett & Robb. Save our theater but also save our beloved shops, by halting this terrible destruction from proceeding any further.

Our Utah Pantages Theater is 103-year-old this year. It has survived WWI, the Spanish flu, the great depression, WWII, the cold war, the civil rights movement, changing technology and economies. And the entire time it has been a place of pure beauty, art, culture, and creativity. It is a treasure of our Utah community in every sense of the word and that continues to be shown by how well-loved it is by our people, even though it has been closed for over 30 years. Ask anyone over 50 about seeing a film there and they can still tell you of a treasured memory in a mesmerizing movie house.

Everything gets old, everything breaks and is in need of repair, but that doesn't mean those things become worthless, it makes them even more special because you put love back into them to fix them back up to the point of being brand new again. We humans ourselves follow the same pattern and will get old and break too.

With this current disaster of a deal finally stopped, the theater becomes safe and finally allowed to follow the path of full restoration that it should have seen a long time ago. There are currently very real strategic, and economical plans to see our theater restored and reopened as soon as possible. These plans will make the Pantages the crown jewel of the Sundance Film Festival in the heart of downtown Salt Lake. They will rebuild the theater into an international cinematic paradise that people will come to see from every corner of the globe. It will be an investment into the future of Utah Film, Utah Arts, and creativity that will pay returns for decades to come.

So again, you and the Planning Commission hold not only the creativity of 1.2 million people currently living in the greater Salt Lake region in your hands, but also the artistic enjoyment of millions of people to come from future generations in the coming decades, including your children, grandchildren, and their children. I urge you to recognize the gravity of the situation and make the right choice.

Thank you for your time,

Michael Valentine

## Gellner, David

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**From:** Aaron <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 2:09 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

The Pantages Theatre is a place of history and culture, that is basically a museum which truly represents our state of Utah. People will still have a chance to learn from and to appreciate the craftsmanship, dedication and future presentations it will have to offer. It needs to be kept!



## Gellner, David

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**From:** Adam Allred [REDACTED]  
**Sent:** Sunday, April 25, 2021 9:09 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

To whom it may concern,

As you are aware, the Utah Pantages Theater is a Utah treasure and 103 years old. To destroy such a treasure would be like the destruction of the Abravanel Hall.

The Pantages is a Utah icon and a beloved figure of our culture. Many people have expressed their desire that the theater be preserved. Please do not let the desire for money be the reason something so critical to our culture and the future of the Sundance Film Festival be destroyed.

You've heard the voice of the people. Please heed it.

Adam Allred

## Gellner, David

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**From:** Alyssa Russell [REDACTED] >  
**Sent:** Monday, April 26, 2021 8:58 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

We don't need any more apartments that no one can afford. What we need is inspiration. Don't tear down a beautiful landmark to put up some lame glass skyscraper that will look like a million boring skyscrapers. Let this piece of history stand.

Sent from my iPhone

## Gellner, David

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**From:** Amanda Wiggins [REDACTED]  
**Sent:** Sunday, April 25, 2021 3:13 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I am at a loss why Salt Lake City would ever consider razing such an incredible building let alone a prestigious theatre that there are only so many of in the United States. I am disgusted that we have to persuade you to keep this historic building.

I spent most of my life growing up overseas. As a child I didn't think my day was ever complete without exploring a caste, an abbey and a cathedral. Thankfully Europe is very aware of their history and retains the buildings to allow all to come visit. Imagine if the continent continued to build and build without anything historic; Europe would be a much different place and for the worse.

I'm not sure why especially Utah thinks they can't keep certain buildings. A gorgeous church that I loved when I first moved to Murray was destroyed a few months ago. I was horrified when I learned about it's fate when it was fascinating and had quite the history.

Please keep this building. Allow us the citizens of Utah along with others to come view this remarkable piece of history for ourselves. It is important to save places as it provides a window into that time period and allows visitors to experience the area instead of just reading about it.

Please do the right thing. I would love to visit this theatre with my family. I have been telling others to do their bit to save this cultural arena. Now it's your turn grant this request and Salt Lake City can keep this 103 year old masterpiece.

Thank you,

Amanda Wiggins

## Gellner, David

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**From:** Anna Coltrin <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 2:17 PM  
**To:** Gellner, David  
**Cc:** Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; daniel.dugan@slcgov.con; Valdemoros, Ana; SLCAAttorney; [REDACTED]; s [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

To put it simply The Pantages Theater has been around for 103 years and must be saved. To demolish this historic building to make room for even more stylish apartments/condos that very few people will be able to afford is just wrong. I have lived in Salt Lake City my entire life and seeing all these beautiful historic buildings constantly being torn down is absolutely heart breaking. This theater has so much potential! It would be a perfect place to house Sundance premiers, allowing for even more money than usual during Sundance to circulating into our City's economy. A theater like this would no doubt put Salt Lake City on the map for housing a historic theater, something most cities don't have anymore. More unaffordable apartments will do the exact opposite. It will make our city generic and unimportant. Imagine how people will be talking about this theater for decades to come just as we're are talking about it's history now. Parents will take their children to see movies there creating lasting memories. Those kids will see a picture of The Pantages from the 60's and be able to tell people they just saw a movie at that theater! Saving this historic building will create even more history than it already holds. Please, do not destroy this piece of Salt Lake City history. We can't afford to keep losing what makes our great city unique. Thank you for listening. I hope you truly take what I've said to heart. The Pantages Theater must be saved.

-Anna Coltrin, Salt Lake City Resident

## Gellner, David

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**From:** Anne Charles <[REDACTED]>  
**Sent:** Monday, April 26, 2021 7:25 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I do not agree with tearing down the Pantages theater and giving it away to a multi-billion dollar company. This does not help out community. The majority of the units are unaffordable, and even for those that are - we need to adjust our scale because it is not affordable for the average person. Listen to your community and keep a historic piece of the city!

Thank you,

Anne Charles

## Gellner, David

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**From:** Anthony Godfrey <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 8:44 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I believe that this project is a failure to the people of Salt Lake City. A new, bland apartment complex that hasn't released its affordable housing numbers can't help the city more than the employment of the businesses on that block. This isn't even including the theater, which once restored to its former glory will create not just jobs, but enjoyment for the entire city. It is one thing to ignore the housing crisis, it's another to take away opportunities for the people of this to escape and enjoy life.



## Gellner, David

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**From:** Ashleigh Albrechtsen [REDACTED] >  
**Sent:** Sunday, April 25, 2021 1:07 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

The Utah Pantages is a century old historic building that adds an invaluable amount to the city. These historic buildings, unique and important, are being demolished for yet another high rise that contributes to gentrification, pollution, and homogenization. Salt Lake City is becoming just another metropolitan, devoid of its character and history, and it's pushing out people, buildings, and businesses that have made this city what it is. We, long time residents of SLC, don't want to lose our beloved city. But that's what's happening. The Pantages theater is one chance to save it, to take a stand against the modernization and gentrification of our city, to stand up for what your constituents truly want our city to be. To be clear--we do not want these new luxury apartments. Please, if not for us, for the city itself.

Salt Lake City is known for the arts, specifically film as it hosts Sundance Film Festival, one of the most renowned festivals in the world. This theater will be successful if refurbished, hosting special film events and further making Salt Lake City a place on the map. It would be more than beneficial to put funds where they are actually desired.

Thank you for reading this urgent message.

Cordially,  
Ashleigh Albrechtsen

## Gellner, David

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**From:** A Tanner <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 4:38 PM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Pantages theater

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello,

I am writing to comment on the proposed construction plans. To re-develop the area would not only displace local businesses that have worked very hard to get to where they are, but would also be poor stewardship over priceless historic properties. The Pantages Theater may be in a declining state, but there are individuals willing to restore and operate this gem of architecture and historical significance. To hand it over to a dime-a-dozen corporation that already has billions and billions in their hands when there are many places across the city to build would be shameful. Having a restored and operating theater would not be detrimental to the city, but would add considerable value to it. To replace it with high end apartments out of the reach of most of the population would not only lead to the eventual displacement of locals by the upper class but would detract from the local character and charm that such a valuable theater does and can provide. Are you working for the city? Is the city and its inhabitants your top priority? Or is it a multi-billion dollar corporation based out of state that you align yourself with? To destroy this theater would destroy a public gathering place that is accessible by all, and to build apartments in place of it would restrict the area to the comparatively small number that can afford it. The city will suffer the consequences of poor leadership. Please don't let these construction plans be put to use- think of your city and the stewardship you possess over it.

Please reconsider the proposal,  
A Tanner

## Gellner, David

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**From:** Austin Wood <[REDACTED]>  
**Sent:** Saturday, April 24, 2021 4:45 PM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Plans for apartments at 150 S Main

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hi there,

I'm writing about the potential new apartments on Main Street in place of the Utah Pantages Theater. I would like to voice my thoughts on choosing a different spot for this apartment tower. There are ample desolate parking lots in downtown and there is only one Historic Utah Pantages Theater. I would love to see the theater preserved and these apartments in any other place Downtown. I also worry about the tower being too tall downtown.

I think the economic, historical, and cultural value of the theater is incredibly important to the future of this city. Preserving history and pushing into the future with that space is very important and I hope we are able to save the theater from becoming another apartment complex.

Thank you,  
Austin Wood  
Slc resident  
--

Founder, Red Creek Films  
Writer/director, Bad Kids

## Gellner, David

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**From:** [REDACTED]  
**Sent:** Sunday, April 25, 2021 8:28 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I am truly disheartened to hear of yet another historic building in Salt Lake slated for demolition only to be replaced by more bland, expensive architecture. Living in Salt Lake is a joy, but it constantly feels like iconic and memorable places that are important parts of our collective history and culture are being erased. Please consider a different course of action and explore more creative ways of preserving the one of a kind Utah theatre.

Concerned citizen,

Bonnie Cooper

## Gellner, David

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**From:** Brad Thompson [REDACTED]  
**Sent:** Sunday, April 25, 2021 9:49 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

(Post your personal comments below, speak from the heart, add our argument points if you like, and then delete this sentence)

Please save this magnificent movie palace! It's something you will never see again if demolished, as a US citizen I feel robbed of such beautiful architecture that has been lost across America. Very few of these Gems have survived...look at what you have and plan the new development in another location! Historic Preservation, the ultimate recycling!

Sincerely,

B. Thompson, Historic Caldwell House, Robeson County NC

## Gellner, David

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**From:** Brad Williams <[REDACTED]>  
**Sent:** Thursday, April 22, 2021 7:21 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Dugan, Dan; Johnston, Andrew; Mano, Darin; Valdemoros, Ana; SLCAAttorney  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

The theatre is a national and state treasure. We have so many places to build apartments and condo's and if it were a commercial building I'd be all for the RDA but this is an art house and we need to protect these unique historical buildings. I also find it offensive that the spot was sold for zero dollars! Do you not have any idea what utah real estate is worth? Please let those that care about the arts in Utah proceed with restoration!

Sincerely,

Brad Williams  
[REDACTED]



## Gellner, David

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**From:** Macintosh <[REDACTED]>  
**Sent:** Monday, April 26, 2021 8:30 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Pantages Theatre Main Street

David,  
Greetings,

I used to visit the Pantages as a child and young adult. I have been following the thread of its salvation. It's starry ceiling and exquisite post modern Greek and Romanesque design are unparalleled as classic United States interiors in the turn of our last century.

My biggest question in the regard of downtowns placement of another tower is, Why here?

And why destroy yet another historical building in SLC when it seems to have less standing than even downtown Ogden's, CBD. A city three times its junior.

The folks involved to save its beauty and artistic integrity seem to have more passion than meets other city employees or council's considerations regarding this character and jewel to be tossed onto a sea of thoughtless salt, yet again.

Our China town was erased for the salt palace. Our other communities were erased by blight of the 80's and 90's mall rat suburbia.

And now this rare and lasting jewel is about to be wasted and freely given away to pirates of no artistic concerns.

Please help stop this travesty and let it be saved for other generations to see experience and enjoy.

Brett Colvin

Downtown Citizen 40 years ...

Sent from my iPhone

## Gellner, David

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**From:** Cameron Bailey <[REDACTED]>  
**Sent:** Monday, April 26, 2021 8:59 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I would like to add my voice of support to saving the historically important Pantages Theater in Salt Lake City. I feel it would help keep the character of our city to add a cultural center back onto Main Street.

Thank you,  
Cameron Bailey

## Gellner, David

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**From:** Christina Benson <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 2:13 PM  
**To:** Gellner, David  
**Cc:** Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAuthority; [REDACTED]  
**Subject:** (EXTERNAL) Utah Pantages

To the Planning Commission and all concerned,

Since I understand this is open for public comment, please do give serious consideration to NOT destroying the Utah Pantages Theatre. I fully understand our need for housing, the value of density and walkability, and certainly see the appeal of a small park as proposed by the presumed development plan. However, allowing the theatre to be restored has greater overall value and benefit to SLC.

In the pursuit of increased housing, the choices about where and how are still absolutely critical. Natural beauty, cultural riches, and local history can't be destroyed in the name of housing above all... For a region to grow successfully, there has to be abundant reason to WANT to live there, not just adequate shelter for all the bodies. Preservation can and should coexist with development.

The Utah Pantages Theatre's location is not arbitrary. There is history here. There is synergy with the nearby theatrical venues that allow a creative district to strengthen, expand, blossom. It will enhance the region's creative industries, reputation, touristic appeal, and add to the attraction of living in any of the newly created housing around Salt Lake. There are other places to put this building. The Utah Pantages Theatre belongs here.

Thank you for your time and consideration.  
Sincerely,  
Christina Benson  
SLC, UT

## Gellner, David

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**From:** Christy bills <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 11:43 AM  
**To:** Gellner, David  
**Cc:** Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Johnston, Andrew; Rogers, James; SLCAAttorney; Mano, Darin; Dugan, Dan; s [REDACTED]; Valdemoros, Ana; y [REDACTED]  
**Subject:** (EXTERNAL) 150 S Main Street planning

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Mr Gellner, and other city officials,

I'm writing as a long-time Salt Lake City resident who cares deeply about the history of our city. I'm not against change and am appreciative of all the challenges we're up against to manage a growing population.

I understand that 150 S Main Street is being considered for a development project.

I argue that we have so much to lose if we allow that to be built.

I had an opportunity to see a production of Hamilton in the Los Angeles Pantages theater a few years ago. It was breathtaking. The only reason that theater stands is people believed in the exquisite historical architecture and the importance of holding on to the majesty of its past. Utah is a part of that international tapestry of majestic theaters (in the US and Canada). It would be a travesty, and a crime against future generations, to not preserve it. I understand that we can't save everything - but we should try to save what is irreplaceable, what connects us to the larger art community and what future generations can cherish. I fully support tax dollars being used to save this treasure.

Let the condo high rise be built elsewhere and not at the expense of this very exquisite treasure.

Thank you.

Christy Bills

[REDACTED]

SLC

## Gellner, David

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**From:** Courtni Doxey <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 8:14 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

This project has brought out the historic preservationist in all of us. High rise apartments have their place and it is not in the graveyard of historic architecture. It is a sign of respect to the people who came before us, who envisioned and created a work of art that would be shared for decades.

The marketing and awareness Michael Valentine and his team with Save the Utah Pantages Theater have given our glorious theater is already incredibly helpful and they have created and inspired a team of supporters across the country.

Consider the research they've done with contacting architects and restoration experts who have worked on the Pantages Theater's sister buildings, some of which have been in similar needs of restoration.

Overall, they've taken the time to prove it can be done and we're here to support that it should be done.

This is our chance to add richness and continue history in Salt Lake City, and to bring our community together over their love of history, architecture, and film. It is absolutely breathtaking to imagine the role that the Utah Pantages Theater would have with the Sundance Film Festival.

What do we want for the legacy of Salt Lake? I believe it starts with historic preservation. It continues with the restoration of the Utah Pantages Theater.

Thank you for your time,  
Courtnei Norman  
Roy, UT

## Gellner, David

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**From:** Cindy S [REDACTED] >  
**Sent:** Thursday, April 22, 2021 10:19 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I am writing to express my dismay at losing this piece of history and community to yet another housing apartment development. It is particularly upsetting to see it given away for such a paltry return to the citizens. I know you are all tired of hearing this and want to wash your hands of doing the harder, but right thing, in supporting the theatre's restoration. Please have the courage to build a legacy we can all be proud of.

Thanks for listening,

Cynthia Spigle

[REDACTED]  
Salt Lake City UT 84105  
[REDACTED]



## Gellner, David

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**From:** Daniel Teed [REDACTED]  
**Sent:** Monday, April 26, 2021 9:45 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I've lived in downtown SLC ever since attending the University of Utah 11 years ago. This is the first place in the world that I've really felt at home. Several years ago I purchased an historic, dilapidated brick Victorian on 300 south and have spent an incredible amount of time and money restoring the building to a beautiful home that now contributes greatly to the character of the neighborhood.

I understand that the amount of effort, care, and resources needed to restore an old building is more than just starting from scratch, but there are elements of an old home that cannot be obtained in a new 2021 house. The amazing natural light, wood details, antique pocket doors, cozy room definition, high ceilings, hand craftsmanship, and full brick exterior with custom wood accents give this house a charm that absolutely cannot be replicated. Once the house is gone, it can never be rebuilt. Something else more practical, more efficient, and more modern can take its place, but the history is lost.

Saving the dilapidated theater on Main Street is similar, but on a grand scale. It is a house for the whole community, state, and region. If one can imagine two futures for the city - one where the dilapidated theater is demolished to make way for modern (and very needed) housing - and a second future where the theater is fully restored to a vibrant, amazing, historic center of culture, architecture and art - which will have a greater impact on the city in 20, 50, or 100 years?

Housing is very needed. But removing an irreplaceable and historic structure is not the only solution to provide housing. Salt Lake has so few historic buildings downtown. If we don't take action and start preserving them, who will? If not now, when? Who can draw this line besides us? We will not regret saving and restoring a cultural gem in the heart of our state. We will always regret demolition.

Thank you for your consideration,

Dan Teed

## Gellner, David

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**From:** Darby Bailey <[REDACTED]>  
**Sent:** Thursday, April 22, 2021 10:23 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for Utah Theatre - 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello All,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I am writing to request a formal RFP through standard channels and rules to find appropriate and publicly disclosed and transparent development and restoration of the Utah Theatre.

According to the 2016 Master Plan, the Utah Theatre was to be saved. If this has changed, I then request formal public statements of how that change has happened. If those changes were not done at the benefit of the public, I then request public process to redo the master plan, to include public input to be taken into consideration.

I also request a formal and public RFP process so that residents of Salt Lake City can be involved and made aware of developments of a historical architectural landmark.

I could list other elements of the current situation that I think need review, but the above would predicate any additional items I could mention, in my opinion.

I appreciate your consideration and efforts to manage Salt Lake City at a time of considerable risk and growth, and look forward to a technologically diverse downtown that maintains within it, elements of historical architecture, to balance out the future.

Sincerely,

Darby Bailey McDonough, Salt Lake City resident.

## Gellner, David

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**From:** Dawn Borchardt <[REDACTED]>  
**Sent:** Monday, April 26, 2021 1:15 AM  
**To:** Gellner, David  
**Cc:** Fowler, Amy; Valdemoros, Ana; Johnston, Andrew; Wharton, Chris; Dugan, Dan; Walz, Danny; Mano, Darin; Rogers, James; Mayor, s [REDACTED]; SLCAAttorney; [REDACTED]  
**Subject:** (EXTERNAL) Let's honor our past & build a more rich future  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Please save the Pantages theatre!! I spoke at an RDA meeting over a year ago about my experience working for various film festivals at amazing historic theatres across the country. New bland multiplex cinemas have nothing on historic grand theatres, which provide such an amazing experience for everyone. I have worked at the Chinese Mann theatre in Hollywood, and it is the crown jewel of the city for a reason! It's historic significance and integrity. We can have the same thing in Salt Lake City! Let's honor our past and build a more rich future by investing in the arts and this incredible historic building.

-Dawn

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[REDACTED]

## Gellner, David

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**From:** Dennis Fuller <[REDACTED]>  
**Sent:** Monday, April 26, 2021 12:47 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) You Must Save the Utah Pantages Theatre! Think of deleting "Abbey Road" or "Beethoven's 5th Symphony" from history!

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Salt Lake City Council,

Imagine deleting your favorite works of art from the history books, from your life's memories, from our communities ((large & small)). This is what you are doing by allowing a developer to demolish this beloved theatre! Could you imagine a world without the Sistine Chapel, Abbey Road by The Beatles, or Citizen Kane? I can't either. We must prevent this theatre from being destroyed. You cannot un-do this decision. Can you imagine bulldozing the State Capitol, Abravanel Hall, The Capitol Theatre, or the Salt Lake Temple? Hard to think about right?

We do not need more high-end condos in our town right now. We do not need another parking garage. We do not need a park on top of said parking garage. What we need is to preserve our rich history & the little culture we have left. We, the people, have been kept in the dark about this deal the past few years, & now that it is coming to light, we have spoken. What we want is to restore this theatre to full use, so our diverse community here in Salt Lake can come together & share our creativity & arts & life experience with each other.

I know you all know this is the right thing to do. This theatre will be saved, & not given away to greedy multi-billionaires for free! Listen to the people who voted for you folks, & do what is right for our arts community, or it will die a slow death.

**"Without art, the crudeness of reality would make the world unbearable."** -George Bernard Shaw

Thank you for listening to your citizens,

-Dennis R. Fuller  
Composer, Producer, Father, Husband, Friend, SLC Citizen.

--  
Dennis R. Fuller  
[REDACTED]

## Gellner, David

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**From:** Ross, Elizabeth J. [REDACTED] >  
**Sent:** Monday, April 26, 2021 2:25 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Speaking as an architecture student, I can't believe that the city would consider building high-rise apartments more important than restoring what could be a gorgeous center of public life. I attend the University of Oklahoma, and in downtown Norman we have a place called Sooner Theatre. It is a beautiful historic theater where many events are held throughout the year, anywhere from movie screenings to showcasing the actors studios that work right across the street. As part of our downtown life, the Sooner Theatre is absolutely irreplaceable. That is what the Pantages Theatre could be for SLC, if you keep an open mind instead of thinking only with your wallets. Tearing down historic buildings for the sake of profit and development is a recipe for the slow destruction of what could otherwise be a vibrant, thriving downtown. In terms of generating interest, high rise apartment buildings are a dime a dozen these days, but historic theaters can inspire awe and capture the heart of public life in an otherwise monolithic and repetitive downtown.

Please consider these comments before allowing the destruction of such a beautiful theatre. Thank you.

## Gellner, David

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**From:** Emily Bourne <[REDACTED]m>  
**Sent:** Sunday, April 25, 2021 10:30 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

We are writing on behalf of our family, representing about 35 people, as well as numerous co workers, creatives, and artists all working in and around Salt Lake City that have expressed their disapproval to us of this project.

A historical theater that can be restored and serve as a place of cultural enrichment and economic stimulus is much more valuable to the city of Salt Lake and Utah than a high rise apartment building that will only enrich a wealthy developer based in Texas. That building could literally be built anywhere.

The Pantages Utah Theater is a one- of-a-kind, historic building with a standing offer on the table to purchase it, restore it, and open it to the benefit and stimulus of the community. The proposed restoration is much more attractive and not as tall as the high rise proposal- which will alter the Salt Lake skyline in exchange for destroying one of the few truly magnificent historical buildings left in Utah. We need to preserve and protect our heritage, not allow someone with no interest in the community to destroy it.

Don't approve the 150 S Main apartments design. Give us, as a community, the chance to restore a historic property that belongs to the people of Salt Lake and use it to benefit the entire community. We won't let our community down.

Travis and Emily Bourne  
The Spendlove Family  
The Thompson Family  
The Young Family  
The Fowles Family  
The Spendlove Family  
The Wilson Family  
The Smith Family  
The Carter Family  
The Keele Family

Sent from my iPhone



## Gellner, David

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**From:** Emily Bourne <[REDACTED]>  
**Sent:** Thursday, April 22, 2021 8:50 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) 150 S Main st apartments

Mr. Gellner,

My name is Emily Bourne and I am a former resident of Salt Lake City (now residing in Utah County) and patron of the arts.

Although I am no longer a resident, I spend a great deal of time and money in downtown SLC as it is the cultural epicenter of the region.

It is incredibly short sighted to tear down a historical theater and replace it with an exorbitant high rise apartment building that could be built in a number of places in the valley that wouldn't destroy a piece of history. And to give the property to the developer for free when there is an offer to purchase the theater and restore it on the table is lunacy.

Not to mention the businesses that will be displaced. A grand movie house in a historic theater district will bring patrons from up and down the wasatch front, not to mention tourism from all over the country. We should be learning from our neighbors across the pond in preserving our past instead of destroying what little history we have.

Please don't approve the apartment plan- our cultural heritage is more important than high rise apartments for the elite that could be built anywhere.

Thank you for your time and service!

--

Emily Bourne  
[REDACTED]

## Gellner, David

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**From:** Hannah Hales [REDACTED] >  
**Sent:** Monday, April 26, 2021 12:09 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Too many individuals believe that society only progresses as soon as new infrastructure is jammed into a city. This is a dangerously false belief. Destroying important historic landmarks, such as the 103-year-old Utah Pantages Theatre is a slap in the face to our ancestors and founding leaders of Utah Valley.

To replace this monumentally important theatre with factory high-rise apartments that only the top percent of the population can afford is a moronic, greedy move that only those who cater to the destructive and aloof developers make. These impatient, grabby developers only care to make money and do not actually care about how their designs impact a community for the better, nor do they do their homework and actually find out what is important to the community they are pillaging. And in this case, they are making the disgusting play to demolish the beloved Pantages Theatre to make way for their boorish, short-term high-rises.

The colorful past of the Utah Pantages Theatre has defined the Salt Lake Valley for decades and made history with the vaudeville shows performed on its stage. Being the first building in America to use air conditioning and being widely regarded for its gorgeous, intricately detailed interior that thousands have admired and loved throughout the years are just bonuses in the landmark history of the Pantages Theater.

To give up the priceless history of the Utah Pantages Theater by erasing it off the streets of downtown Salt Lake is something only a foolish person who caters to big money would do. I implore you to not disrespect the critically important history of the Pantages Theatre by replacing it with an unimportant, terribly researched, and exorbitantly priced high-rise.

I call on you all to do better for the people of Utah Valley. Show that you actually care by restoring the theater and for once saying "NO!" to the big developers.

Thank you,

Hannah Hales

## Gellner, David

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**From:** [REDACTED]  
**Sent:** Friday, April 23, 2021 2:14 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

As a budding photographer in the late 90's I walked the streets downtown and came across the theater. I peeked inside and was so intrigued by its splendor that I wondered how it could have ever stopped being functional. I have followed along over the last two decades to see when and how it would be restored to its glory. Now is its time. As there is more than enough backing in funding and manpower to complete a beautiful renovation, it would be a disservice to the community to see it torn down for luxury apartments. It is a historic gem of Salt Lake downtown scene. Please do not allow it to be demolished.

Thank you,

Heather castellanos  
Orem, Utah

## Gellner, David

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**From:** Ibrahima Fall <[REDACTED]>  
**Sent:** Monday, April 26, 2021 4:08 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Hello. This is Ibou Fall with Twisted Roots at 156 South Main St. As a tenant of the RDA, I am deeply worried about having to move and finding a downtown location that we can afford. This fear is shared by me and the neighbors. I hope that either way the city decides to go, we are taken into account. Saving the theater and the local retail stores would be a win for the city. Just my thoughts. Thank you so much for all you have done for our city and our businesses. God bless

Sent from my iPhone

## Gellner, David

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**From:** Ira Lebowitz <lebo.ira@gmail.com>  
**Sent:** Sunday, April 25, 2021 5:05 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

This historic theater should be saved. My hometown, Sioux City, Iowa was faced with the same issue and it was decided to save and restore the Orpheum Theater <https://orpheumlive.com/history/>.

It was a very good decision for the city and is considered one of the states Crown Jewels.

Please save The Pantages Theater.

I would be happy to introduce whom ever it would concern with one of the principal Orpheum restoration board directors.

Sincerely,

Ira Lebowitz

## Gellner, David

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**From:** Jana Cox <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 4:55 PM  
**To:** Gellner, David  
**Cc:** Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; [REDACTED]; SLCAAttorney  
**Subject:** (EXTERNAL) Comments regarding height variance for luxury apartment complex

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

To the Salt Lake City Planning Commission:

I am writing to request that you deny the height variance for the apartments that are proposed at approximately 144 S. Main Street.

There are many good reasons why this apartment complex should not move forward. First, it would displace 4 current businesses that add vibrancy and diversity to downtown Salt Lake City.

Second, I do not feel that the developer has kept their side of the bargain. The proposed "walk-through" and "public" park in the current design are laughable at best. The developer's statements about not being able to provide the number of low income housing units originally agreed upon should also be a deal-breaker.

Third, and most importantly, granting the height variance would bring the city closer to destroying an historic landmark that should be preserved, not demolished.

The proposed apartments could be built in any number of places within blocks of the current site. Destroying the Utah Theatre, which has such a rich history for Salt Lake City and the state of Utah, is both short-sighted and a disservice to the residents.

I know it can be hard to look past the current state of the theatre, as the prior owner already started demolition for restoration. But the beauty is still there. I know this because I took my children on an RDA sponsored tour of the theatre in 2010, to show them the place that meant so much to me as a youth. At that time, the RDA announced that the plans were to renovate it as a premier film space and bring it back to its former glory. I felt excited and thrilled that Salt Lake City had the foresight to envision what a gem this theatre could be. During the tour I could still see glimpses of the building I knew and loved, and was excited for the restoration project that planned to bring it back even more beautiful than I remembered. I expected (and still expect) the city to follow through on this promise.

I worked at the Utah Theatre from spring of 1989 to spring of 1992. I was in the building for the very last performance held there. As a teenager, the Utah Theatre was my happy place. I performed in 17 shows, ushered, house managed, and worked in the office for Salt Lake Repertory Theatre, who leased the space for 4 years until a new owner purchased the building in 1992. The Utah Theatre holds a special place in my heart, and the years I spent there were life-changing. I explored nearly every nook and cranny of the Utah Theatre during my years working there, and I know it can be restored.

As I saw during my tour of the theatre in 2010, the bones of greatness are still there.

I have heard some people say that this is a done deal and it is out of their hands. That is not true. When new administrations are elected by the people, they frequently reverse the bad decisions made by previous administrations.



It is one of the advantages of having a government elected by the people. This is your chance to make the right decision to preserve an historic landmark and ensure the future vibrancy of downtown Salt Lake City.

I urge you to vote NO on the height variance. That is a first step in keeping the promise to the citizens of Salt Lake that their historic Utah Theatre would be preserved and restored. There are better offers on the table that keep with the city's original and highly publicized preservation plans for the theatre. The choice is not out of your hands, it is in your hands. I hope you will be on the right side of history with this decision.

Sincerely,

Jana Cox

P.S. The following is a private link to an amateur movie filmed entirely at the Utah Theatre in 1990. I am sharing it with you so you can envision what the theatre looked like immediately prior to its purchase in 1992. While not as opulent as during its movie theatre days, it should give you a glimpse of what a jewel the theatre could be for downtown Salt Lake City. The link [REDACTED] should be used only for your private viewing pleasure. Enjoy!

## Gellner, David

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**From:** JANICE STROBELL <[REDACTED]>  
**Sent:** Monday, April 26, 2021 8:40 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Design Review - 150 S Main Street

Thank you for taking the time to carefully review the public comments being submitted for the Design Review on the proposed project at 150 S Main Street.

I encourage the planning commission to consider all the shortcuts that have been taken with this proposed project and *deny any variances or zoning changes sought for on this project*. Hines/LaSalle does not need any tax increment funding for such a project. The developer stands to make millions from this project and they do not need any assistance from taxpayers to help them make more money.

There is a buyer ready to save the Utah Pantages Theater and will pay the city for the property, not ask for it to be sold for nothing. Do not let a developer that needs no monetary assistance to rob from our community a treasure that is priceless and irreplaceable.

We do not need more luxury apartments downtown. Consider Manhattan where developers continue to build luxury skyscrapers and yet nearly half of the luxury-condo units that have come onto the market in the past five years are still unsold according to the New York Times. Developers are not doing this to fill a need other than their pockets. Do not be swayed by the developer's smooth presentations.

Thank you for listening to your constituents and the greater community and denying this application.

Janice Strobell  
Murray, UT

**Gellner, David**

**From:** Jared West  
**Sent:** Saturday, April 24, 2021 4:53 AM  
**To:** Fowler, Amy; Valdemoros, Ana; Johnston, Andrew; Wharton, Chris; Dugan, Dan; Walz, Danny; Mano, Darin; Gellner, David; Rogers, James; Mayor; SLCAAttorney  
**Cc:**  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Thank you for taking the time to read.

Our city is a relatively young developed city in comparison. However, our beauty and history run deep. The only way to continue that beauty is to stop tearing down these beautiful, old buildings. The character and charm that come from keeping pieces of priceless craftsmanship is what makes the greatest cities great. It's about preserving ALL we can, not just religious monuments. We ask and plead that you reject another building tear down (such as the 130 yr old former Ichiban building) that cannot be replaced, especially by another basic lack luster architectural apartment/condo complex. The cityscape has already been tainted with too many of these eyesores of projects and in general should be rethought. I am all for housing improvements, but as mentioned, there are plenty of vacant spots in the city that these can be erected. It's time to put money and effort into preservation and keeping all the charm we can before it's all gone. I relate it to cities in Europe, while many buildings were destroyed in wars, they rebuilt replicas to preserve their history and respect the culture and hard work of those that came before.

Thank you and we all hope to see a general shift in the way not just this building is viewed, but all buildings in salt lake from the council.

Hoping for great news,

Jared West  
--  
Best regards,

Jared West,

## Gellner, David

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**From:** jeffrey carlson [REDACTED] >  
**Sent:** Monday, April 26, 2021 12:00 AM  
**To:** Gellner, David  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,  
These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I'm pretty upset that the once beautiful Pantages is being ready to get demolished for another modern townhome or apartment building that will look like every other one being built.

This theater is very special and should not be demolished. My great grandfather once owned a restaurant on that block and many of the patrons to the theater would eat at his restaurant before they'd go to the shows.

His son, my grandfather, was in a gymnastics group and would put on shows at the theater.

I'm just one guy from SLC and I have ties to it, I'm sure there are thousands more that just haven't said anything about it.

To promise that it wouldn't be demolished by the city, and then turn around and sell it for \$0, is incredibly inconsiderate to the people of SLC.

I do not want this theater to be demolished.

-Jeff Carlson

## Gellner, David

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**From:** Jen Hines <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 10:45 AM  
**To:** Fowler, Amy; Valdemoros, Ana; Johnston, Andrew; Wharton, Chris; Dugan, Dan; Walz, Danny; Mano, Darin; Gellner, David; Rogers, James; Mayor; SLCAAttorney  
**Subject:** (EXTERNAL) Utah Pantages Theatre

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello all,

I am writing because I have recently learned of the proposal to demolish the historic Utah Pantages Theatre and build luxury apartments. As a born and raised Utahn, to say I am disappointed is an understatement.

One of my favorite things about Salt Lake City, and Utah as a whole, is the number of gorgeous historic buildings that we have incorporated into our growing city to continue to enjoy for centuries to come. The history of Salt Lake is what makes us unique; our city is full of character.

Luxury apartments, as we all know, do not add character. They add to the growing problem of unaffordable housing in Utah. They add to the destruction and displacement of local businesses that have served the city for years. They do not benefit the community as a whole, but those who will make money off of the project itself. And, to be frank, they will be a stark and unattractive addition in the middle of such a historical city.

As a native Utahn who loves Salt Lake City for being my home and because of the unique opportunities and experiences it offers, I am asking you to please preserve our home. Please help restore this incredibly beautiful theatre back to its former glory for all of us to enjoy once more. Please consider what kind of Salt Lake City you want your kids and grandkids and great grandkids to experience. The community will thank you.

Thank you for your time, and I hope to hear of your decision to preserve this landmark very soon

Jen Hines

## Gellner, David

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**From:** Joseph Pedersen [REDACTED]  
**Sent:** Monday, April 26, 2021 11:35 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

The Planning Commission is tasked with ensuring applications conform with general plan conformity, which the current proposal does not, due to the requirement of the Downtown Community Master Plan, adopted by the City Council in 2016, that states on page 93 the requirement to “Repurpose the Utah Theater as a cultural facility and activity generator.” This surely can’t mean the demolition of the theater. For this reason alone, approval of the Design Review application should be denied.

JMP



## Gellner, David

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**From:** Julia Greene [REDACTED]  
**Sent:** Friday, April 23, 2021 3:16 PM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Please Save the Pantages

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi David,

My name is Julie Greene. I've been a Utah resident for over 5 years, and one of my favorite aspects about Utah is the wonderful film society and culture we have here. I'm writing you because I believe the Pantages should be saved so it can be renovated and turned into a beautiful cultural film theatre. Please, please don't let this beautiful theatre be turned into another luxury housing unit. We don't need more luxury housing units downtown. There are many wonderful places to live around Salt Lake City that aren't historic buildings.

Thank you for your time,  
Julie Greene

## Gellner, David

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**From:** Kaydee Wulle <[REDACTED]>  
**Sent:** Friday, April 23, 2021 11:59 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Please save our theater. There are plenty of luxury apartment building going up everywhere in Salt Lake. It seems silly to destroy a work of art that could be used to enrich people's lives. It saddens me to see that Erin Mendenhal and the RDA put profits before the arts.

Please choose to save the pantages theater and say no to the proposal to build apartments.

Thanks,  
Kaydee Wulle

## Gellner, David

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**From:** Kevin Hartley <[REDACTED]>  
**Sent:** Thursday, April 22, 2021 1:13 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

My name is Kevin Hartley, and I support Saving and Restoring the Utah Pantages Theater.

The current deal with Hines/LaSalle group to create luxury apartments in place of the Utah Pantages Theater is still in review, with many of the details incomplete in their proposal, and because of this, we urge city council and the RDA to reject the current deal, and accept a new and better offer to not only restore the theater, but bring millions in measurable revenue to the city from the film community and festivals in Utah each year.

This theater, built in 1918, though does need restorative work, but has been said to be **in rather great shape for a restoration** by experts at the League Of Historic American Theaters, as well as the experts at our sister Pantages Theaters, and around the country who have lent their well informed advice. The Tacoma Pantages, which is of a similar size, needed similar restorations such as seismic upgrades, was restored in 2018 for nearly a third of the proposed cost the RDA has argued is "too expensive". We want a second opinion from theater building experts on these numbers, as we do not believe the RDA's numbers are accurate. We are here to propose a realistic plan for consideration that the city council and the RDA board has not seen on how to strategically save and restore this theater, as well as a detailed plan again on how this endeavor can generate millions of dollars in revenue for the city each year. We thank you for taking time, and ask that you do what's right to Save The Utah Pantages. Thank you.

Kevin Hartley

## Gellner, David

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**From:** Kristin <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 1:52 PM  
**To:** Gellner, David  
**Cc:** Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney; [REDACTED];  
[REDACTED]  
**Subject:** (EXTERNAL) The Utah Pantages Cinematic Theatre

Dear Mr. Gellner,

I've heard that The Utah Pantages Cinematic Theatre is possibly going to be destroyed. This is not a good thing for Salt Lake City, and I am asking you to please save the theatre. I don't believe Salt Lake should be contributing to a disposable society in which we tear down historical buildings for the profit of the wealthy. There are already many high-rise buildings in Salt Lake as it is, and there is plenty of other space in which to build new ones. I doubt that any developer is planning to put affordable housing in such an irreplaceable, historical space. This space should be open to all and not exclusively to the rich and elite who can afford to live in a new shiny building - only to line the pockets of a few. Please allow the option to restore a beautiful, irreplaceable piece of history and do not destroy this work of art!

Thank you,  
Kris Hintze

## Gellner, David

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**From:** Lara McAllister <[REDACTED]>  
**Sent:** Monday, April 26, 2021 10:03 AM  
**To:** Gellner, David  
**Cc:** Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney; [REDACTED];  
**Subject:** (EXTERNAL) The Utah Pannage Cinematic Theatre

Hello David Gellner,

I am writing you with concerns about The Utah Pannage Cinematic Theatre. The news about its possible destruction breaks my heart. Utah has so little attachment to its past and we are losing more and more historical building daily. We can always building new building. but we can't rebuild the past. We can only preserve and protect our past if we make it a priority. I believe it would be beneficial for Utahans and tourists alike to have a connection to our past.

I humbly ask you to reconsider.

Lara McAllister

## Gellner, David

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**From:** Larissa Marcella <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 1:56 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]; [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Dear Planning Commission Members,

Hearing the proposal to turn the Utah Pantages Theater into apartments absolutely breaks my heart. I moved to Salt Lake City more than five years ago and fell in love with the city's character and historical landmarks. I came to appreciate how much the LDS Church's influence seemed to make us a city that valued its history like any other. In the past few years however, I can't help but feel the soul of our city is dying.

What makes people want to live somewhere in the first place? That city's character and local culture are such a draw for businesses and residents. If we lose ours, what will be the point of destroying it for apartments that no one will want to live in, because there is nothing worth seeing downtown? There are absolutely lots downtown that deserve to be redeveloped, but this is not one. The Pantages is one of the last artifacts of what Salt Lake used to be. There are brilliant ways to redevelop our city, and increase housing density without ruining our culture and heritage. So little of Main street remains we need to hold on to every bit of it we have. Imagine if we had torn down the ZCMI facade or demolished the original Moss courthouse. The new and the old can coexist, but to do so the new has to respect the old. The citizens of Salt Lake should not suffer this loss simply because the property was mismanaged and is now decrepit.

We can always find room for more apartments, I'm the first to acknowledge we have a serious housing shortage in this city. But it is rare nowadays for a city to find more room for art spaces as beautifully designed as the Pantages. The arts and humanities make us who we are and make so many large cities great. Picture Manhattan without Broadway or London without West End, they would be cities void of a soul. Just piles of bricks, fluorescent lights, and cubicles. We as a city need to ask ourselves what is the soul of Salt Lake City worth?

I hope you all can realize that it is worth so much more than some shoddy, cookie cutter apartments.



## Gellner, David

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**From:** Laura Bayer <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 3:56 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition .

Pleáe do not approve this flawed and inadequate proposal for yet another luxury high rise that most Utahns can't afford to live in. The Pantages Theater is a unique local resource that should be preserved.

Sincerely,  
Laura Bayer

[REDACTED]  
Salt Lake City

Sent from my iPad

## Gellner, David

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**From:** Laurie Bray <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 11:32 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

The Utah Pantages Theater deserves to be restored, used and treasured. Our culture and sense of history will not edified by new apartments. Far more people will be able to have their lives elevated by viewing films and being surrounded by the spectacular architecture of the theater than would come from the use of the apartments.

You also have not outlined how you would use furnishings from the theater and it would be surprising if the public actually used the park in the design.

My business is located in Sugar House in the downtown area that was demolished in 2008 and it is sorely missed. I hear several times a day from people who visit the area and residents how much they dislike all the apartments being constructed and how much they miss some of the iconic places that have been torn down.

It's important to preserve character and personality in a neighborhood and not turn our city into cookie-cutter blocks. The public deserves to be able to vote on this.

Thank you ,  
Laurie Bray

(Post your personal comments below, speak from the heart, add our argument points if you like, and then delete this sentence)

Sent from my iPhone

## Gellner, David

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**From:** Leah R <[REDACTED]>  
**Sent:** Monday, April 26, 2021 10:29 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) The Utah Pantages Cinematic Theater

Hello,

I'm wondering how creating this sky-rise at this location will benefit Salt Lake Citizens? The renovation of this building and the subsequent opening to the public for events would actually enrich our community.

Thank you for your time,

Leah Richardson

## Gellner, David

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**From:** mandiz <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 10:14 PM  
**To:** Gellner, David; Valdemoros, Ana  
**Subject:** (EXTERNAL) 150 Main Street Apartments design review feedback

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

One of my neighbors shared with me a link which had the design review for a new highrise building located at 150 S. Main Street.

I wanted to write to you guys and express my concerns over the design of the building. The building seems too "tall and blocky" for such a small slim lot of ground. It overpowers the nearby buildings on the north and south of it. I think that the design of the building leaves much to be desired, and should be better designed so that it does not seem so massive. Also, the roofline of the building is a cookie cutter of other buildings which have been recently completed in the city. If the applicant is asking for additional height, they should make a more unique roofline that would be distinctive to the skyline. We have many flat roof glass top buildings downtown. It's time for something different.

After reading through the City code for design review for additional height, I do not feel that the current design meets many of the design elements for additional height, and therefore should not be approved in its current form.

Thanks,  
-Mandi,

## Gellner, David

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**From:** Marian McCann <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 6:40 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

My husband and I were fortunate enough to attend a few movie screenings at the old Utah/Pantages Theater, even though we lived in Logan at the time, and were always overwhelmed by the beauty and history of that grand building. Over the years we have wondered why nothing has happened to reopen it and were always excited when we occasionally heard that plans were underway to restore and renovate. The nonpublic and SECRET deal to GIVE our local treasure away to become a huge tower of luxury apartments is absolutely incredible. There are so few buildings worthy of veneration in Salt Lake City and a masterpiece movie palace would certainly count as one of those. The concept of an arts and theater district, with the Pantages, Capitol and the Eccles would be an amazing draw for our city and give it a cultural heart. This plan should have at least been openly presented to the population and I'm sure most people, even those who aren't directly in theatre as I am, would be distressed at the destruction of a landmark.

The other part of this whole apartment scheme that is worrisome for me, beside the blatant cronyism involved, is the lack of respect for the residents of Salt Lake City. It appears that the apartment plan, which promised all sorts of concessions in return for this prize plum, has methodically, and subtly, eliminated many of them in hope that no one would notice. Are these the people we really want to be in bed with?

Finally, the maintenance of this monstrosity should be a concern. Are the city services equipped to handle a building of this size? Do we have the equipment to address a fire or other emergency in a building of this height?

I urge the people who have the final word to PLEASE reconsider and give the community to reclaim this gem. We will never be sorry if it's saved, but we will never forgive ourselves if it's destroyed for a project that doesn't benefit and is rejected by the majority of us!

Sincerely,

Marian McCann

## Gellner, David

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**From:** maria patton [REDACTED]  
**Sent:** Sunday, April 25, 2021 3:51 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney; [REDACTED]  
**Subject:** (EXTERNAL) Fw: Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024  
**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

**Subject:** Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

**WE MUST PRESERVE AND PROTECT UTAH'S HERATIGE, LEGACY, HISTORICAL LANDMARKS, AND CULTURAL ARTIFACTS AS WELL AS UTAHNS LOVE AND SUPPORT OF OUR AMAZING ARTS! AND ALSO PRESERVE AND PROTECT INDEPENDENT MINORITY BUSINESS OWNERS!!!**

Salt Lake City Planning Commission, RDA, City Council, AND FORMER MAYOR BISKUPSKI AND CURRENT MAYOR MENDENHALL'S misguided decision to enter into an unscrupulous agreement to allow the Multi-Million dollar Hines Corporation to steal an irreplaceable 103 year old historical theater BELONGING TO ALL RESIDENTS OF SALT LAKE CITY will have a long term negative impact not only on the city of Salt Lake but the State of Utah as well. These negative impacts are not only, Social impacts on Architectural History, Cultural Arts and Education, but also have a huge Economic impact on Salt Lake City and the State of Utah.

Your decision is already having a negative impact on an Independent Minority Business Owner, Twisted Roots, who is currently residing at this location and has paid rent and taxes at this location for the last 10 years. He will be evicted and will potentially have no other option in relocating his business. Where was the consideration by all of you on how YOUR decision to allow a Multi Million dollar Corporation to steal public property would have a drastic impact and force this Minority Business to shut down his business, especially after he has worked so hard to maintain his business over this past difficult year.

**SAVE THE UTAH PANTAGES THEATER!**  
**SAVE TWISTED ROOTS!**

Maria Patton



## Gellner, David

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**From:** MaryAnn Workman <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 7:03 PM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) The Utah Pantages Theatre

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

### An Open Letter Regarding the Utah Pantages Theater

My name is MaryAnn Workman. Salt Lake City is the place of my birth, though I currently reside in Maryland, outside of Baltimore. When I read the news of the looming demolition of the Utah Pantages theater, my heart dropped. I was confused, angry, and even shocked. Instead of falling into despair over it, I found hope knowing that there are so many others like me who care for not only this beautiful theater, but also for the community of Salt Lake, and for all of its visitors.

It has always been clear to me that Utah cares deeply about its heritage, or at least claims to. Utah History was an important class in school, and one of the most enjoyable ones as well. My classmates and I were taught to revere those who built the great state. Creating a metropolis in a desert was far from easy, but nonetheless, a beautiful city rose out of the valley. Full of industry, as the State Seal indicates, but not only that - full of culture. Life. Art. Beauty. Stories. A warm and fascinating atmosphere created by the very hearts and souls of the people who lived there. It is surely not true to say that Salt Lake does not still have all these things. However, every time I return to my home town, it feels as if a little bit more of the soul of the city itself has died. Perhaps this is easier for someone who has been removed from the place for some time to notice. That warm, colorful feeling has started to fade. I know that they say "you can never go home," and maybe I am just experiencing that phenomenon. But it truly breaks my heart to see such a vibrant and truly unique locale start to lose its character.

So many of the treasured places I can recall, or that my parents can recall, have been lost. Places that were not just buildings, but halls of memories. Places that held a piece of the hearts of many, and were anchors for the community. Some such places were also theaters, such as the Lyric (also known as the Promised Valley PlayHouse) and the Centre. Other examples include the Cottonwood Mall, the Hotel Newhouse, and Granite High School. While Salt Lake is fortunate to retain many of its historic places, far too many have been lost. It would be tragic, and truly dumbfounding, for the community to lose yet another through the destruction of the Utah Pantages. Every modern city has glass skyscrapers and luxury apartments and offices. Salt Lake does have plenty of those as well. While some cities do still have their grand movie houses, those are much more of a rarity. The Utah Pantages is a precious gem that needs to be re-discovered, dusted off, and brought back into the light for everyone to enjoy. Nothing could serve better to re-invigorate the spirit of my beloved hometown.

I am thankful to live in an area where I am within reasonable driving distance of several wonderful theaters both old and new. When I learned that the Utah Pantages was in danger, it made me even more grateful for the theaters I am able to visit here. I truly hope that my birthplace can follow the example of my new home, and appreciate what it has. To name a few historic examples, Maryland has the Maryland Theatre in Hagerstown, the Hippodrome in Baltimore, and the Weinberg Center in Frederick. To venture a little farther, there is also the Warner Theatre in Washington, DC, and the Byrd in Richmond, Virginia. These theaters showcase different types of performances, not just films. Plays, concerts, festivals, conferences, and in some cases a mix of all of these. There are many other theaters in my area beyond those I have listed. I have seen first-hand how much these venues can benefit the well-being of their communities. One of the issues of concern is that the fine-arts theater market is already over-saturated in Utah, but the Utah Pantages has a unique advantage that many modern theaters do not. It is well suited to be a moviehouse, but a fully restored

Pantages would also be of appropriate grandeur for fine arts performances. Theaters bring in visitors and income, and help draw patrons to the business around them. Historic theaters attract an even wider group of patrons. Having more theaters also gives space for more voices to be heard, to foster more diversity. A community that has a bounty of performing arts spaces, (even two right across the street from each other) is a community truly dedicated not only to arts and culture, but to the wellbeing of its people, and the local economy.

It is true that I am too young to have ever attended a show at the Utah Pantages, but ever since I was a small girl I hoped and believed that someday I would. I heard stories of not only my grandparents, but also my great grandparents, attending shows there and having a wonderful time. When I would ask about the theater, my great-grandmother would get a joyful look in her eyes, and tell me it was beautiful. Some of my family's favorite memories have been made there, and the same is true for countless other families. Those alive today, and especially future generations, should be able to share in this tradition. To destroy such a special place would be reckless and irresponsible.

As I have heard from my older loved ones, going to the movies used to be quite the experience. Grand theaters are often referred to as "movie palaces," for they were adorned as such. They were created as a place for ordinary people to feel elegant and special, almost royal even, if only for a night. People would dress up just to go see a movie or a play, which may sound silly when you think of the contemporary movie going experience, but everyone deserves a reason to feel fancy and beautiful. Especially with the Covid-19 Pandemic, many of us truly miss the "going out" feeling. Movies have been a big help to get us through this pandemic, and I am so thankful that I am able to escape to another world from the comfort of my own couch. When it is safe for theaters to fully reopen, they are going to need to offer an extraordinary experience if they want to survive the age of online streaming. Modern multiplex cinemas may have multiple screens and ample parking, but they simply cannot offer the elegance and pure joy that a true movie palace can. When you can watch almost anything from the comfort of your own home, patrons will need more than just the films themselves and the popcorn to draw them in.

As we live through this dismal and difficult age of pandemic, many people are searching for hope. Something to believe in. A sign that our world will someday be just as good as it was pre-pandemic, but also even better. News of restoration plans for the Utah Pantages would be a wonderful source of hope for the people of Utah. When the world recovers from the long term loss and pain the pandemic has caused, a newly restored historic theater would bring people out of the fear and dreariness, and into lively downtown Salt Lake once more. The theater opened in the early 1920's when the Spanish Flu was at long last coming to a stop. How fitting it would be, for it to rise once more, as the world heals from Covid-19.

It will be costly and difficult to restore the theater. But I believe in the State of Utah and its people. A state rooted in the motto of industry can definitely handle it. A place that rose out of such a rugged desert can surely save one of its most precious assets. Though currently the outside of the building does not hint at what a beautiful place it is, walking by the theater always fills me with a desperate curiosity to see what was inside, and faith that someday I will be able to. This theater is a connection to those we love and honor from our past. It is a connection to our creativity and desire to dream. We must save the Utah Pantages Theater.

Sincerely,  
MaryAnn Workman

## Gellner, David

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**From:** AstroMG <[REDACTED]>  
**Sent:** Thursday, April 22, 2021 11:14 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Comment on 150 S Main Street Apartments

Hi,

Unlike many of the emails and calls you are probably getting, I am writing in support of this project. This doesn't mean that I don't lament the loss of the Utah Theatre but I think I have a more realistic and lucid view than many of those trying to "save" it. The Pantages Theatre was a beautiful building in its day but the fact is that it needs much more than its supporters can provide. I fear that if this project is stopped, the theatre will sit for decades more neglected and decaying. Besides, the theatre itself was largely ruined in a past age when it was converted into a two-screen movie theater. If the developer is truly planning on saving and repurposing the skylight and other ornamental elements, the new skyscraper will be as much the old Pantages Theatre as the current structure is. Unless there is a serious proposal to rebuild the theatre with *serious* financial backing, I don't think it's worth delaying the inevitable. I'm not even sure if that's legally an option at this point anyway.

As to the new project, I think it's a pretty nice and unique design for a residential tower. It actually echoes the Kensington Tower design in some ways, mixing the solid glass surfaces with areas of windows separated by a white/gray texture. The mix of window patterns also reminds me of 650 Main and the forthcoming BRIX project, and the use of white and grey calls to mind nearby buildings like the Salt Lake Temple and the Hotel Utah. Could this be the beginnings of a distinct "Salt Lake Postmodern" style? In any case, the tower will be handsome and the amenity spaces look wonderful. The building will help fill a big gap in the skyline and the western glass face will enhance the already incredible "golden hour" skyline views at sunset.

On the negative side, I do wish the project did more to make a walking connection through the block to West Temple and 100/200 S. The elevated park is a cool idea and we need the green space, but I do think that the block will be rather impenetrable to walkers given the proposed configuration. It also strikes me as sad that the theatre itself is being replaced by a parking garage while the tower goes on the Main Street frontage, but I digress.

Thanks,

Matthew Givens

## Gellner, David

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**From:** Meredith Jacobsen <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 10:01 PM  
**To:** Gellner, David  
**Cc:** Fowler, Amy; Valdemoros, Ana; Johnston, Andrew; Wharton, Chris; Dugan, Dan; Walz, Danny; Mano, Darin; Rogers, James; Mayor; s [REDACTED]; SLCAAttorney; [REDACTED]  
**Subject:** (EXTERNAL) Save The Utah Pantages Theater Public Comment  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Good evening,

I am emailing to make a public comment regarding my support of the proposition to save the Utah Pantages Theater (150 S Main St). I believe saving and preserving this historic jewel of the city aligns directly with the objectives of the SLC Planning Commission. The current proposal from Hines/LaSalle does little to nothing to preserve our community's culture, history, or soul. Preserving and restoring the Utah Pantages Theater to its full glory would also allow for the preservation of other local adjacent businesses. I believe that the proposal and plan put forth by the Save The Utah Pantages Theater group outlines an amazing plan that will work and make sense. I am so saddened and disheartened to see Salt Lake City losing all of the character which made it so special to begin with. Please do the right thing and choose to protect the vibrant art culture and community. Lets restore the Utah Pantages Theater for generations to come.

Thank you,

Meredith Jacobsen

## Gellner, David

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**From:** M Z <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 1:26 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]; [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,  
These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Housing can be built anywhere but this theater is one of a kind and completely irreplaceable. Choose any of the other hundreds of thousands of options for your housing and leave us this beautiful, historic theatre. It will be an enormous boon to the community and somewhere you and all your colleagues will be proud to take your children and your children's children to have a unique experience. This theater is an exceptionally beautiful window to Salt Lake City's past and it is imperative that we preserve it for future generations.

Sincerely,  
Michiko Arlene Zaharias

## Gellner, David

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**From:** Mimi Andrews <[REDACTED]>  
**Sent:** Monday, April 26, 2021 8:43 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I believe the Utah Pantages Theater is worth saving. Although I have never had the privilege of attending a performance at the theater, I have listened to stories of my family members wonderful experiences there. My mother recalls seeing one of our family favorites "What's Up, Doc?" multiple times at the theater during the summer of 1972.

The theater itself is a work of art. It carries history, beauty, and culture within its walls. While housing is an absolutely necessity, especially in our growing population, there are other areas that apartments can be built. I believe it would be an absolute travesty to destroy the Utah Pantages Theater.

Thank you,  
Mimi Andrews

## Gellner, David

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**From:** Neil Reed <[REDACTED]>  
**Sent:** Monday, April 26, 2021 10:36 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Greetings, dear friends.

You do a lot of great work for the city and I appreciate the work you do. In regards to ye olde 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024, I'd like to publically comment the importance of preserving this admittedly derelict, but distinctly friggin' sweet historic theater. Is it a headache and a half? Sure, but losing it would be a punch in the cultural gut. Please, for the love of tots, reconsider your current design plan. That would be rad.

Gracias!

Neil



## Gellner, David

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**From:** Nick Thomas <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 11:05 PM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) 150 S Main Apartments

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Mr. Gellner,

I am writing you concerning the proposed 150 S Main Apartments. I am sure you have received many emails pertaining to this proposed development so I will try to keep my comments short. First let me say I am outraged that the Salt Lake City is giving away publicly owned property to a developer for free. How this benefits the citizens of Salt Lake City escapes me. But I realize we are probably beyond that point so I will comment looking forward. As a community both citizens and decision makers want what is best for the city. As residents of Salt Lake City we all wish to have a unique downtown that stands among the other great cities of the world. New York City, Chicago, San Francisco and the great cities of Europe are known for their architecture and historically significant spaces. Yes they have big fancy modern glass apartment buildings but it is the spaces of their pasts that define these cities and give them their character. As a city we are at a cross roads with the 150 S Main apartment proposal. Profit driven developers are asking the citizens of Salt Lake City to give up their beloved Pantages Theater (for free no less) to build high end apartments. In doing so our city will lose a historically significant space. A restored Pantages Theater would be a feather in the cap of our great city. A space that would distinguish our city and help put us up there with the other great cities of the world. We must ask ourselves what kind of city we wish to be, a place that celebrates our heritage, honoring the spaces that define us as a community or a place that puts the private sectors profits first. Salt Lake City will never reach it's full potential if we erase it's history with the shiny an new. Nothing will be more symbolic of our cities failure than a 30 story modern building sitting on the ashes of the great Pantages Theater. I hope you will share my vision of Salt Lake City standing with the other great cities of the world and block the proposed 150 S Main Apartments and in doing so saving the Pantages Theater.

Thank you for your consideration,

Nick Thomas

Sent from my iPhone

## Gellner, David

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**From:** downtown resident <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 9:58 PM  
**To:** Gellner, David; Valdemoros, Ana  
**Subject:** (EXTERNAL) 150 South Main Street Apartments design review concerns  
**Attachments:** 150 Apartments Design Review\_response.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear David and Ana,

Please see the attached pdf:

I spoke with many neighbors in my area about the design review for the proposed 150 South Main Street Apartments. I expressed my concerns over the height and large massing of the building, as well as not enough uniqueness in the building design. Many of my neighbors agreed with the objection to the design height and massing, and signed their signature on the attached pdf to show their support for the objection to the current design.

I've attached a copy of the response memo, that was solicited and shared with many in my area. Some of my neighbors were unable to sign the attached memo, but said that they would be e-mailing you with their dissatisfaction with the current design massing and height of this building.

Please enter this memo into the planning review staff reports for the record.

Thanks for your time,

## Gellner, David

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**From:** Oscar Arvizu <[REDACTED]>  
**Sent:** Friday, April 23, 2021 4:50 PM  
**To:** Gellner, David  
**Cc:** Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney; [REDACTED];  
**Subject:** (EXTERNAL) SAVE THE UTAH PANTAGES THEATER - Preserve our history  
**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Dear Mr. Gellner and Planning Commission,

I am writing this letter to express my extreme concern, frustration, and sadness of here that there is a plan to destroy the beautiful and historic Utah Pantages Theater and replace them with more condos/apartments. As an admirer of our local history and the arts hearing of this is greatly disappointing and a disservice to our state. It's not just another theatre but one of the most amazing theaters in the country. Utah is already behind in the arts compared to other major cities in the world. Yes we have beautiful mountains but only a handful of historic original buildings, especially that support the arts.

On top of my previous concerns, this deal seems suspect of ill will against the locals and is tainted with malfeasance. This seems to be more concerned with benefiting those involved with the transaction than with the people of the state. The benefits for the locals is nothing compared to what they are losing. A park on top of a parking lot? A small easement? Affordable housing for a few units that might expire? All vague details and plans. And above all giving the theatre away basically for free? It's sounds so absurd and shameful.

Why do we have to destroy our history, and a beautiful one at that, that we will never again see built in this city. Salt Lake City has already lost so many beautiful, historic buildings to shady deals that don't benefit the tax payers.

With all my heart, I implore you to please save our history and add to the arts of our state and local government. Instead of just some more condos.

Thank you for your time.

Sincerely,  
Oscar Arvizu  
Tax payer, 25 year resident, and lover of history and art

## Gellner, David

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**From:** Rachel Quist <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 2:17 PM  
**To:** Gellner, David  
**Cc:** Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAuthority; [REDACTED]; [REDACTED]  
**Subject:** (EXTERNAL) 150 S Main Street Open House comments  
**Attachments:** RQ Comments 20210425.pdf  
**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Dear David:

Below are my comments on the above referenced project. I have also attached a PDF version.

thank you for attention to this matter

Rachel Quist

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April 25 2021

Dear public servants:

This project at 150 S Main St is one of the very few development projects in which SLC, as an elected government representing citizens, can actually have a say and control the output. This is public property and should result in net gain (or at a minimum, an equal swap) to the public; however, the current proposal falls far short of expectations and I believe in just a few short years will be lost to the public entirely as it is swallowed into the realm of private benefit accessible to only certain privileged people.

My specific concerns are as follows:

1. The historic Utah Theater is salvageable for historic rehabilitation and a viable pathway for preservation exists. This option has not been fully explored with the current opportunities for preservation. The City's own policies encourage preservation when possible, and yet so often the City makes decisions against preservation. This preservation option should be explored before SLC releases a valuable public asset.
2. The existing historic context of the block should be respected. My first preference is for preservation, but compatible infill should be the next best option. By my count there are 15 remaining historic structures or features between this block of Main Street (see attachment 1 for a full list) with roughly a third of these being National Historic Landmarks, a third being local (and sometimes overlapping National) SLC Historic Landmarks, and the remaining third being legally unrecognized as historic landmarks but clearly eligible to be so (and most of which the Utah SHPO has already concluded meet the NRHP eligibility criteria, per their historic site files).

The size and massing of this proposed project is overwhelming. I understand that this is certainly an area of the city in which density should be optimized but there must be a way to better balance the scale for compatible infill.

3. It is difficult from the materials available to the public to determine how this new complex will be seen from the ground, where most of us exist. The illustrations show nice buildings and greenery from a rooftop perspective, but what is the perspective from the street? From what I can see there is very little green space or room for movement and a lot of concrete. Most of the architectural embellishments are hidden away from the street level and only viewable from afar or by drone. What I enjoy about historic buildings is their emphasis on details at the street level- a bison head or lion

sculpture, elaborate entryways, varying textures of building materials, emphasis on natural stone, and other engaging and creative elements. None of this exists in the current proposal. Again, what I see here is the emphasis on cultivating interesting private spaces over the public good.

4. The midblock “plaza” is ineffective. The design cuts off a viable walkway from Main Street to 100 South via an existing alley on 100 South just west of the Kearns building. My understanding is that the RDA deal requires a midblock walkway, not a plaza. This pitiful plaza does nothing to break up the large City blocks and create midblock walkways. It is interesting to note that the “Park and Mid Block Exhibit” provided by the developer do not specifically provide a label in the key to a what a white hatched line represents, and that you need to go to the site plans in order to see that part of the proposed building blocks a connection from Main Street to 100 South. This is a deceptive tactic for the public review process. Again, by not having a public through fare this design emphasizes private spaces over the public good. It is also does not meet the basic requirements of the deal and the entire package should be rejected.

5. The public park is not a reliable public asset. It is quite amusing that in the developers own documentation (p17 Design Review Submittal) the “public park” is situation outside of the defined “public realm” and sits atop a parking structure. I enjoy green roofs, but they offer little for public engagement. This is an unacceptable fulfillment to the requirement of having a public park. Only the people who have reviewed this design submittal will even know about the park (and really, how many of SLC citizens review proposals like this?) Signage cannot mitigate this enough. If a green space is not viewable from the street level it rarely gets engagement; even on a fully public building such as the downtown SLC Library the green roof is not an asset that is widely known or used by the public. When I would take my son (then a young’n) to the library for books I always liked to visit the rooftop terrace; We were always the only people there and my son named it “the secret park” because he felt like we were the only ones who knew about it. I suspect that this green roof park will only be utilized by people who live/work in the proposed building. Again, this proposal emphasizes private spaces over public assets; in this instance, only accessible to those with certain privileged knowledge.

6. The undefined nature of affordable housing in this design is unacceptable. In a project in which the City has a vested interest in the design and the outcome of affordable housing, the lack of any details in this proposal is appalling and must be fully articulated before public review can occur.

The entirety of affordable housing of Salt Lake County is a crisis. Allowing only 10% affordable units in this plan is unacceptable. This proposal is a partnership with the City and the citizens of the City need to see a benefit. The City should be investing in projects in which the average taxpayer SLC citizen can live.

This proposal includes 40 affordable units at 60-80% AMI. According to APA Utah, the Low Income (80% AMI) benchmark was \$66,150 in 2019 for Salt Lake County. New teachers in the Salt Lake School District don’t even make that much as annual salary. If a working professional with a college degree needs to be on a waiting list to live in the 10% affordable housing of this building, why are we even building it? Whose interests is it serving? Certainly not the majority of working people in SLC.

Further, the proposal does not state what type of units will be affordable. My guess, if it is not specifically stated it will be the one that maximizes profits and underserves the people. The City should be requiring more than 10% affordable housing and should identify a certain percentage of that to be studio, 1 bedroom, and 2 bedroom. Families and children need bedrooms too.

The affordable housing aspect of this proposal does not meet the needs of the City. The proposal emphasizes corporate profits over the citizens of SLC.

7. I do not understand the Tree Protection Fencing proposal. I do not see that fencing existing trees with chain link will make the street more engaging. Hopefully this is some kind of temporary construction fencing? Because otherwise, it is a terrible idea and emphasizes the separation of people from nature and how the public must not interact with public assets such as public trees.

8. There are no plans outlined for reuse of historic materials from the Utah Theater. As I understand the deal with the developer, this aspect is a requirement. There is no indication if these public assets will be viewable by the public or if they will be hidden away in private spaces. How will these artifacts be protected and maintained? Will they be public property, or can they be sold by their new owner? As there is no information about it, this proposal is incomplete and should be rejected in full.

In summary, the developer is clearly maximizing profits instead of emphasizing public benefit. And again, in the case when the outcome can, and should be, controlled to optimize public benefit the opportunity is being lost here. I hope that

SLC will at the least attempt an equal partnership with the developer and not be swindled into a deal that primarily emphasizes wealth enrichment of a corporate entity.

This proposal is also incomplete and does not meet the basic requirements set out by the RDA and thus should be fully rejected.

Thank you for your consideration and time,

Rachel Quist



#### Attachment 1

Existing Historic Context of the block for Pantages Theater  
Information from Utah Division of State History

West side Main Street, between 100-200 S:

1. Eagle Emporium (Local Historic Landmark Site) at 104 S Main, built 1864/1912
2. Old Clock at Zions First national Bank (Local and National Historic Landmark Site) at 102 S Main, built 1870
3. Daft Block (Local and National Historic Landmark Site) at 128 S Main, built 1889
4. Kearns Building (National Historic Landmark Site) at 132 S Main, built 1909

East side Main Street, between 100-200 S:

1. Ezra Thompson Building / Neumont College (National Historic Landmark Site) at 143 S Main, built 1924
2. Tracy Loan & Trust Co (National Historic Landmark Site), 151 S Main, built 1916
3. First National Bank/Bamberger Building (Local and National Historic Landmark Site), 163 S Main, built 1871
4. Herald Building (National Historic Landmark Site) at 165 S Main, built 1905
5. Walker Bank Building (Local and National Historic Landmark Site), 171 S Main, built 1912

Legally unrecognized but clearly historic buildings on Main Street, between 100-200 South.

1. Groesbeck Building at 122 S Main, built 1892
2. Stringfellow Building at 120 S Main, built 1892
3. Pantages Theater/Utah Theater, 144 S Main, built 1919
4. The Lady Bag at 149 S Main, built 1930
5. Evas Bakery at 155 S Main, built 1915
6. Hepworth Carthey Building at 159 S Main, built 1930

## Gellner, David

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**From:** Regan Christiansen <[REDACTED]>  
**Sent:** Friday, April 23, 2021 8:51 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) 150 Main st.

David,

My name is Regan Christiansen and I work at a small business here in Salt Lake City. This place has always been home to me, but it doesn't feel too much like home anymore. Large skyscrapers are constantly under construction and my ski resorts are no longer mine because tourism has raised the price past what I can afford.

My favorite places to visit are all slowly turning into "affordable" housing. And the housing that does exist continuously raises in price to keep up. I ask that you please do not build another skyscraper in place of what is a beautiful historic theater. Please do not hand over this theater to the Groups in plan, sell it to someone who is dedicating their life to restoring it. I would love to walk through the Pantages theater and watch shows in such a historical building.

There are people who want to put in the work and have a plan of action, let the locals of this stunning town feel safe and local in this ever so changing city.

Thank you for letting us openly reach out, I know there are more of us who would be devastated to see this skyscraper be built.

Thank you,  
Regan

--

Regan Christiansen | [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]



## Gellner, David

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**From:** Rheda Fouad [REDACTED] >  
**Sent:** Monday, April 19, 2021 4:12 PM  
**To:** Gellner, David  
**Cc:** Wharton, Chris  
**Subject:** (EXTERNAL) Utah Pantages Theater Project.

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello David,

I received an email about this initiative for both the Capital and Pantages Theater. While The Capital Theater should be considered, I am baffled why Pantages would be. I believe the city did a study on this year ago, and we netted out with the Eccles Theater, which is a great addition to the performing arts. Our core needs housing on this scale and protecting the Pantages is not only economically out of range, based on the city's own study, but it will also keep that block from being repositioned to add more street-level use, thus keeping that part of Main a "dead zone." If the RDA is already under contract, could Hines sue the city, and hence the Taxpayers? And is this initiative being brought forth by a group that has a plan to redevelop the theater?

Thank you,

Rheda Fouad [REDACTED]  
[REDACTED]  
[REDACTED]

## Gellner, David

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**From:** Robert Stefanik [REDACTED]  
**Sent:** Thursday, April 22, 2021 9:14 PM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) 150 main st project

Hello Mr. Gellner.

I am writing to you in regards to the 150 main street project which would have a priceless theater torn down only to be replaced with a bland, forgettable, and honestly overpriced tall building. The theater should not be torn down when there are empty lots and parking lots that this building can go on and no building is destroyed. Now you maybe thinking no one is going to miss this theater and that is where you are wrong. I grew up in the state of New York and I can tell you for a fact people still miss the old Penn station building that was tore down and replaced with what is there now. That is just one of many from the city but from where I grew up in upstate in a town of Waverly, NY a church bought a theater back in the 70's and to this day people miss going and seeing movies there as it was the closest theater with out going to Sayre, PA to there theater. In Corning, NY people still miss the old glass work building that Corning Inc tore down to build there office building and Corning did what Hines is talking about putting pieces of the old theater in there new building and it doesn't help fill the void that tearing down a historic building brings. The pieces look sad and out of place in another building instead of being apart of a building. The only thing really standing from the glass works is little joe's tower where thermometer were made and you can't get near it unless you are a Corning employee. People miss the old buildings and will tell stories about what us to go on. Tearing down this theater even though not open to the public right now, holds memories for people that have visited in the past, even to include the people who have toured the theater just a few years ago. On top of that kids and young adults are making memories in the Capitol theater. If you spend just a short time searching you will find proof that theaters bring people together and have a positive impact on the community.

## Gellner, David

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**From:** Ryan Barker <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 5:30 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I'm shocked that anyone would even consider destroying SLC's Pantages theater, let alone that such an absurd idea has progressed this far. The Pantages is a priceless, irreplaceable treasure. Once it's gone, it's gone. That's it. End of story. That alone should make you think long and hard about what it would mean to approve this application. You wouldn't bulldoze the Colosseum because Rome is running out of parking space, would you? This obviously isn't on that same scale, but it's the exact same idea, and the very fact that our Pantages theater isn't as internationally well-known as the Colosseum just means it's that much more important for us, the locals who actually have our eyes on the situation, to make sure we handle this properly. Historic structures are of immense value and should be preserved whenever possible. An apartment building? There's plenty of room to build that elsewhere. How could it possibly be more important to put apartments in this specific place than it is to preserve something that we can never get back after it's gone? This is literally what Joni Mitchell was singing about in her song Big Yellow Taxi. Don't pave paradise and put up a parking lot.

I would be more understanding if the theater was in such a state of disrepair that it wasn't feasible to bring it back to a functional condition, but that's simply not true. The Pantages theater in Tacoma was restored for under 20 million dollars as recently as 2018. And the Philadelphia Metropolitan Opera House, which was in much much worse shape than our Pantages, was restored in 2019 for 56 million. These numbers show exactly how ridiculous the projected cost of 60 to 80 million is for our theater. Talk to anyone who knows anything about historic preservation and they'll tell you exactly that.

Besides, didn't the City Council already commit to restoring the theater in the 2016 Downtown Community Master Plan? This application goes directly against that commitment. That right there should end the discussion, full stop.

So that's plenty of reason on a purely practical level for denying the application and saving this gem of a theater. But while practical concerns are obviously important, there's something much bigger at stake here. We're not robots. We're human beings, and there is also a human side to the equation that makes the right course of action here even more ridiculously obvious. Humans need art. To quote Pablo Picasso, "Art washes away from the soul the dust of everyday life." Every time the unfeeling, relentless forces of capitalism destroy an oasis of artistic expression, the world becomes a slightly worse place. And here we have one of the rare cases of being able to fight those forces and go in the other direction. The theater hasn't shown movies since 1988, and Salt Lake has been poorer for it every day since. But we now have the opportunity to breathe new life into this neglected beauty and give a whole new generation somewhere to regularly bathe in the art that we all seriously need.

And we do need the art that a restored Pantages would provide. Today more than ever. The endless content scroll of Netflix and soulless, cookie-cutter mall multiplexes are no replacement for that moment when, after being powerfully moved by an amazing film, the credits roll, the lights come on, and you slowly come back to reality and realize you're seated in a building that's over a century old, and you're reliving an experience that thousands have lived before you, in that exact spot. That connection to the past is priceless. The historic memories baked into every square inch of a building like the Pantages have palpable power. Do not make a decision regarding this application without first letting the full weight of that power impress itself upon you.

This whole deal has given me the unsettling feeling of something shady going on. When the right thing to do is as clear cut as it is in this case, it's hard to get this far off track without someone behind the scenes with the wrong motivations greedily pushing buttons to further their own personal agenda. Just think of how this situation would play out in a movie. A grassroots group of underdogs take on a city hell-bent on destroying a historic theater. Who's the bad guy in that film? If you hesitate at all to answer that question, you've proven my point, because you especially could benefit from some time spent in a restored Pantages.

You know what really matters here. Don't be the villain of this story.

-Ryan Barker

## Gellner, David

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**From:** samuel brentwood <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 10:29 PM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Design review for 150 South Main Street Apartments

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

David,

I am a resident in the Downtown SLC area. I recently got off of a zoom meeting with some other residents. One of the topics that came up was a current design review for a proposed highrise downtown at 150 South Main Street.

I have some concerns over the current design. I think that the height and massing of the building is too tall and too large for a midblock building. This building if built in its current form would overpower the historic buildings on the main street block. I wouldn't be as opposed to this building if it was built on the corner of an intersection, but where it is mid-block it truly seems out of place, and overpowering. The architect should consider some design changes and setbacks to the massing as it goes up in height to make it feel less overwhelming.

Another concern I have is the West wall of the building is very boring and has no character to it. This is the side of the building that people will see from the freeway, and therefore it should be more appealing to look at in our skyline. It's like the designer put all the design budget on the east half of the building, but then completely forgot about the west side.

Please pass these concerns onto your review staff.

Samuel B.

## Gellner, David

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**From:** [REDACTED]  
**Sent:** Monday, April 26, 2021 9:03 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I would like to ask our city leaders to consider how they want our city to be viewed in the next 20 years. Aesthetic character is an important aspect of any community. Tearing down the Pantages Theatre to build a skyscraper will create an historic architectural void.

If we reference some of the most beloved cities in the world, the majority of them possess a large amount of historic architecture.

We are pleading with our city leaders to protect Salt Lake City's history. There are plenty of empty lots downtown to build upon. Once a historic building has been demolished, it is impossible to replicate the character.

Thank you,

Sarah Baker  
Holladay, Utah

Sent from my T-Mobile 4G LTE Device

## Gellner, David

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**From:** Serre Splond [REDACTED] >  
**Sent:** Wednesday, April 21, 2021 12:27 PM  
**To:** Gellner, David  
**Cc:** [REDACTED]; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Culture is the lifeblood of society. Keeping history intact that isn't synonymous with pain is a much needed thing for Utah considering it's history. We don't need luxury apartments we need more affordable ones. Ones that ain't come at the cost of our theater.

This theater will allow Utah to have a piece of history that will continue to endure the test of time to allow humans of today a connection to humans of yesterday.

Say no to the dang apartments and allow the theater to thrive once again.



## Gellner, David

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**From:** Shane Franz <[REDACTED]>  
**Sent:** Wednesday, April 21, 2021 12:14 PM  
**To:** Gellner, David  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Apartments at 150 S Main Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Mr. Gellner,

I am vehemently opposed to this project. The project is wrong for our city on so many levels.

The first a foremost reason I am opposed to the project is that it destroys our 100+ year old architectural gem theatre, the Utah Pantages. The arts are what makes a city special, and we need to protect and preserve this historic space for future generations. Theatres like this are located throughout the country, and restored, they become a focal point - a reason to visit the city. Something that makes it special. What we would destroy is priceless, and what we would replace it with can be found everywhere.

The second reason is we do not need more luxury apartments downtown. We have an oversupply of units being constructed. This, coupled with the tremendous parking problem a building of this size would generate.

The "trade" with the proposal for some apartments to be affordable simply does not ring true. We need more affordable options, but not in this manner.

The idea of the park is not well executed, and it amounts to a tiny piece of green space for the residents of the building - this definitely isn't a park.

Coupling this disastrous plan with surpassing height and other restrictions is another issue. We need to keep our buildings within scale.

Systematically speaking, I see so many apartments, but we need the other infrastructure to support it. People who live in the city will also need jobs, entertainment, a place to get groceries, gymnasiums, open and park space, etc. etc. We need to be thinking more broadly and encourage not just growth through apartments, but everything associated with it. I believe what we have now is a very lop-sided plan to have lots of housing, which could sit vacant because we lack the supporting infrastructure.

Lastly, I would like to see a revitalized Main Street. I would like to see more restaurants, more shops, more reason to be and live downtown. I don't believe apartments contribute to this.

Thank you,

Shane Franz [REDACTED]

**Gellner, David**

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**From:** Shawn Fry <s[REDACTED]>  
**Sent:** Thursday, April 22, 2021 11:07 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) 150 S Main Street Apartment Review

Dear Salt Lake City Planning,

Tearing down history is not something I want to see in Salt Lake City. The Utah Pantages Theater is a historical treasure that needs to be saved in Salt Lake City. Creating a downtown Salt Lake City theater district to save the Utah Pantages Theater would be the best step for Salt Lake City instead of a whole 40 affordable apartment units, along with 400 apartment units, a public park and a walkway each is not needed, the Gallivan Center is a stone's throw away.

If we are getting technical here the Eccles Theater was railroaded into development on Main Street via Ralph Becker, when the funds and development for the Eccles should have been put into the Utah Pantages Theater instead.

Save history, Save the Utah Pantages Theater!

Shawn Fry

## Gellner, David

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**From:** Sonya Gilbert <[REDACTED]>  
**Sent:** Friday, April 23, 2021 4:53 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I respectfully disagree that SLC needs another skyscraper full of housing developments that no one can afford. Affordable housing is basically nonexistent in the city and I know this firsthand, as I had to move in 2019 from SLC to Holladay, due to astronomical housing costs when purchasing my first home.

I have never stepped foot in the Utah Pantages Theater, but I hope to have the opportunity someday. Seeing a Sundance movie or just a regular feature film there would be incredible. I went to college in eastern Kentucky and we would drive to Huntington, West Virginia to the Keith Albee theater just to see movies there because it is an amazing theater from the 20s that was just magical. Young people today deserve to have that sort of experience when wanting to see a movie, play, etc.

Please consider Save the Pantages plans to restore this amazing piece of history within SLC. We are losing our beautiful city to development as it is and it's not what the citizens of SLC and the county want. If Huntington, West Virginia can do this, then we can too!

Thank you for your time,  
Sonya Gilbert

Long time resident of Marmalade and Ballpark neighborhoods 2006-2019

## Gellner, David

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**From:** Stacy Patton <[REDACTED]>  
**Sent:** Friday, April 23, 2021 12:18 AM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

It is so surprising to me that the current plan is to destroy this amazing historical building. Though my family relocated to park city nine years ago, we lived in the Avenues for 10 years, and loved all of the historic architecture of the area. The thought of ripping down one of those beautiful old houses breaks my heart. And now the city is talking about destroying this amazing architectural gem and GIVING the property for yet another housing project? For shame!

Please please please let the society buy this building and restore it!!! It would be such a beautiful venue for Sundance movies and other cultural events!!! This is such a treasure and it would be a cultural crime not to preserve it!

Sincerely,

- Stacy Patton

## Gellner, David

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**From:** Steve Kaae <[REDACTED]>  
**Sent:** Sunday, April 25, 2021 11:43 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney; s [REDACTED]  
**Subject:** (EXTERNAL) Re: Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

SAVE THE UTAH PANTAGES THEATER AND SUPPORT THE CULTURAL ARTS IN UTAH AND SALT LAKE CITY!

"Art influences society by changing opinions, instilling values and translating experiences across space and time. Research has shown that art affects the fundamental sense of self. Painting, sculpture, music, literature, FILM, and other arts are often considered to be the repository of a society's collective memory. Art preserves what fact-based historical records cannot, HOW IT FEELS TO EXIST IN A PARTICULAR PLACE AT A PARTICULAR TIME."

"Art in this sense is communication. It allows people from different cultures and different times to communicate with each other via images, sounds and stories." This is what has currently been taking place throughout the community of Salt Lake and beyond. People sharing stories about their fond memories of the incredible history and life of the beloved and elegant Utah Pantages Theater. Older generations keeping the heart of this historic 103 year old gem beating by sharing their unforgettable memories with younger generations who are also extremely intrigued about this one of a kind theater's incredible legacy. All of who are extremely enthusiastic and long to see it restored and reopened for future generations to also have these great collective experiences.

Art also has utilitarian influences on society. Research has shown one's exposure to the arts can have a positive effect on an adult human's brain as well as the development of a child's brain. There is a demonstrable, positive correlation between schoolchildren's grades in math, science and literacy, and their involvement in cultural arts experiences. Art is an outlet of creativity and fosters the human need for self-expression and fulfillment in ALL AGES. Restoring the Utah Pantages Theater could provide many youth in Salt Lake and surrounding areas with more opportunities for these experiences. Educational opportunities are one of the things mentioned in the proposal submitted by Michael Valentine.

Cultural arts are also economically viable to a community. The creation, management, and distribution of the arts employs many, and has a great economic boost on other local business as well, i.e. hotels, restaurants, retail shops, etc.

Restoring the Utah Pantages Theater to provide another place for the Sundance film Festival to showcase film screenings will

be a huge economically viable resource for Salt Lake City, Salt Lake County and Utah. It will allow Sundance Film Festival to expand and grow and remain a long-

term important staple in Utah. As was stated in the statement given by the representative of The Sundance Film Festival in a recent Salt Lake City RDA meeting. (If You Build It, They Will Come!)

Having a nationally renowned theater district in the heart of downtown Salt Lake City, Utah would have such a viable and amazingly positive effect Socially, Culturally, and Economically on our Great State's Capital City. Just look to one of our State's northern communities, Cache County's city of Logan. Even this small Utah City has an incredible theater district created by the amazing and dedicated Michael Ballam who restored 4 beautiful theaters that generates an immense amount of revenue for Logan City and Cache County with his Cultural Arts Performances.

So what are you waiting for? This is your opportunity to not only foster a variety of Cultural Art experiences for many generations of people, but to also have a great economic impact on many various businesses in the downtown and surrounding communities of Salt Lake City. Especially at a time when it is needed now more than ever.

Restore The Utah Pantages Theater and revitalize Salt Lake City, Salt Lake County and our State of Utah!!!

Steve Kaae

## Gellner, David

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**From:** Thomas Osborne <[REDACTED]>  
**Sent:** Thursday, April 22, 2021 2:48 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Utah Theater

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Please don't go through with this. I don't want us to lose a piece of Salt Lake City's history for 40 "affordable" apartments, and a small green space that I know I won't end up using. Saving the Utah Theater would be a much better option.

By restoring the Utah theater, we would be giving Salt Lake a new place to embrace and expand culture, while saving history.

It would also give the Sundance Film Festival a new place. The film festival is outgrowing Park City, and I fear that if we don't provide a place for it, then it will leave Utah.

The theater would be a place for 70mm film as well. Utah currently does not have a theater capable of 70mm film.

Other cities have done renovations of Pantages theaters similar to the Utah Theater, and they cost way less (approx. \$26 million I believe) than the proposed \$60 million.

Renovating will also give SLC an even more vibrant theater "district", with the Utah Theater, the Capitol theater, and the Eccles theater, as well as various theaters within walking or biking/scooter distance.

Restoration of the Utah Theater was also in the original downtown master plan adopted in 2016. That plan also has outlined additional green space and housing areas, which would eliminate the need for them where the Utah Theater is.

The Utah Theater is on public land, and was bought from the previous owner using taxpayer money, so the public should be educated about and be able to vote on the future of the site. That is why a vote for the site should be in the next election ballot.

We cannot afford to lose this beautiful piece of Salt Lake City History.

Thank you for your time.

Thomas Osborne



## Gellner, David

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**From:** Tiffany Greene <[REDACTED]>  
**Sent:** Monday, April 26, 2021 10:42 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I will keep this brief- I am adding my voice to the pleas for this beautiful theater to be preserved. History matters. While I understand more housing is needed, I hope you a different location is found. (Also might I suggest legislation that addresses e.g. the issues with investors and cash-only offers driving prices up- nobody right now should be buying second+ homes in my opinion.)

Thanks for your time,  
Tiffany Greene

## Gellner, David

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**From:** zangrief <[REDACTED]>  
**Sent:** Monday, April 19, 2021 1:52 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney; [REDACTED];  
**Subject:** (EXTERNAL) Reply petition PLNPCM2021-00024  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

I am writing in response to petition [PLNPCM2021-00024](#).

I oppose this petition because of the lack of details about "affordable" units. There are no details about what size they would be or what price range "affordable" is.

I don't think this is fair as part of the compensation for receiving a site for free from my city.

I also don't think that a "park amenity other separate parking structure in the rear" qualifies as a open park space and I have concerns about it having public access. It seems to be a private greenspace with limited public access. Another unfair compensation for the site that my city officials are proposing to give away.

I am also offended that the proposal makes no mention of what architectural aspects will be "salvaged" from this iconic, historic and treasure of a theater for all generations. There needs to be details for this otherwise I cannot support anyone involved in this proposal and will do all I can to vote/remove them out of office if this proposal is approved. If they cannot hold all accountable to the laws and regulations put forth they should not be holding public office and making decisions for me and my city.

For all the reasons I have commented on, this application should not proceed until a complete application is received. It should also address any phasing and all waivers or exceptions being given to the applicant and the reasons why. Even if a complete application is received with the details I've made comments about, it should be deemed unacceptable and not approvable for its obvious and specific conflict with the requirement of the Downtown Community Master Plan that prohibits the demolition of the Utah Theater. That plan requires it be saved to be repurposed and used as an activity generator.

Tye McDonough  
[REDACTED]

Sent from my Galaxy

## Gellner, David

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**From:** writerkr1 [REDACTED]  
**Sent:** Saturday, April 24, 2021 12:24 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

It's really simple -- destroying this historic place is the wrong choice.

Thank you for your consideration.

Sent from my Verizon, Samsung Galaxy smartphone

## Gellner, David

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**From:** Sam Herrera <[REDACTED]>  
**Sent:** Tuesday, April 27, 2021 7:46 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

(Post your personal comments below, speak from the heart, add our argument points if you like, and then delete this sentence) hello, my name is Samantha Story. I'm a dancer and a teacher. I work with students of all age groups and the enrichment this theater will bring to our community will be enormous. Art and music will help the youth stay engaged in learning. Losing this historic building will be a tragic loss.

## Gellner, David

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**From:** Lea Jones <[REDACTED]>  
**Sent:** Wednesday, April 28, 2021 5:24 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** [REDACTED]  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

Keeping the history in Utah and the small businesses that have been in those spaces are more impressed than placing yet another large wasted condo and office spaces. Now with covid office space is not going to be occupied. My corporate office just decided to go full time working from home and are going to let our lease run out. I have heard many other offices doing the same. Going to an incredible historic theater to watch a show is what the community needs now. Not a waste of money and an eyesore in the city.

Thanks

Lea Jones

Sent from my iPhone

## Gellner, David

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**From:** Paul Draper <[REDACTED]>  
**Sent:** Thursday, April 29, 2021 7:39 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Duqan, Dan; Valdemoros, Ana; SLCAAttorney  
**Cc:** s [REDACTED] m  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

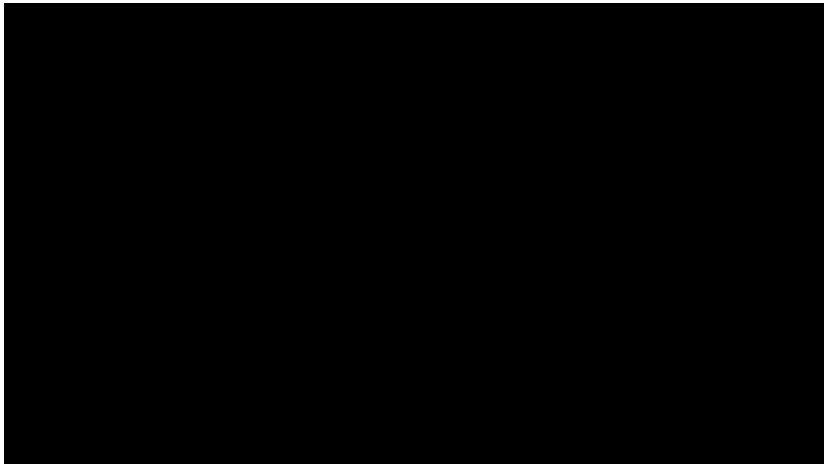
Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

I love the idea of building the new building to incorporate the existing theater and retain the cultural beauty, history, and gathering place of our city.

Please restore the theater and help keep Salt Lake beautiful!

Best,  
Paul Draper  
[REDACTED]



## Gellner, David

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**From:** Gellner, David  
**Sent:** Thursday, July 1, 2021 2:40 PM  
**To:** Casey McDonough  
**Cc:** Michael Anderson; Save The SLC Pantages Theater; Jeremy Brodis; James L. Ahlstrom; Nielson, Paul  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Casey,

There is not a new application per your question, it is the same application, Planning file PLNPCM2021-00024 as referenced in the email title. As to the staff report availability, agendas are posted and notices sent approximately 2 weeks in advance of the meeting and the staff report, when finalized, will be publicly available via our website approximately 1 week in advance of the meeting.

The agenda has now been posted and notice signs have been posted on the property for the July 14<sup>th</sup> meeting. The staff report will be available next week, approximately 1 week in advance of the meeting via our website. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Senior Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860  
Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)  
[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)  
[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

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**From:** Casey McDonough <[REDACTED]>  
**Sent:** Thursday, July 1, 2021 1:42 PM  
**To:** Gellner, David <David.Gellner@slcgov.com>  
**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater <[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom <[REDACTED]>; Nielson, Paul <paul.nielson@slcgov.com>  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024



David,

Is there a new staff report or design review application on the 150 S Main Street Apartments project? If not available today, when will it be available?

Casey O'Brien McDonough  
[REDACTED]

---

[REDACTED] Casey McDonough

**Sent:** Friday, June 18, 2021 6:08 PM

**To:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>

**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater

<[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom

<[REDACTED]>; Nielson, Paul <[paul.nielson@slcgov.com](mailto:paul.nielson@slcgov.com)>

**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Thank you for the explanation from your end, I appreciate it.

Casey O'Brien McDonough  
[REDACTED]

---

**From:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>

**Sent:** Friday, June 18, 2021 3:09 PM

**To:** Casey McDonough <[REDACTED]>

**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater

<[savetheslcpantages@slcgov.com](mailto:savetheslcpantages@slcgov.com)>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom

<[REDACTED]>; Nielson, Paul <[paul.nielson@slcgov.com](mailto:paul.nielson@slcgov.com)>

**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

Casey,

There will not be a second open house held on this project. We previously notified the recognized organizations and held an open house for this project as required. There is no requirement for a project to go to a second open house when additional details are presented.

The public will have a chance to comment on the landscape plan and elements which include the mid-block plaza and park element when it is presented to the Planning Commission at the public hearing. Those elements and details will also be included in the staff report available approximately one week in advance of the meeting. Hope this helps. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Senior Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

## Gellner, David

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**From:** Gellner, David  
**Sent:** Friday, June 18, 2021 3:09 PM  
**To:** Casey McDonough  
**Cc:** Michael Anderson; Save The SLC Pantages Theater; Jeremy Brodis; James L. Ahlstrom; Nielson, Paul  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Casey,

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The public will have a chance to comment on the landscape plan and elements which include the mid-block plaza and park element when it is presented to the Planning Commission at the public hearing. Those elements and details will also be included in the staff report available approximately one week in advance of the meeting. Hope this helps. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Senior Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860  
Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)  
[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)  
[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

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---

**From:** Casey McDonough [REDACTED] >  
**Sent:** Thursday, June 17, 2021 10:34 PM  
**To:** Gellner, David <David.Gellner@slcgov.com>  
**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater <[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom <[REDACTED]>; Nielson, Paul <paul.nielson@slcgov.com>  
**Subject:** Re: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Thank you so much for the reply and explanation. I really appreciate both. I'm keeping my eyes on the agenda for it to pop back up.

Actually, I will ask a follow up question. If they include the required landscaping information on an updated design review application, can we expect another open house? I'm still really concerned that the landscaping information wasn't included in the application as it is a major part of the project and the code. Let us know on that as soon as you can and thanks again.

Casey

Sent from my iPhone

On Jun 17, 2021, at 10:17 AM, Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)> wrote:

Casey,

My apologies for the delayed response but it appears I inadvertently missed your email follow-up as it came on a Saturday afternoon while I was out of the office.

The answer is that the applicant asked us to postpone the PC hearing on this project and move it to a later meeting date, that date yet to be determined.

If you have additional questions as to why they asked for the postponement, you could contact the applicant to inquire about that. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Senior Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860

Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)

[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)

[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

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---

**From:** Casey McDonough <[yalpyesacnac@hotmail.com](mailto:yalpyesacnac@hotmail.com)>

**Sent:** Wednesday, June 16, 2021 9:50 PM

## Gellner, David

---

**From:** Gellner, David  
**Sent:** Thursday, June 17, 2021 10:17 AM  
**To:** Casey McDonough  
**Cc:** Michael Anderson; Save The SLC Pantages Theater; Jeremy Brodis; James L. Ahlstrom; Nielson, Paul  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

**Follow Up Flag:** Follow up  
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Casey,

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If you have additional questions as to why they asked for the postponement, you could contact the applicant to inquire about that. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Senior Planner  
Planning Division

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---

**From:** Casey McDonough [REDACTED]  
**Sent:** Wednesday, June 16, 2021 9:50 PM  
**To:** Gellner, David <David.Gellner@slcgov.com>  
**Cc:** Michael Anderson [REDACTED]; Save The SLC Pantages Theater  
<[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom  
<[REDACTED]>; Nielson, Paul <[REDACTED]@slcgov.com>  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Can you provide an answer about why the project was postponed? If you can't, I have to also ask why and who I need to talk to so I can obtain that answer. Let me know and thanks for help.

Casey O'Brien McDonough  
[REDACTED]

---

**From:** Casey McDonough  
**Sent:** Saturday, June 5, 2021 1:19 PM  
**To:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>  
**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater <[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom <[REDACTED]>; Nielson, Paul <[paul.nielson@slcgov.com](mailto:paul.nielson@slcgov.com)>  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Thank you for that update. I have another question, why was this project postponed? Let me know and thanks again.

Casey O'Brien McDonough  
[REDACTED]

---

**From:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>  
**Sent:** Friday, June 4, 2021 8:58 AM  
**To:** Casey McDonough <[yalpyesacnac@hotmail.com](mailto:yalpyesacnac@hotmail.com)>  
**Cc:** Michael Anderson <[manderson@parrbrown.com](mailto:manderson@parrbrown.com)>; Save The SLC Pantages Theater <[savetheslcpantages@gmail.com](mailto:savetheslcpantages@gmail.com)>; Jeremy Brodis <[jbrodis@parrbrown.com](mailto:jbrodis@parrbrown.com)>; James L. Ahlstrom <[jahlstrom@parrbrown.com](mailto:jahlstrom@parrbrown.com)>; Nielson, Paul <[paul.nielson@slcgov.com](mailto:paul.nielson@slcgov.com)>  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

Casey,

Since the item was postponed, the staff report is still in draft form and is not available.

When this item is scheduled for a Planning Commission Public Hearing, we will post an agenda and send out the public notice for that meeting. The date of that meeting is not clear at this point in time.

Agendas are posted and notices sent approximately 2 weeks in advance of the meeting and the staff report, when finalized, will be publicly available via our website approximately 1 week in advance of the meeting. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Principal Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

## Gellner, David

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**From:** Gellner, David  
**Sent:** Thursday, May 20, 2021 2:16 PM  
**To:** Casey McDonough  
**Subject:** RE: (EXTERNAL) Re: D-1 zone and height variances...

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Casey,

The applicant is going through the Design Review process for the additional building height. This is not a variance which has a different meaning. In a mid-block location in the D-1 zoning district the Design Review process is required for buildings to be approved in excess of 100 feet tall. That request is reviewed by the Planning Commission. The standards that the Planning Commission and staff will consider are linked below.

The standards that the Planning Commission and staff will use in their analysis are those found in Chapter 21A.59.050 – Standards for Design Review. Those can be accessed through this

link: [https://codelibrary.amlegal.com/codes/saltlakecityut/latest/saltlakecity\\_ut/0-0-0-71197](https://codelibrary.amlegal.com/codes/saltlakecityut/latest/saltlakecity_ut/0-0-0-71197)

I cannot advise you on what or how you should structure your objections other than to base them on the standards found in the code. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Principal Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860  
Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)  
[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)  
[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

**PLEASE NOTE:** OUR OFFICE IS WORKING REMOTELY FOR THE FORESEEABLE FUTURE

**DISCLAIMER:** *The Planning Division strives to give the best customer service possible and to respond to questions as accurately as possible based upon the information provided. However, answers given at the counter and/or prior to application are not binding and they are not a substitute for formal Final Action, which may only occur in response to a complete application to the Planning Division. Those relying on verbal input or preliminary written feedback do so at their own risk and do not vest any property with development rights.*

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**From:** Casey McDonough <[REDACTED]>  
**Sent:** Wednesday, May 19, 2021 11:36 PM  
**To:** Gellner, David <David.Gellner@slcgov.com>  
**Subject:** (EXTERNAL) Re: D-1 zone and height variances...


David,

I had a question for you about the D-1 zone, and variances required for mid-block height over 100 feet. Is my conclusion still correct that the Planning Commission must approve a height variance as part of the Design Review process for an applicant to build over 100 feet at a mid-block property location?

Also, does the Planning Commission have to have specific objective reasons to deny an applicant's request for a height variance? I can not determine that from my read of the code. In other words, if I wanted to give the Planning Commission reasons to deny a height variance on a D-1 zoned midblock property Design Review application, would they simply be me expressing my subjective dislike for a project or are their objective and specific code or other similar arguments I can make?

Let me know what you can on those questions, anything you can tell me would be greatly appreciated.

Casey O'Brien McDonough





## Gellner, David

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**From:** Gellner, David  
**Sent:** Monday, May 17, 2021 4:30 PM  
**To:** Casey McDonough  
**Subject:** RE: (EXTERNAL) Re: D-1 zone and height variances...

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Casey,

The applicant is going through the Design Review process for additional building height. In a mid-block location in the D-1 district the Design Review process is required for buildings in excess of 100 feet. That is review by the Planning Commission. It is not a "variance" which has a different legal meaning within zoning and is defined in State Law.

The standards that the Planning Commission and staff will use in their analysis are those found in Chapter 21A.59.050 – Standards for Design Review. Those can be accessed through this

link: [https://codelibrary.amlegal.com/codes/saltlakecityut/latest/saltlakecity\\_ut/0-0-0-71197](https://codelibrary.amlegal.com/codes/saltlakecityut/latest/saltlakecity_ut/0-0-0-71197)

I hope this helps. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Principal Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

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Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)  
[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)  
[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

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**From:** Casey McDonough <[REDACTED]>  
**Sent:** Friday, May 14, 2021 6:20 PM  
**To:** Gellner, David <David.Gellner@slcgov.com>  
**Subject:** (EXTERNAL) Re: D-1 zone and height variances...


David,

I had a question for you about the D-1 zone, and variances required for mid-block height over 100 feet. Is my conclusion still correct that the Planning Commission must approve a height variance as part of the Design Review process for an applicant to build over 100 feet at a mid-block property location?

Also, does the Planning Commission have to have specific objective reasons to deny an applicant's request for a height variance? I can not determine that from my read of the code. In other words, if I wanted to give the Planning Commission reasons to deny a height variance on a D-1 zoned midblock property Design Review application, would they simply be me expressing my subjective dislike for a project or are their objective and specific code or other similar arguments I can make?

Let me know what you can on those questions, anything you can tell me would be greatly appreciated.

Casey O'Brien McDonough



## Gellner, David

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**From:** Leo Masic <[REDACTED]>  
**Sent:** Friday, July 2, 2021 2:13 PM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) Support of 150 S Main Street

Hi there,

I'd like to register my support for the 150 S Main housing project. I'm beyond excited for the boost in vibrancy that this project will bring to downtown.

I'm sad that the theater is going, but I also recognize that cities grow and cities change. You can't preserve them in amber as if it were a museum. I'm generally an enormous proponent of preservation, but not at the expense of hindering the city's efforts to get out of the housing crisis.

I think the mayor said it best: the theater would "literally be a gilded venue, only for people who can afford to pay for entry."

Excited to see this project come to fruition. Thanks for the opportunity to comment.

Best,

Leo Masic

## Gellner, David

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**From:** Gellner, David  
**Sent:** Friday, July 2, 2021 11:49 AM  
**To:** Gellner, David  
**Subject:** FW: (EXTERNAL) Re: SLC Planning Division: Planning Commission Meeting Agenda for July 14, 2021

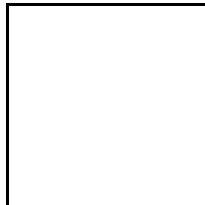
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**From:** James Webster [REDACTED] >  
**Sent:** Thursday, July 1, 2021 5:38 PM  
**To:** Zoning <[Zoning@slcgov.com](mailto:Zoning@slcgov.com)>  
**Subject:** (EXTERNAL) Re: SLC Planning Division: Planning Commission Meeting Agenda for July 14, 2021

It's so incredibly dishonest and evasive to refer to the most significant theater in the entire Intermountain region as a "vacant" building. I hold a MFA degree in Architectural History from the Fogg Museum at Harvard, having studied classic theater design throughout the world. To evade the significance of this structure, determine a public policy essentially behind closed doors with no transparency, and then characterize your cowardly action as a "design review" is an absolute travesty. Clearly, none of you have the educational, design or cultural awareness to assume this responsibility and are at best malfeasant in this dark venture.

James Webster

On Thu, Jul 1, 2021, 1:36 PM Salt Lake City Planning Division <[zoning@slcgov.com](mailto:zoning@slcgov.com)> wrote:



### **SALT LAKE CITY PLANNING COMMISSION MEETING AGENDA**

This meeting will be an electronic meeting held without an anchor location

**July 14, 2021 at 5:30 p.m.**

**(The order of the items may change at the Commission's discretion)**

This Meeting will **not** have an anchor location at the City and County Building based on the following determination by the Planning Commission Chair:

*I, Chair of Planning Commission, hereby determine that conducting public meetings at an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. Due to the Center for Disease Control and Prevention (CDC) social distancing requirements, I find that conducting a meeting at the anchor location constitutes a substantial risk to the health and safety of those who may be present at the location.*

Commission Members will connect remotely. We want to make sure everyone interested in the Planning Commission meetings can still access the meetings how they feel most comfortable. If you are interested in watching the Planning Commission meetings, they are available on the following platforms:

## Gellner, David

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**From:** Carter Dowd [REDACTED] >  
**Sent:** Monday, July 5, 2021 8:37 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) 150 S Main Street Appartments

Hi David,

I hope you are doing well. Just wanted to send a quick note saying I am a big fan of the 150 S Main Street proposal. It will help downtown and Main St in particular feel much more urban and should increase foot traffic to businesses downtown. I hope to see it built as soon as possible.

Best,  
Carter

## **ATTACHMENT G: Department Review Comments**

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The following comments were received from other City divisions/departments with regards to the proposed development:

### **Zoning Review – Alan Hardman**

This project came to a DRT meeting on 2/10/2021 (DRT2021-00033) and received zoning comments. The project will also require the consolidation of two parcels.

#### DRT Meeting Comments:

D-1 Zoning District / Downtown Main St Core Overlay. This proposal is for a 31 story 392 feet tall apartment building with 400 apartment units, 8,400 SF of retail and 261 parking spaces in a separate parking structure. The building will exceed the 375-foot maximum height allowed. The project will require lot consolidation of 2 separate parcels and Design Review.

- Demolition permits will be required for the removal of the existing buildings (see 18.64 for demolition provisions).
- See 21A.36.250 for demolition and new construction waste management plan requirements. The Waste Management Plans shall be filed by email to the Streets and Sanitation Division at [constructionrecycling@slcgov.com](mailto:constructionrecycling@slcgov.com) at the time of application for permit. Questions regarding the waste management plans may be directed to David Johnston at 801-535-6984.
- See 21A.36.250 for a permanent recycling collection station for buildings constructed after 1995.
- This proposal will need to be discussed with the building code personnel.
- 21A.30.020 for the general and specific regulations for the D-1 District.
- 21A.37.060 for the design standards for the D-1 District.
- The Lot Consolidation and Design Review applications are to be initiated with the Planning Division from the planning website.
- Any public way encroachments will need to be discussed with the SLC Real Estate Division in Room 425 at 451 S. State Street. Phone 801-535-7133.
- Provide a completed Impact Fee Assessment worksheet.
- See 21A.48 for all landscaping requirements.
- See 21A.44 for parking and maneuvering layout.
- Signage requires separate approval and sign permit.

Alan Hardman

Senior Development Review Planner

### **Building Review**

All construction within the corporate limits of Salt Lake City shall be per the State of Utah adopted construction codes and to include any state or local amendments to those codes. RE: Title 15A State Construction and Fire Codes Act.

### **Engineering – Scott Weiler**

Any work proposed in the public way of Main Street requires design review, approval and a public way permit from SLC Engineering.

### **Transportation – Michael Barry**

The parking calculations (on sheet 24 of the 2021 03-03 Hines – 150 S. Main – Design Review Resubmittal) appear to be sufficient, although no calculations were provided for the required loading berths (see 21A.44.080 for loading berth requirements); the applicant should provide loading berth calculations. The parking calculations indicate six ADA parking spaces are required and only three were shown on the plans, however, not all of the parking levels were shown. No parking layout dimensions were provided; parking space and aisle widths must meet SLC standards (see

21A.44.020). No details were given on the type of bike racks to be provided; the bike racks must meet SLC standards (see <http://www.slcdocs.com/transportation/design/pdf/F1.f2.pdf>). The EV parking spaces shall be signed in a clear and conspicuous manner, such as special pavement marking or signage, indicating exclusive availability to electric vehicles; the applicant should provide details of signage and/or pavement markings. The plans should show that the sight distance requirements are being met as the driveway crosses the sidewalk; a ten foot sight distance triangle is required at the back of the sidewalk.

### **Salt Lake City Urban Forestry**

Further review will take place during the Building Permit review to ensure compliance with Salt Lake City requirements for street trees.

### **Sustainability**

No comments or concerns.

### **Fire – Douglas Bateman**

All provisions from building and fire codes related to high rise building shall be met, including aerial apparatus access, fire access roads to within 150-feet of all ground level exterior portions and water supply/hydrant locations. Alternate Means and Methods applications may be necessary to meet fire access roads with increase in sprinkler density of 0.05 gpm/square foot.

#### DRT Meeting Comments:

Fire Department Connection shall be located on street address side of structure and shall have fire hydrant located within 100-feet

\*Fire access roads shall be provided to within 150-feet of all ground level exterior portions of structure. AMM shall be submitted for increase in sprinkler density of 0.05 gpm/sq ft above the required occupancy density and provide automatic smoke detection in common and public spaces.

\*Aerial apparatus shall be provided that meets the requirements of FIC D 105. If cannot provided submit AMM to meet one of the exceptions created by Fire Prevention Bureau

\*Requirements for High Rise out of IBC 403 shall be met

### **Public Utilities – Jason Draper & Nathan Page**

The following comments are provided for information only and do not provide official project review or approval. Comments are provided to assist in design and development by providing guidance for project requirements.

- The proposed work will need a building permit and utilities development permit.
- All unused water and sewer services must be capped at the main.
- Public utility permit, connection, survey and inspection fees will apply
- All utility design and construction must comply with APWA Standards and SLCPU Standard Practices.
- All utilities must meet horizontal and vertical clearance requirements. Water and sewer lines require 10 ft minimum horizontal separation and 18" minimum vertical separation. Sewer must maintain 5 ft minimum horizontal separation and 12" vertical separation from any non-water utilities. Water must maintain 3 ft minimum horizontal separation and 12" vertical separation from any non-sewer utilities.
- Utilities cannot cross property lines without appropriate easements and agreements between property owners.
- Site utility and grading/drainage plans will be required for building permit review.
- Main street utilities are extremely crowded. Any encroachment requests will likely be denied by public utilities.



DRT Meeting Comments:

All utility design and construction must comply with APWA Standards and SLCPU Standard Practices.

All utilities must be separated by a minimum of 3' horizontally and 12" vertically. Water and sewer lines require 10' minimum horizontal separation and 18" minimum vertical separation. Parcels must be consolidated prior to permitting.

Please submit site utility and grading plans for review. Other plans such as erosion control plans and plumbing plans may also be required depending on the scope of work. Submit supporting documents and calculations along with the plans.

A Public Utilities Demolition Permit through the Public Utilities Contracts office at 1530 South West Temple, will be required for this project. This is a separate permit from the Building Demolition Permit.

There is an existing 12" DIP water main in Main St. There is an existing ¾" water service to 156 that will need to be reused per current code or killed at the main. One culinary water meter and one fire line are permitted per parcel. If the parcel is larger than 0.5 acres, a separate irrigation meter is also permitted. Each service must have a separate tap to the main.

There is an existing 8" sewer main in Main St. The laterals on site are older than 50 years old, they may only be reused if they can pass a video inspection. Your plumber will need to get a permit from public utilities in order to do a TV inspection. Any unused sewer laterals will need to be capped at the main.

An exterior, below-grade grease interceptor is required for this application. Plumbing fixtures in the kitchen must be treated to remove solids and grease prior to discharge to the sanitary sewer. The interceptor must be sized by a licensed design professional. A 4ft diameter sampling manhole must be located downstream of the interceptor and upstream of any other connections. Covered parking area drains and workshop area drains are required to be treated to remove solids and oils prior to discharge to the sanitary sewer. These drains cannot be discharged to the storm drain. Use a sand/oil separator or similar device. A 4ft diameter sampling manhole must be located downstream of the device and upstream of any other connections.

Applicant must provide fire flow per IBC Table B105.1(1&2) in Appendix B, culinary water, and sewer demand calculations to SLCPU for review. The public sewer and water system will be modeled with these demands. The expected maximum daily flow (gpd) from the development will be modeled to determine the impacts on the public sewer system. If one or more sewer lines reaches of the sewer system reach capacity as a result of the development, sewer main upsizing will be required at the property owner's expense. If the water demand is not adequately delivered by the main, then a water main upsizing will be required at the property owner's expense. Required improvements on the public water and sewer system will be determined by the Development Review Engineer. A plan and profile of the new main(s) and Engineer's cost estimate must be submitted for review. The property owner is required to bond for the amount of the approved cost estimate. Sewer system modeling is required for projects between West Temple and 900 East and South Temple and 400 South. Sewer Main upsizing is likely for this area.

Site stormwater must be collected on site and routed to the public storm drain system.

Stormwater cannot discharge across property lines or public sidewalks.

Stormwater treatment is required prior to discharge to the public storm drain. Utilize stormwater Best Management Practices (BMPs) to remove solids and oils. Green infrastructure should be used whenever possible. Sand/oil separators are commonly used to treat stormwater runoff from uncovered parking areas.

The existing streetlights on Main St will be required to remain lit during construction. If damaged the contractor will be required to fix the streetlight.

**ATTACHMENT I: ADDITIONAL PUBLIC COMMENTS  
RECEIVED – NOT INCLUDED IN STAFF REPORT**

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April 15, 2021

Salt Lake City Planning Division  
ATTN: David Gellner  
451 South State Street, Room 406  
Salt Lake City, Utah 84111

RE: File PLNPCM2021-00024 | 150 Main Street Apartments - Design Review Comments

Planning Division,

Per the request from David Gellner, we offer the comments below regarding the design review for the 150 South Main Street Apartment project.

We support the proposed design for 150 Main Street Apartments as proposed in file PLNPCM2021-00024. We sought input from over 50 downtown stakeholders. We shared the design proposal with the Downtown Alliance board and relevant committees. None objected to the proposed plans. Some lauded the quality of the design and the positive impact on Main Street and the neighborhood. Below is a summary of relevant Alliance comments.

**Height:** We support the proposed plan for a 296-foot building. We believe the design contributes positively to the city skyline and that the housing density is a positive addition to downtown. The outdoor common area on floors 21 and 22 are a dramatic amenity that will attract residents and workforce talent to live downtown.

**Lobby entrance setback:** We support the proposed lobby entrance setback and believe that it appropriately prioritizes public access to the planned retail entrance, which has no setback.

**Affordable housing:** We understand that the proposed 40 units of affordable housing meets the requirements set forth in the sales agreement. We applaud all additions to affordable housing stock.

**Pantages Park:** We understand that a design for the Pantages Park feature on top of the parking deck is not being reviewed at this time and that a separate petition will be submitted later. Downtown does not currently have adequate park and greenspace. We welcome the addition of publicly accessible greenspace.

The Downtown Alliance acknowledges community members' sentiment for the Pantages Theater that once operated at this location and shares their affection for the history of this site. We appreciate the project developers' plans for incorporating some of the remnants of the theater in the project design.

We commend Dwell and Hines for their attention to the surroundings and their solutions for a very challenging development site. We believe the project contributes positively to downtown and the capital city.

Best regards,

A handwritten signature in black ink, appearing to read 'Dee Brewer', with a long horizontal flourish extending to the right.

Dee Brewer  
Executive Director, Downtown Alliance

April 23, 2021

**150 South Main Street Apartments**

**Design Review PLNPCM2021-00024**

**Salt Lake City, Utah**

To whom it may concern:

The Salt Lake City Planning Department is currently having an open house that allows you as a local resident or business to allow your voice to be heard regarding a design review of the planned nearby 150 South Main Street Apartment high rise project. This comment period ends on April 26, 2021. So it is important that you let your voice be heard soon.

Additional information about this proposed project can be obtained by going to the link below:  
<https://www.slc.gov/planning/2021/03/08/150-s-main-street-apartments-design-review/>

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**Project Description:**

Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 150 S. Main Street on the site of the Utah Theatre. The combined 0.89 acre (39,000 square feet) parcel is owned by the Redevelopment Agency of Salt Lake City and is located in the D-1 – Central Business District.

The proposed project is for a 400-unit apartment building that will include 40 affordable, 355 market rate and 5 penthouse level housing units. The building will include a mid-block walkway and a park amenity on the separate parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on main street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be 392 feet.

Buildings in excess of 100-feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being used to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet.

A copy of the City's Code:

21A.59.050: STANDARDS FOR DESIGN REVIEW:

G. Building height shall be modified to relate to human scale and minimize negative impacts. In downtown and in the CSHBD Sugar House Business District, **building height shall contribute to a distinctive City skyline.**

1. Human scale:

a. **Utilize setbacks to design a building that relate to the height and scale of adjacent and nearby buildings,** or where identified, goals for future scale defined in adopted master plans.

b. **For buildings more than three (3) stories or buildings with vertical mixed use, compose the design of a building with distinct base, middle and top sections to reduce the sense of apparent height.**

2. Negative impacts:

a. Modulate taller buildings vertically and horizontally so that it steps up or down to its neighbors.

b. Minimize shadow impacts of building height on the public realm and semi-public spaces by varying building massing. Demonstrate impact from shadows due to building height for the portions of the building that are subject to the request for additional height.

c. Modify tall buildings to minimize wind impacts on public and private spaces, such as the inclusion of a wind break above the first level of the building.

3. Cornices and rooflines:

a. Cohesiveness: Shape and define rooflines to be cohesive with the building's overall form and composition.

b. Complement Surrounding Buildings: Include roof forms that complement the rooflines of surrounding buildings.

c. Green Roof And Roof Deck: Include a green roof and/or accessible roof deck to support a more visually compelling roof landscape and reduce solar gain, air pollution, and the amount of water entering the stormwater system

## Our Response:

### Objection #1

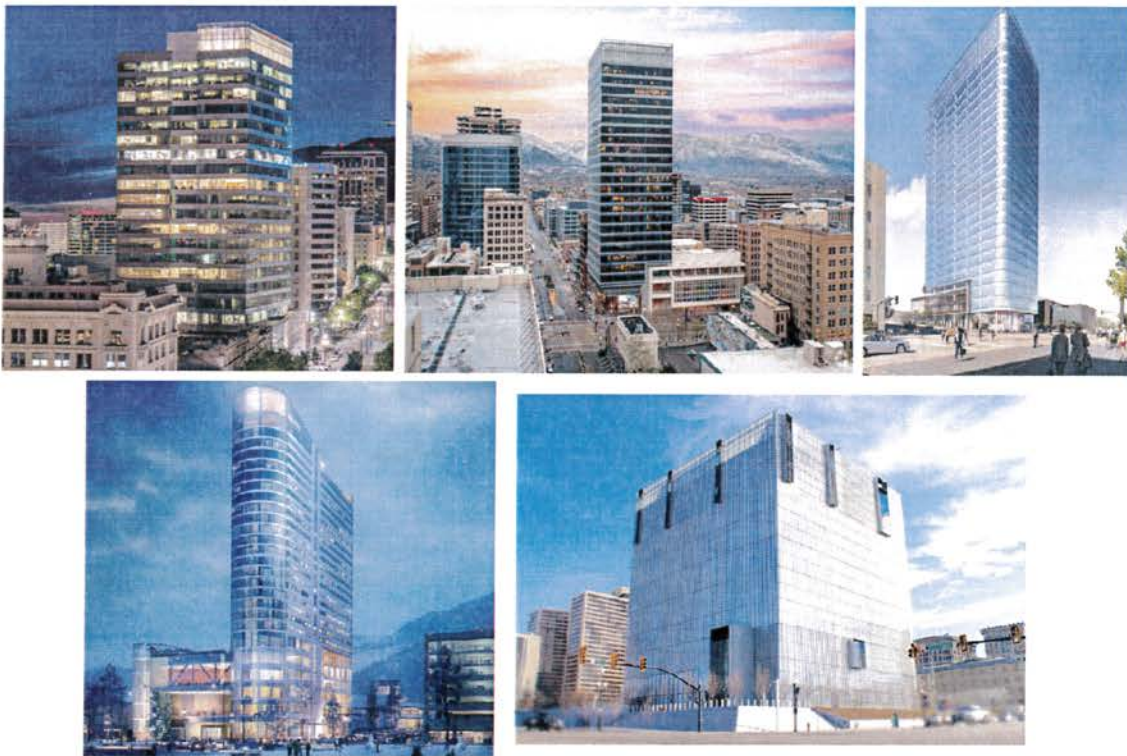
We do not feel that this project should be approved at the additional height and design that they are requesting. Our reasoning is as follows:

1. Building height shall be modified to relate to human scale and minimize negative impacts. In downtown and in the CSHBD Sugar House Business District, **building height shall contribute to a distinctive City skyline.**

#### Reasoning For objection:

There are already many high-rise buildings within out Downtown that have been built recently that have a glass parapet wall as their crown.

- 222 South Main Street
- 111 South Main Street
- 95 South State Street
- Hyatt Regency Convention Center Hotel (Salt Palace)
- United States Federal Courthouse



With the proposed 150 South Main Tower's proposed Glass Parapet wall. This would sure make the buildings in our skyline boring and non-distinct, and appear as though they lack uniqueness. The architect even mentions copying other buildings in downtown on page 49 in their design review submittal package:

- *"3. Similar to several commercial buildings within the CBD, the design proposes flat roofs with glazed parapets terminating the high-rise curtain-wall form."*



Also, per previous Salt Lake City planning staff reports and reviews such as **PLNPCM2014-00045: Conditional Building and Site design for another mid-block building proposing additional height (151 South State Street)**

<http://www.slcdocs.com/Planning/Planning%20Commission/2014/045.pdf>

The planning department previously found that a former proposed building with a glass parapet curtain wall did not meet design requirements of being a distinctive rooftop because of the following:

*“The urban design element encourages a sculpting of building on the skyline to encourage the creation of interesting skyline features. Height, scale, and character are significant building features of the downtown district, and should be treated as such. This particular building has some minor architectural detailing at the roofline, such as a slightly modulated parapet, clear glass, and a visual design on the penthouse that is visible through the glass, **but is not sufficiently distinguished visually from other recent glass buildings with glass parapets at 222 S Main and 111 S Main.** The basic design of this building is a glass tower with angular features and cut-outs as part of the glass façade. It may be argued that overly complicated architectural elements at the roofline would not be consistent with the general architecture of the building. **The architects prefer continuing the basic architecture of the building to the skyline, but using cutouts and the mechanical penthouse as a method of creating interest at the skyline level, although staff does not find this effective in meeting the height standards as discussed in the Key Issues. Staff does not find this effective in meeting this “distinctive” standard as discussed in the Key Issues.**”*

Again, this would not make for a distinctive City Skyline. We would have many building rooflines that all look the same. We would support an alternative designed rooftop (possibly a slanted, step backed, stepped design, domed roof, spire, etc). Something that doesn't seem so “copy & paste” from previous buildings or projects.

## **Our Response: Objection #2**

We do not feel that this project should be approved at the additional height and design that they are requesting. Our reasoning is as follows:

1. Human scale:

a. **Utilize stepbacks to design a building that relate to the height and scale of adjacent and nearby buildings**, or where identified, goals for future scale defined in adopted master plans.

### **Reasoning For objection:**

While the building does have some step backs on the building, mainly at the street retail level, the rest of the building's step backs and “punched openings” do not seem to be in appropriately placed locations, and/or do little to change the overall massing of the building. The building uses different architectural materials to make it “appear” that it is different in massing, but this does nothing to help mitigate the effects of the overwhelming physical massing of the building. There should be additional setbacks added to the building as it goes up in height not just at the street level retail level. These additional setbacks would help contribute to openness of the downtown area, and surrounding buildings. If this building was placed on a street corner location instead of mid-block the massing of the building would be less noticeable because of the wideness of the adjoining streets.

In fact, this is probably the tallest mid-block structure that has ever come before the Salt Lake City Design review committee. Large tall massing buildings should be reserved for the street corners for a reason, as stated in the Salt Lake City design code. If a building is proposed to be mid-block and exceed the 100' height limit it should take more strategic designing to reduce its impact and overwhelming feeling on the adjoining buildings.

## **Our Response: Objection #3**

We do not feel that this project should be approved at the additional height and design that they are requesting. Our reasoning is as follows:

**b. For buildings more than three (3) stories or buildings with vertical mixed use, compose the design of a building with distinct base, middle and top sections to reduce the sense of apparent height.**

### **Reasoning For objection:**

The architect has seemed to take some of this into consideration, but only on half of the building. The Main Street side of the building has a distinctive base, but the middle and top sections leave something to be desired. For example, the mid-rise portion of the building takes up more height/floors than the top section of the building. This makes the proportions seem very out of place and add to the overwhelming massing of the building.

The main complaint is with the west half of the building. All of the massing variation and materials are placed on the East half of the building. The west half of the building has no variation in setbacks, "punch holes" or even materials above the base level. The west façade is essentially a large blank wall. Some variation should be added to the building to alleviate this blandness in design. The West side of the building will be the side that is viewed from the Salt Palace Convention center, and the I-15 freeway. If this building is going to be considered for additional height we should make sure that it appealing on all sides of the building from all angles.

## **Conclusion:**

We are not against the overall project as a whole, but we feel that it has a lot of room for improvement in the design. Since this is an RDA involved project, and the City is essentially giving the land that the project is on for free to the developer in exchange for some amenities, and our voices were not heard, and we were betrayed by the Mayor and City RDA for giving up on the restoration of the Utah Theater; we feel that as residents and businesses of this great City our voices should be heard and incorporated into this project.

To bolster support of our objections for the Design Review, and the above stated reasoning we have spread the word and done a signature collection of other concerned citizens or patrons that share these same concerns as contained in this response letter.

Please do not let their voices and concerns be silenced.

Thanks for your time and consideration.

**Please see attached exhibits on the following pages**

Print Name

Signature

Rod Forkert	Rod Forkert
Grille Jetter	Grille Jetter
Yvonne DeKruif	Yvonne DeKruif
David M. DeKruif	David M. DeKruif
Marilyn R. Heginger	Marilyn R. Heginger
Jeffrey Christensen	Jeffrey Christensen
MOLLY SAUER	Molly Sauer
Bonnie Forkert	Bonnie Forkert
Paul Sauer	Paul Sauer
Joni Davis	Joni Davis
Gary Wimmer	Gary Wimmer
Wendy Rindema	Wendy Rindema
Kenn Kleinmeyer	Kenn Kleinmeyer
Brady Peters	Brady Peters
Randy Forkert	Randy Forkert
Dustin Remme	Dustin Remme
Aileen Coen	Aileen Coen
Tim Roelofsen	Tim Roelofsen
JOHN MEYER	John Meyer

Print Name

Signature

Meryl van der Lee	Meryl van der Lee
Elaine Vander Lee	Elaine Vander Lee
Carolyn B Marshall	Carolyn B Marshall
Lois Anderson	Lois Anderson
Jann Braaksma	Jann Braaksma
Ferry Braaksma	Ferry Braaksma
Wanda Dronk	Wanda Dronk
Andy Marshall	Andy Marshall
Jane Nieuwendorp	Jane Nieuwendorp
Judy L. Nieuwendorp	Judy L. Nieuwendorp

Print Name

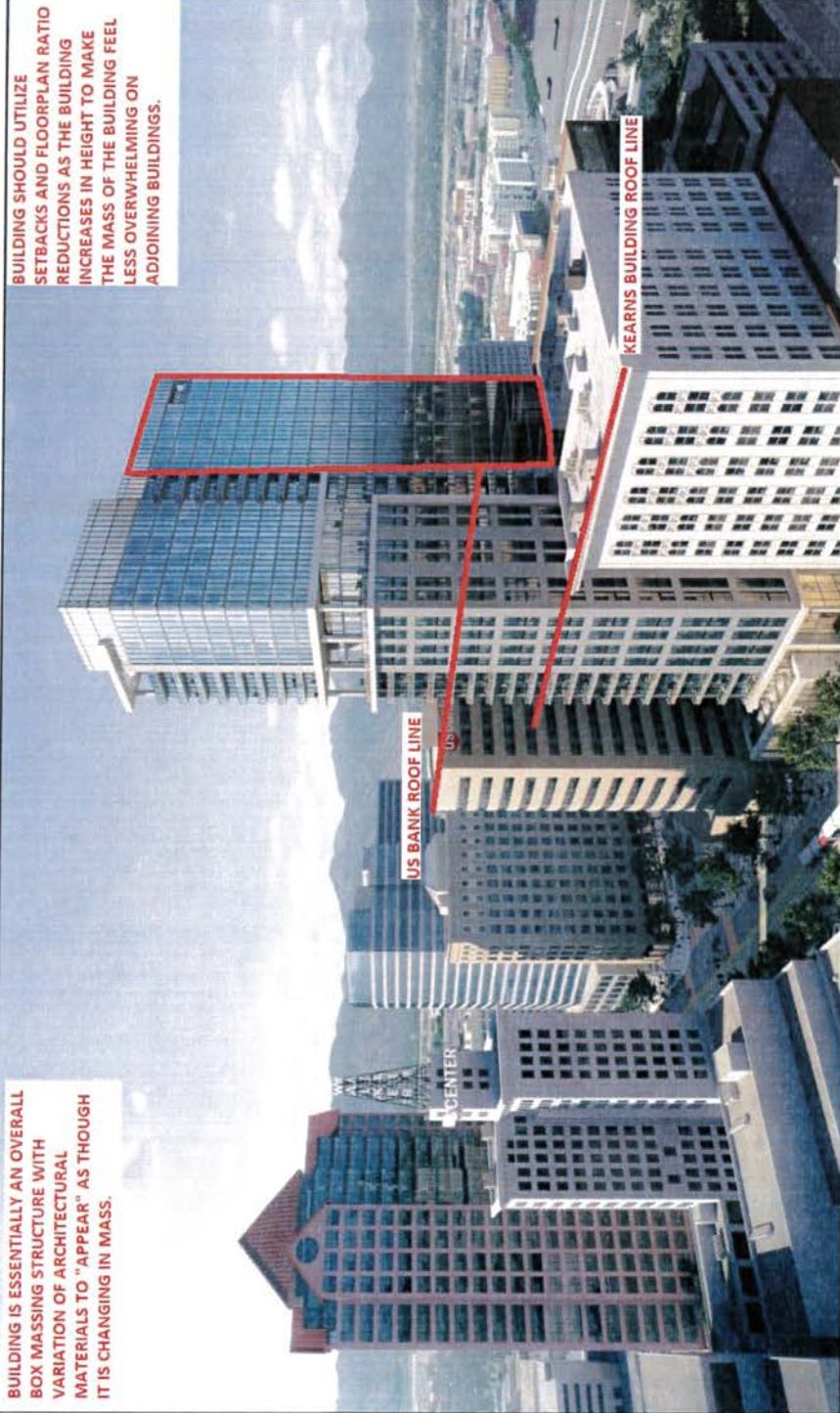
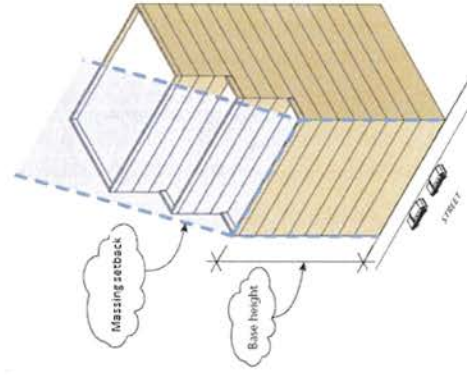
Signature

Marvin Van Biese	Marvin Van Biese
Brent Kamstra	Brent Kamstra
Uwe Na Hing	Uwe Na Hing
Muriel Kanengister	Muriel Kanengister
Abby Kanengister	Abby Kanengister
Donna Schaeffer	Donna Schaeffer
Glenda KRAGT	Glenda Kragt
Dennis Mouw	Dennis Mouw



BUILDING IS ESSENTIALLY AN OVERALL BOX MASSING STRUCTURE WITH VARIATION OF ARCHITECTURAL MATERIALS TO "APPEAR" AS THOUGH IT IS CHANGING IN MASS.

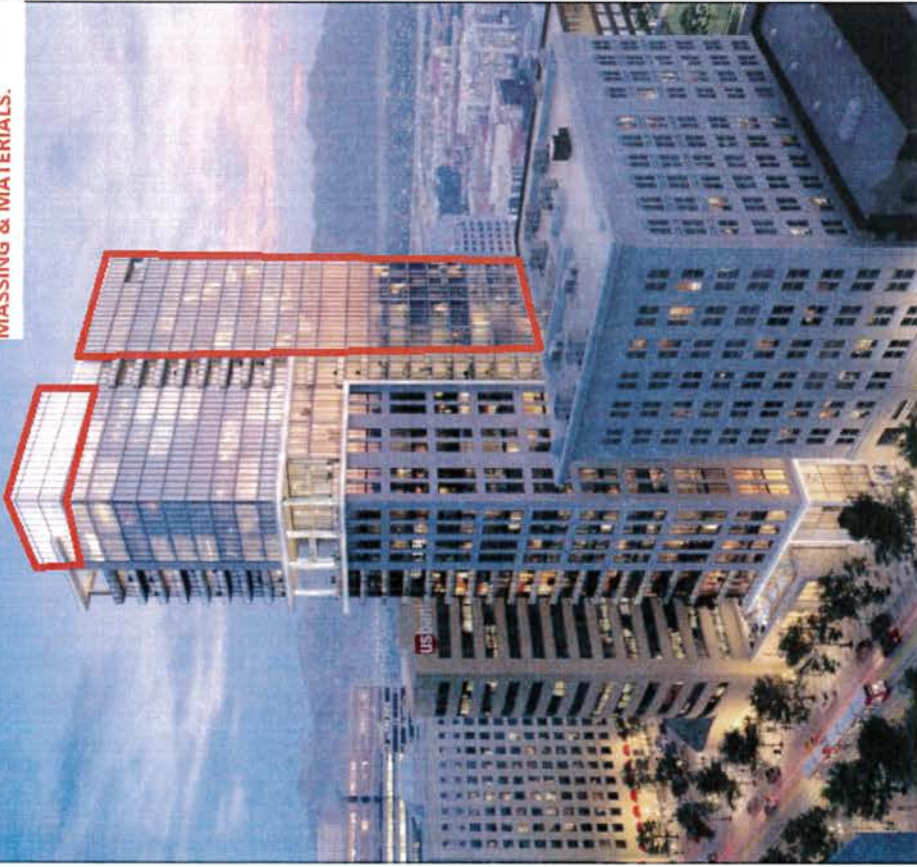
BUILDING SHOULD UTILIZE SETBACKS AND FLOORPLAN RATIO REDUCTIONS AS THE BUILDING INCREASES IN HEIGHT TO MAKE THE MASS OF THE BUILDING FEEL LESS OVERWHELMING ON ADJOINING BUILDINGS.





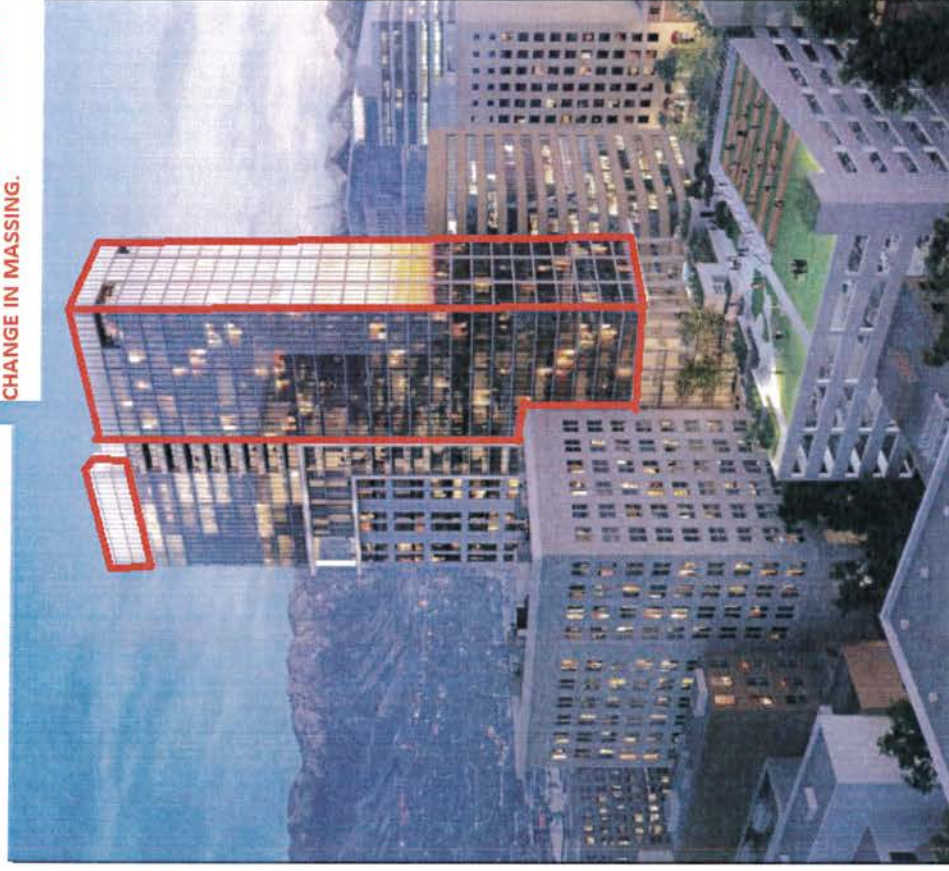
GLASS PARAPET WALL DOES NOT OFFER DISTINCTIVE VARIATION FROM OTHER DOWNTOWN BUILDINGS CONSTRUCTED RECENTLY. SEEMS VERY "COPY & PASTE".

ALL THE VARIATION IN MATERIALS IS PLACED ON THE EAST HALF OF THE BUILDING. THE WEST HALF OF THE BUILDING LACKS VARIATION TO MASSING & MATERIALS.



GLASS PARAPET WALL DOES NOT OFFER DISTINCTIVE VARIATION FROM OTHER DOWNTOWN BUILDINGS CONSTRUCTED RECENTLY. SEEMS VERY "COPY & PASTE".

WEST FACADE  
NO MASSING RELIEF:  
ESSENTIALLY A LARGE 300 FT TALL  
BLANK WALL WITH NO VARIATION OR  
CHANGE IN MASSING.





## Gellner, David

---

**From:** Casey McDonough <y[REDACTED]>  
**Sent:** Thursday, July 8, 2021 4:59 PM  
**To:** Gellner, David  
**Cc:** 'Save The SLC Pantages Theater'; 'Michael Anderson'; [REDACTED]; 'Cheryl Snapp Conner'; Mayor; Tony Semerad; Mano, Darin; Dugan, Dan; SLCAttorney; Mayor; Fowler, Amy; Valdemoros, Ana; Rogers, James; Johnston, Andrew; Wharton, Chris; Faris, Dennis; 'kareljoy'; [REDACTED]; David Berg; [REDACTED]; [REDACTED]; [REDACTED];  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024  
**Importance:** High  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

David,

Please share this email with the planning commission.

I downloaded the updated staff report and design review application yesterday. After reviewing it, I am alarmed by how different it is and how much new information is included. Knowing that I have to ask why we aren't having a new open house period so the public can review all this new information and make comment about it before the planning commission meeting?

The "park" and "mid-block walkway" details alone are addressed in much greater detail in the application and your staff report, details and information that were not included previously for the public to review during the open house period. Giving the public less than a week to review these meaningful and significant changes can't be how this process works, can it? These are not trivial parts of this project, these two parts of the project were significant parts of the RDA deal with the developer, details the public we're told were worth trading as public benefits, public benefits worth millions of our tax dollars, public benefits worth losing our irreplaceable historic theater for.

Who decided to press forward after the application was updated in such a significant way? Is there a city code that specifies when an application has to hold another open house? Is it standard practice that an application can have an open house, be withdrawn from the planning commission agenda, be significantly changed, then simply be placed back on a planning commission agenda with less than a week of opportunity for the public to review and make comments about those significant changes to the application? That can't be true, can it? Is that really how this works?

The RDA made the deal to give the theater to the applicant in trade for our tax dollars, millions of our tax dollars, in trade for public benefits the RDA, the city council, and the mayor told us were well worth the loss of our irreplaceable historic theater. The initial design review application didn't have the details about millions of dollars worth of those public benefits. I and others are now finding ourselves asking an uneasy question. We are asking ourselves the question about the possibility that our elected officials and the RDA may be putting pressure on the planning director and staff to give this application more preferential treatment than they would others. Something just doesn't feel right.

It seems so easy. So easy to protect our cities reputation and not give the impression of preferential treatment to billionaire developers. So easy to ensure that the public is as informed as they deserve to be about a controversial RDA

deal with developers. So easy that I am baffled why this application would have even been accepted in the first place. Accepted without details about millions of dollars of public benefits the public deserves to see the details about. So easy that I am baffled again that the public is given less than a week to review the details about millions of dollars worth of benefits the city and RDA said we would be getting as part of this deal. Something doesn't feel right. I just don't get it.

Maybe I am missing something. Maybe there is some code I don't know about. I just don't get it. I hope you can share some details about the process and why it's happening this way. I would love to be put at ease. I would love to put others with the same concerns at ease. Right now, it doesn't look or feel very good, at all. Please let me know the answers to my questions as soon as possible. Thanks.

Casey O'Brien McDonough  
[REDACTED]

---

**From:** Casey McDonough  
**Sent:** Thursday, July 1, 2021 2:45 PM  
**To:** Gellner, David <David.Gellner@slcgov.com>  
**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater <[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom <[REDACTED]>; Nielson, Paul <[REDACTED]>  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Great, thank you for those details, I will keep checking the online agenda for the staff report link to go active.

Casey O'Brien McDonough  
[REDACTED]

---

**From:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>  
**Sent:** Thursday, July 1, 2021 2:40 PM  
**To:** Casey McDonough <[REDACTED]>; The SLC Pantages Theater <[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom <[REDACTED]>; Nielson, Paul <[REDACTED]m>  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

Casey,

There is not a new application per your question, it is the same application, Planning file PLNPCM2021-00024 as referenced in the email title. As to the staff report availability, agendas are posted and notices sent approximately 2 weeks in advance of the meeting and the staff report, when finalized, will be publicly available via our website approximately 1 week in advance of the meeting.

The agenda has now been posted and notice signs have been posted on the property for the July 14<sup>th</sup> meeting. The staff report will be available next week, approximately 1 week in advance of the meeting via our website. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Senior Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860  
Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)  
[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)  
[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

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**DISCLAIMER:** The Planning Division strives to give the best customer service possible and to respond to questions as accurately as possible based upon the information provided. However, answers given at the counter and/or prior to application are not binding and they are not a substitute for formal Final Action, which may only occur in response to a complete application to the Planning Division. Those relying on verbal input or preliminary written feedback do so at their own risk and do not vest any property with development rights.

---

**From:** Casey McDonough <[REDACTED]>  
**Sent:** Thursday, July 1, 2021 1:42 PM  
**To:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>  
**Cc:** Michael Anderson <[REDACTED]> <[m](#)>; Save The SLC Pantages Theater  
[REDACTED]  
[REDACTED] Nielson, Paul <[REDACTED]>  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Is there a new staff report or design review application on the 150 S Main Street Apartments project? If not available today, when will it be available?

Casey O'Brien McDonough  
[REDACTED]

---

**From:** Casey McDonough  
**Sent:** Friday, June 18, 2021 6:08 PM  
**To:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>  
**Cc:** Michael Anderson <[REDACTED]> <[m](#)>; Save The SLC Pantages Theater  
<[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom  
<[j](#)>; Nielson, Paul <[REDACTED]>  
**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Thank you for the explanation from your end, I appreciate it.

Casey O'Brien McDonough  
[REDACTED]

---

**From:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>

**Sent:** Friday, June 18, 2021 3:09 PM

**To:** Casey McDonough <[REDACTED]>

**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater  
<[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom  
<[REDACTED]>; Nielson, Paul <[paul.nielson@slcgov.com](mailto:paul.nielson@slcgov.com)>

**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

Casey,

There will not be a second open house held on this project. We previously notified the recognized organizations and held an open house for this project as required. There is no requirement for a project to go to a second open house when additional details are presented.

The public will have a chance to comment on the landscape plan and elements which include the mid-block plaza and park element when it is presented to the Planning Commission at the public hearing. Those elements and details will also be included in the staff report available approximately one week in advance of the meeting. Hope this helps. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Senior Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860

Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)

[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)

[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

**PLEASE NOTE:** OUR OFFICE IS WORKING REMOTLEY FOR THE FORESEEABLE FUTURE

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---

**From:** Casey McDonough <[REDACTED]>

**Sent:** Thursday, June 17, 2021 10:34 PM

**To:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>

**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater  
<[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom  
<[REDACTED]>; Nielson, Paul <[paul.nielson@slcgov.com](mailto:paul.nielson@slcgov.com)>

**Subject:** Re: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Thank you so much for the reply and explanation. I really appreciate both. I'm keeping my eyes on the agenda for it to pop back up.

Actually, I will ask a follow up question. If they include the required landscaping information on an updated design review application, can we expect another open house? I'm still really concerned that the landscaping information wasn't included in the application as it is a major part of the project and the code. Let us know on that as soon as you can and thanks again.

Casey

Sent from my iPhone

On Jun 17, 2021, at 10:17 AM, Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)> wrote:

Casey,

My apologies for the delayed response but it appears I inadvertently missed your email follow-up as it came on a Saturday afternoon while I was out of the office.

The answer is that the applicant asked us to postpone the PC hearing on this project and move it to a later meeting date, that date yet to be determined.

If you have additional questions as to why they asked for the postponement, you could contact the applicant to inquire about that. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**

Senior Planner  
Planning Division

**DEPARTMENT of COMMUNITY and NEIGHBORHOODS**  
SALT LAKE CITY CORPORATION

Work Phone: 385-226-3860

Email: [David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)

[WWW.SLC.GOV/PLANNING](http://WWW.SLC.GOV/PLANNING)

[www.OurNeighborhoodsCAN.com](http://www.OurNeighborhoodsCAN.com)

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**From:** Casey McDonough <[yalpyesacnac@hotmail.com](mailto:yalpyesacnac@hotmail.com)>

**Sent:** Wednesday, June 16, 2021 9:50 PM

**To:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>

**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater

<[REDACTED]>

**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Can you provide an answer about why the project was postponed? If you can't, I have to also ask why and who I need to talk to so I can obtain that answer. Let me know and thanks for help.

Casey O'Brien McDonough  
[REDACTED]

---

[REDACTED] Casey McDonough

**Sent:** Saturday, June 5, 2021 1:19 PM

**To:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>

**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater

<[REDACTED]>  
[REDACTED] Nielson, Paul <[REDACTED]>

**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

David,

Thank you for that update. I have another question, why was this project postponed? Let me know and thanks again.

Casey O'Brien McDonough  
[REDACTED]

---

**From:** Gellner, David <[David.Gellner@slcgov.com](mailto:David.Gellner@slcgov.com)>

**Sent:** Friday, June 4, 2021 8:58 AM

**To:** Casey McDonough <[REDACTED][m](#)>

**Cc:** Michael Anderson <[REDACTED]>; Save The SLC Pantages Theater

<[REDACTED]>; Jeremy Brodis <[REDACTED]>; James L. Ahlstrom

<[REDACTED]>; Nielson, Paul <[REDACTED]>

**Subject:** RE: (EXTERNAL) Re: Design Review at 150 S Main Street Apartments - Case number PLNPCM2021-00024

Casey,

Since the item was postponed, the staff report is still in draft form and is not available.

When this item is scheduled for a Planning Commission Public Hearing, we will post an agenda and send out the public notice for that meeting. The date of that meeting is not clear at this point in time.

Agendas are posted and notices sent approximately 2 weeks in advance of the meeting and the staff report, when finalized, will be publicly available via our website approximately 1 week in advance of the meeting. D.

Regards,

**DAVID J. GELLNER, MAG, AICP**  
Principal Planner

## Gellner, David

---

**From:** Ian Bradley <[REDACTED]>  
**Sent:** Monday, July 12, 2021 8:36 AM  
**To:** Gellner, David  
**Subject:** (EXTERNAL) 150 S Main Street Apartments Comments

I wanted to write and voice my support for the 150 S. Main Street tower project and the creation of Pantages Park. I think the park in particular will add desperately needed public space downtown. It would also act as a good extension to the alley leading to Regent Street, creating excellent flow from Regent Street to Pantages Park.

I am concerned about one thing. The parking garage that Pantages Park will be built on will be extremely visible from West Temple, especially around the Rocky Mountain Power Plaza.

Having the parking garage fully clad/ wrapped in something, rather than be a fully exposed garage, would make a huge difference from how the project is viewed from one of the busiest pedestrian sections of West Temple.

These screens, if done right, can often become a form of public art as well.

Some examples I found include:



<https://www.dezeen.com/2015/06/02/iwamotoscott-leong-leong-wrap-miami-parking-garage-perforated-screens/>





<https://flexfacades.com/projects/rice-university-parking-garage/>



<https://flexfacades.com/projects/9th-colorado-block-7/>



<https://www.to-experts.com/en/projects/detailview-references/pvcpes-stamisol-membrane-facade/>

Thank you,

Ian Bradley



MICHAEL S. ANDERSON  
ATTORNEY AT LAW  
manderson@parrbrown.com

July 13, 2021

**VIA EMAIL**

Marlene Rankins  
Salt Lake City Planning Commission  
451 South State Street, Room 406  
P.O. Box 145480  
Salt Lake City, Utah 84414  
marlene.rankins@slcgov.com

Re: The Historic Utah Pantages Theater and Proposed 150 S. Main Street Apartments

Dear Members of the Planning Commission:

Our firm represents a number of concerned citizens regarding the sale and proposed demolition of the Historic Utah Pantages Theater (“Theater”). Based upon our review of a significant number of documents produced in response to various requests for records pursuant to the Government Records Access and Management Act, Utah Code section 63G-2-101, *et seq.* (“GRAMA”), we are concerned that a number of legal requirements have not been satisfied regarding the Theater and the proposed project referred to as the 150 S. Main Street Apartments (“Apartments”).

Thousands of concerned citizens are watching these proceedings. Our 103-year-old Theater is a beloved piece of Salt Lake City and Utah history. While in operation, the Theater showcased many legendary talents, including Babe Ruth, Abbott and Costello, and Will Rogers. Currently, the Theater protects an extravagant Tiffany’s skylight, original marble flooring, and other unique features once customary in such theaters over a century ago. Though countless communities across the nation have sought to preserve these theaters as historical landmarks, many have been demolished, making our Theater not only special and irreplaceable but also one of the last of its kind in the world.

For that reason, we respectfully request that the Planning Commission takes extra care to ensure that all legal requirements have been met before approving the demolition of our Theater. Such requirements are imperative because they provide for and protect public participation in

these important decisions. While there are many statutes, ordinances, and other rules and regulations applicable to this matter, two specific issues are further discussed below for your consideration.

First, the Theater is indisputably a historic building eligible for inclusion on the National Register of Historic Places, and the Redevelopment Agency of Salt Lake City (“RDA”) has spent agency funds in connection with the demolition or rehabilitation of the Theater. Consequently, Utah Code section 17C-5-106 requires that city agencies comply with Utah Code section 9-8-404, which states:

- (a) **Before approving any undertaking**, an agency **shall**:
  - (i) **take into account the effect of the undertaking** on any historic property; and
  - (ii) provide the state historic preservation officer with a **written evaluation** of the undertaking’s effect on any historic property.
- (b) The state historic preservation officer **shall** provide to the agency a **written comment** on the agency’s determination of effect within 30 days after the day on which the state historic preservation officer receives a written evaluation described in Subsection (1)(a)(ii).
- (c) If the written evaluation described in Subsection (1)(a)(ii) demonstrates that there is an adverse effect to a historic property, the agency **shall** enter into **a formal written agreement** with the state historic preservation officer describing how each adverse effect will be mitigated before the agency may expend state funds or provide financial assistance for the undertaking.

Utah Code § 9-8-404(1) (emphasis added).

There is no question demolition of the Theater would have an “adverse effect” on this historic property. But despite numerous GRAMA requests seeking the records identified and required by Utah Code section 9-8-404(1), none of these records have been produced to us. City agencies therefore appear to be proceeding in violation of Utah Code sections 17C-5-106 and 9-8-404.

Second, as Salt Lake City's General Plan ("Plan") provides for the reuse and rehabilitation of the Theater, the sale and demolition of the Theater and the authorization and construction of the Apartments appears to be in violation of Utah Code section 10-9a-406, which requires that:

After the legislative body has adopted a general plan, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized **until and unless it conforms to the current general plan.**

Utah Code § 10-9a-406 (emphasis added).

Due to the Theater's inclusion in the Plan, demolishing the Theater to allow for, among other things, a public walkway would directly violate the Plan and, therefore, Utah Code section 10-9a-406. We are unaware of any documents or discussions specifically addressing this issue. While the Plan is often considered advisory, any direct violation to destroy the Theater for the Apartments would be prohibited.

We therefore respectfully request that the Planning Commission revisit these proceedings and allow the public to fully participate in this process. We appreciate that there are many factors that influence the ultimate outcome of these sorts of proceedings. Participation and input from your constituencies and the general public should be chief among those factors. We also certainly recognize that Salt Lake City needs additional housing—but not necessarily at the expense of a one-of-a-kind Theater with over a century of history in the heart of our city.

Thank you for your time and consideration of these important issues. If you have any additional documents or information that you would like us to consider, or if you would like to further discuss any of this, please do not hesitate to contact us directly.

Sincerely,

PARR BROWN GEE & LOVELESS

/s/ Michael S. Anderson  
Michael S. Anderson

Marlene Rankins  
Salt Lake City Planning Commission  
July 13, 2021  
Page 4

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Cc: James L. Ahlstrom, Esq.  
Jeremy M. Brodis, Esq.  
Allison Parks, Esq.  
Salt Lake City Mayor's Office  
Salt Lake City Council

## Gellner, David

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**From:** Save The SLC Pantages Theater <[REDACTED]>  
**Sent:** Wednesday, July 14, 2021 1:50 PM  
**To:** Gellner, David; Mayor; Walz, Danny; Wharton, Chris; Fowler, Amy; Rogers, James; Johnston, Andrew; Mano, Darin; Dugan, Dan; Valdemoros, Ana; SLCAAttorney; [REDACTED]; Harris, Dusty; Tony Semerad  
**Cc:** [REDACTED]; Casey McDonough  
**Subject:** (EXTERNAL) Public Comments for 150 S Main Apartments Design Review Application Petition PLNPCM2021-00024

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello,

These public comments are in reference to 150 S. Main Street Apartments Design Review Application and Petition PLNPCM2021-00024.

This deal was built entirely on lies, misinformation, and collusion to hide facts from the public, all of city council, and now two different mayors. Danny Walz and Tammy Hunsaker led a rogue agency and completely orchestrated the theater's failures so it could be sold to Hines.

We made a feature-length documentary about all of it you can find here with dozens of emails, documents, video clips, and evidence of this rampant citywide corruption.

You can find it here

<https://youtu.be/I9MltFBdtIY>

The people will not allow city officials and government agencies to destroy historical significant properties in backroom, fraudulent deals so billion-dollar companies can profit even more.

This zone change and design review need to be canceled immediately because this deal has been a sham for years.

Our theater needs to be freed from a corrupt RDA and Hines control and given back to the people of Salt Lake City and Utah.

-Michael Valentine





J. CRAIG SMITH  
jcsmith@SHUtah.law

EMILEE GORHAM  
egorham@SHUtah.law

July 14, 2021

*Via Email*  
*(marlene.rankins@slcgov.com)*

Carolyn Hoskin  
Adrienne Bell  
Brenda Scheer  
Sara Urquhart  
Jon Lee  
Andres Paredes  
Crystal Young-Otterstrom  
Maurine Bachman  
Amy Barry  
Salt Lake City Planning Commission  
451 South State Street, Room 406  
P.O. Box 145480  
Salt Lake City, Utah 84414

***Re: Design Review for the Proposed 150 S. Main Street Apartments on Wednesday,  
June 14, 2021***

Dear Planning Commission Members:

Please be advised that the law firm of Smith Hartvigsen, PLLC, represents two concerned residents of Salt Lake City (“**City**”), Casey O’Brien McDonough and Michael Valentine (“**Citizens**”), regarding the sale and proposed demolition of the Historic Utah Pantages Theater (“**Theater**”).

We have been informed by the Citizens that Dwell Design Studio, on behalf of Hines Acquisitions, LLC (“**Developer**”), has requested Design Review Approval for the proposed 150 S Main Street Apartments (“**Apartments**”), to be located at approximately 144 South Main Street on the site of the Theater. In addition to other features of the proposed Apartments, the total height of the proposed Apartments will be approximately 392 feet. Under the Salt Lake City Code (“**City Code**”), mid-block buildings cannot exceed one hundred feet (100’) in height (“**Height Regulation**”)<sup>1</sup>. We also understand that the Commission, at its meeting on Wednesday, July 14,

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<sup>1</sup> See City Code Section 21A.30.020(F)(3).

2021, may consider a waiver or variance of the Height Regulation utilizing the following language: "... taller buildings may be authorized through the design review process, subject to the requirements of chapter 21A.59 of this title."<sup>2</sup> We respectfully submit that, notwithstanding the foregoing City Code provision, the City Planning Commission ("**Commission**") lacks authority to waive the Height Regulation in the D-1 Central Business District Zone.

Under state law and the City Code, only the City Council<sup>3</sup>, as the legislative body, is authorized to waive or modify existing zoning regulations. Instead, the Commission is authorized to:

[a]ct as an advisory agency to the mayor; [m]ake investigations and reports on proposed subdivisions and in cases of subdivision amendments involving streets per chapter 20.28, article III of this title make recommendations to the city council as to their conformance to the master plan, zoning ordinances of the city, and other pertinent documents; and [a]pprove preliminary plats and, when requested by the mayor, report its actions and recommendations concerning the subdivision to the mayor.<sup>4</sup>

The Commission also has the following duties and powers:

[i]nitiate amendments to the text of this title and to the zoning map pursuant to the provisions of chapter 21A.50 of this title; [r]eview, evaluate and make recommendations to the City Council on proposed amendments to this title pursuant to the procedures and standards set forth in chapter 21A.50 of this title; [and r]eview, hear and decide applications for conditional uses, including planned developments, pursuant to the procedures and standards set forth in chapters 21A.54, "Conditional Uses", 21A.55, "Planned Developments", and 21A.59, "Design Review", of this title...<sup>5</sup>

Likewise, under the Utah Code, the City Council, as the City's legislative body authorized to weigh policy considerations, is the only body that may enact a land use regulation, which it may enact only by ordinance.<sup>6</sup> While the Commission is authorized to review and recommend certain land use regulations, including amendments to existing land use regulations, it must first hold a public hearing in accordance with Utah Code Section 10-9a-404 and it is not authorized to enact such

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<sup>2</sup> *Id.*; see also 21A.37.040: Modifications of Design Standards, which states: *The Planning Commission may modify any of the design standards identified in this chapter subject to the requirements of chapter 21A.59, "Design Review", of this title. The applicant must demonstrate that the modification meets the intent for the specific design standards requested to be modified, the standards for design review and any adopted design guidelines that may apply.*

<sup>3</sup> See City Code Section 21A.06.020(C) (stating that the City Council is authorized to "[c]onsider and adopt, reject or modify amendments to the text of this title and to the zoning map pursuant to the provisions of sections 21A.50.030 and 21A.50.040 of this title...")

<sup>4</sup> City Code Section 20.04.080: City Council Authority

<sup>5</sup> City Code Section 21A.06.030: Planning Commission

<sup>6</sup> See Utah Code Ann. § 10-9a-501(1); see also *id.*, §10-9a-501.

land use regulations.<sup>7</sup> Legislative powers may only be exercised by the legislative body; any attempt to delegate legislative powers to another body, such as the Commission in this situation, violates the Utah Constitution.<sup>8</sup>

While one may be tempted to compare the “design review process” to the conditional use process, this is an “apples to oranges” comparison. The conditional use process does not modify or waive the underlying zoning of the property, it only decides appropriate conditions for a use already approved in the zone. The design review process attempts to delegate to the Commission the power to modify or waive portions of the existing zoning. Creation and modification of zoning designations are purely legislative under Utah law and the Utah Constitution. Only legislative bodies may waive or modify zoning requirements.

Furthermore, a waiver or modification of a municipal land use ordinance, including, but not limited to, one that creates a case-specific exception to a land use ordinance, is a legislative act under Utah law that can only be accomplished by the legislative body of a municipality, including the City.<sup>9</sup> Moreover, legislative powers<sup>10</sup>, including, but not limited to, powers of zoning, cannot be delegated to other governmental bodies, including “quasi-judicial” bodies like the Commission.<sup>11</sup>

Utah land use law and the City Code also provide for “variances” to zoning in very narrowly defined situations when specific conditions are met.<sup>12</sup> State law requires that if a person or entity applies for a variance, a variance may be granted by an appeal authority, a quasi-judicial body, only if:

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<sup>7</sup> See *id.*, § 10-9a-302.

<sup>8</sup> See *Salt Lake City v. Ohms*, 881 P.2d 844, 848 (Utah 1994) (holding that “[c]ore functions or powers of the various branches of government are clearly nondelegable under the Utah Constitution. See, e.g., *Sandy City v. Salt Lake County*, 827 P.2d 212, 221 (Utah 1992) (holding that legislative functions, such as powers of zoning and rezoning, cannot be delegated)”).

<sup>9</sup> *Wallingford v. Moab City*, 2020 UT App 12, ¶ 27, 459 P.3d 1039, 1048, *cert. denied*, 466 P.3d 1073 (Utah 2020).

<sup>10</sup> See *Baker v. Carlson*, 2018 UT 59, ¶ 14, 437 P.3d 333, 336 (noting that legislative power “is distinguishable from the executive—or administrative—power, which involves ... applying the law to particular individuals or groups based on individual facts and circumstances” and that “enactment of a broad zoning ordinance constitutes a legislative act, while application of that zoning ordinance to individuals *through conditional use permits or variances* would constitute an executive act.” (emphasis added).)

<sup>11</sup> See *W. Leather & Finding Co. v. State Tax Comm'n of Utah*, 87 Utah 227, 48 P.2d 526 (1935); *Bradley v. Payson City Corp.*, 2003 UT 16, ¶ 13, 70 P.3d 47, 51 (nothing that “...a municipality has the authority to formulate and implement zoning policies as an exercise of legislative power, a municipality cannot thereafter delegate some portion of that authority to a board of adjustment because a board of adjustment is a quasi-judicial body designed only to correct specific zoning errors.”).

<sup>12</sup> See Utah Code Ann. § 10-9a-702(1) (providing that “[a]ny person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.”); City Code Chapter 21A.18.

(i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances; (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone; (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone; (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and (v) the spirit of the land use ordinance is observed and substantial justice done.<sup>13</sup>

For the above reasons, we respectfully request that the Commission refrain from taking any action until the Commission's statutory powers, duties, and restrictions under both the City Code and Utah Code and constitutional limits to the same under Utah law are reviewed and clarified to the satisfaction of the Commission. We are certain that the Commission does not wish to violate the City Code, Utah law, or the Utah Constitution. We are also certain that the issues raised in this letter have never been carefully considered by legal counsel for the Commission. Specifically, we respectfully ask the Commission to refrain from modifying the Height Regulation because, as described above, the Commission has no authority to do so under the City Code, State Code, and Utah law.

Thank you for considering this important matter. If you would like to further discuss any of this, please do not hesitate to contact us directly at 801-413-1600.

**SMITH HARTVIGSEN, PLLC**

/s/ J. Craig Smith

J. Craig Smith

Emilee Gorham

Cc: Casey O'Brien McDonough  
Michael Valentine

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<sup>13</sup> Utah Code Ann. § 10-9a-702(2)(a).

# Snell & Wilmer

15 WEST SOUTH TEMPLE  
SUITE 1200  
GATEWAY TOWER WEST  
SALT LAKE CITY, UT 84101  
801.257.1900 P  
801.257.1800 F

Wade R. Budge

July 28, 2021

VIA EMAIL [JOEL.PATERSON@SLCGOV.COM](mailto:JOEL.PATERSON@SLCGOV.COM)

Joel Paterson  
Salt Lake City Zoning Administrator  
451 South State Street #406  
Salt Lake City, UT 84114

Dear Mr. Paterson:

This firm represents Hines Acquisitions, LLC (“Hines”), with respect to the proposed development located at 136, 144, & 158 South Main Street (the “Project”). On July 14, 2021, the City’s Planning Commission made two design review determinations with respect to the Project. Those determinations are subject to a potential appeal to the City’s appeals hearing officer pursuant to Salt Lake City Code Section 21A.16.010 *et seq.* On July 26, 2021 Emilee Gorham, on behalf of a variety of individuals filed an Appeal of Decision related to the Planning Commission’s determinations (the “Appeal”).

Under the current Zoning Code, an appeal stays all further proceedings with respect the Project unless “the zoning administrator certifies in writing to the appeals hearing officer, after the appeal has been filed, that a stay would, in the zoning administrator’s opinion, be against the best interest of the city.” Salt Lake City Code Section 12A.16.030(C). Hines respectfully requests that you submit to the appeals hearing officer as soon as possible a request to not stay any further proceedings with respect to the Project.

A stay is not in the City’s best interest because the Appeal is nonsensical on its face and unlikely to succeed. The Planning Commission, acting pursuant to Salt Lake City Code Section 21A.59.020(B), made specific findings that supported its determinations. The Appeal claims that these determinations were illegal and unsupported by the evidence for a variety of senseless reasons. For example, the Appeal argues that the Planning Commission lacks authority to make building height determinations. Unsurprisingly, the Appeal ignores Salt Lake City Code Section 21A.30.020F.3 which states that buildings in excess of 100 feet “may be authorized through the design review process,” and Section 21A.59.020(B) which states that the Planning Commission is the authorized body to make building height design review determinations. The appeal also argues that “there is no evidence that the Commissioners reviewed the staff report, comments, letters, or

Joel Paterson  
July 28, 2021  
Page 2

materials submitted to the Commission.” That claim that the Planning Commission utterly failed to do its duties is insulting to the diligence and hard work of the Planning Commission.

As yet another argument the appeal claims that one single person was allegedly unable to log on to the electronic meeting. That is odd for several reasons. First, scores of others were able to log on. Second, there is no real time evidence about any failure to log on. Third, there was an ability to make *pre hoc* comments that would have been reviewed by the Planning Commission as literally scores of others were. Fourth there is no claim that the supposed one extra voice on top of the organized opposition would have offered any new evidence instead of just whining like the others.

Finally, and without meaning to dignify the arguments in the appeal, the appeal does not even try to marshal the evidence in support of the Planning Commission’s decision.

These types of illogical and unsubstantiated arguments should not delay the Project.

The stay is also not in the City’s best interest because it unnecessarily delays the Project’s economic and aesthetic benefits to the City. The City has previously acknowledged the Project’s significant benefits to the community. For example, the RDA approved a full purchase write down for the Project site. Moreover, the Project benefits the community by including an affordable housing component, a publicly accessible open space, a mid-block walkway, a contribution of \$1 million to historic preservation, public art installation, and over 400 dwelling units. Delaying these benefits to the City because of a baseless appeal is not in the City’s best interests.

Hines respectfully requests that you submit a written notice to the appeal administrator explaining why a stay of the Project is not in the City’s best interests. If you have any questions about the foregoing, please do not hesitate to contact me.

Sincerely,

**SNELL & WILMER**



Wade R. Budge

CC: Bruce Baird, [REDACTED]  
Craig Smith, [REDACTED]  
Danny Walz, danny.walz@slcgov.com

Joel Paterson  
July 28, 2021  
Page 3

Paul Nielson, paul.nielson@slcgov.com  
Allison Parks, Allison.parks@slcgov.com  
Ellie Harned, [REDACTED]  
Dusty Harris, [REDACTED]





J. CRAIG SMITH  
[REDACTED]

EMILEE GORHAM  
[REDACTED]

August 2, 2021

*Via Email*  
*(joel.paterson@slcgov.com)*

Joel Paterson  
Zoning Administrator  
Salt Lake City Corporation  
451 South State Street #406  
Salt Lake City, Utah 84114

***Re: Stay of Proceedings Pending Appeal of the Planning Commission's July 14, 2021  
Decision to Approve Design Review application PLNPCM2021-00024***

Dear Mr. Paterson:

Smith Hartvigsen, PLLC, represents those who have appealed (“**Appellants**”) the July 14, 2021, decision of the Salt Lake City Planning Commission (“**Commission**”). This letter is in response to the July 28, 2021, request made by legal counsel for applicant Hines Acquisitions, LLC (“**Applicant**”), that the required stay of all further proceedings (“**Stay**”) be waived as to the above-referenced application (“**Application**”). Appellants challenge as an *ultra vires* action the planning commission’s waiver of the height limitation on the proposed 150 S Main Street Apartments development in the D-1 – Central Business District.

As mandated by the Salt Lake City Zoning Code, the Appeal stays all further proceedings concerning a Project unless, as the Zoning Administrator, after due consideration, you find, and certify in writing to the Hearing Officer, “that a stay would ... be against the best interest of the city.” Salt Lake City Code Section 21A.16.030(C). Bear in mind that your consideration of the Applicant’s request to overturn the required stay must focus on the best interests of the City, not those of the Applicant, the property owner, or the City’s staff and elected officials. And only demonstrable impairment of those interests can justify lifting the automatic stay.

In making its argument to lift the Stay, the Applicant does not identify a single reason that the required stay is detrimental to the best interests of the City, nor any cause to lift the stay until the Appeal is heard and decided. The Applicant seems to believe and offers as its sole rationale for lifting the stay, not the best interests of Salt Lake City, but its own belief that the Appellants’ position lacks merit---a point for the appellate tribunal to determine, and which the Applicant must prove on appeal.

In any event, the Applicant's argument that the required stay should be lifted fails to address the core grounds of the Appeal. To begin with, while the Salt Lake City Code attempts, by ordinance, to clothe the Planning Commission with the power to waive the 100-foot height limit imposed on structures in the D-1 Central Business District, *State* law, as explained below, denies the Planning Commission this very power. It goes almost without saying that when City ordinance and State statute conflict, it is State law that governs over City ordinance. Power to regulate the use of land is not inherent in the City but is delegated by the State of Utah by the Municipal Land Use, Development, and Management Act ("**MLUDMA**"), Title 10, Chapter 9a, of the Utah Code. So, for example, were the Utah Legislature to pass a bill repealing the MLUDMA and such a bill were signed by the governor, all City land-use ordinances and regulations would instantly become null and void and have no further effect. All City land-use authority thus derives from the provisions of the Utah Code; the City may not stray from the powers and limitations set forth in the MLUDMA.

Under the delegated MLUDMA powers, the removal of the height limitation in the D-1 District is either an amendment of the D-1 District, a legislative act reserved to the City Council, or a "variance" from the requirements of the D-1 District, a power reserved to the appeal authority under Utah Code § 10-9a-702(1). Nor can such an amendment or variance be likened to a conditional use, subject to mere land-use authority approval. Although City Code § 21A.30.020.F.3 ("*No building shall be more than one hundred feet (100') in height; provided, that taller buildings may be authorized through the design review process, subject to the requirements of chapter 21A.59 of this title*") superficially resembles a conditional use process, it is plainly not. Under Utah Code §10-9a-103(8), "Conditional Use" "*means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.*" Removing a height limitation, however, has nothing to do with uses. Indeed, a 396-foot apartment building is the same use as a 100-foot apartment building. One must look elsewhere for some provision granting a planning commission authority to waive the 100-foot height limitation. There is, however, no such provision anywhere in the Utah Code. No statute authorizes planning-commission alteration of the height restriction, nor does State law permit passage of a City ordinance in derogation of State statute.

The planning commission decision runs contrary to State law and is unsupported by substantial evidence in the record; therefore, Appellants submit that the Hearing Officer must overturn it. Moreover, notwithstanding the Applicant's groundless claim that the mandatory stay goes against the best interests of the City and somehow delays the Development's "significant benefits to the community"---whatever those may be---Appellants respectfully submit that the stay cannot properly be lifted. On the contrary, the stay is itself in the best interests of the City, ensuring as it does that additional action in regard to the Development project will accord with State and local law.

Based on the foregoing, the Appellants respectfully request that the Stay remain in place as the Appeal proceeds. Thank you for considering this important matter. Should you have any questions or would like to further discuss any of this, please contact us at 801-413-1600.

Sincerely,

**SMITH HARTVIGSEN, PLLC**

J. Craig Smith  
Emilee Gorham

cc: Clients

Wade Budge

Allison Parks

Bruce Baird

[REDACTED]  
allison.parks@slcgov.com  
[REDACTED]

# **ATTACHMENT J: AGENDA, NOTICE & MAILING LIST FOR THE PLANNING COMMISSION PUBLIC HEARING**

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**SALT LAKE CITY PLANNING COMMISSION MEETING AMENDED AGENDA**  
**This meeting will be an electronic meeting held without an anchor location**  
**July 14, 2021 at 5:30 p.m.**  
**(The order of the items may change at the Commission's discretion)**

This Meeting will **not** have an anchor location at the City and County Building based on the following determination by the Planning Commission Chair:

*I, \_\_\_\_\_, Planning Commission Chair, hereby determine that with the ongoing COVID-19 pandemic conditions existing in Salt Lake City including, but not limited to, this week's spike in Utah Covid-19 hospitalizations and the presence of the more aggressive and contagious delta variant, that meeting at an anchor location presents a substantial risk to the health or safety of those who would be present.*

Commission Members will connect remotely. We want to make sure everyone interested in the Planning Commission meetings can still access the meetings how they feel most comfortable. If you are interested in watching the Planning Commission meetings, they are available on the following platforms:

- YouTube: [www.youtube.com/slclivemeetings](http://www.youtube.com/slclivemeetings)
- SLCTV Channel 17 Live: [www.slctv.com/livestream/SLCTV-Live/2](http://www.slctv.com/livestream/SLCTV-Live/2)

If you are interested in participating during the Public Hearing portion of the meeting or provide general comments, email: [planning.comments@slcgov.com](mailto:planning.comments@slcgov.com) or connect with us on Webex at:

- <https://bit.ly/slc-pc-07142021>

Instructions for using Webex will be provided on our website at [SLC.GOV/Planning](http://SLC.GOV/Planning)

**PLANNING COMMISSION MEETING WILL BEGIN AT 5:30 PM**  
**APPROVAL OF MINUTES FOR JUNE 23, 2021**  
**REPORT OF THE CHAIR AND VICE CHAIR**  
**REPORT OF THE DIRECTOR**

**PUBLIC HEARINGS**

1. **Planned Development, Design Review, & Preliminary Subdivision at approximately 811 West 100 South** - Jarod Hall, representing the property owners, is requesting approval for a new townhome development at approximately 811 W 100 S. The proposal is for two buildings, each with five single-family attached townhomes for a total of 10 dwellings. The development involves three different applications:
  - a. **Design Review:** The development requires Design Review approval as the development did not receive enough points through the Transit Station Area (TSA) development review process for administrative (staff level) approval. Case number **PLNPCM2021-00424**
  - b. **Planned Development:** The Planned Development is needed to address creating lots without street frontage regulations. Case number **PLNPCM2021-00425**
  - c. **Preliminary Subdivision:** The development also involves a preliminary plat to create the individual new townhome lots. Case number **PLNSUB2021-00426**

The subject property is located within Council District 2, represented by Dennis Faris. (Staff contact: Krissy Gilmore at (801) 535- 7780 or kristina.gilmore@slcgov.com)

2. **Design Review - 500 Parkview Mixed-Use Development** – Design Review - Jacob Shirley, Think Architecture, representing the property owner, Alexey Kotov, has submitted an application for Design Review for a mixed-use development (residential & commercial) to be located at 1320 & 1328 S. 500 East. The applicant is requesting that the Planning Commission consider modification to the "Front Yard Setback" requirements through the Design Review process as required by City Code Section 21A.26.020(F)(1). The required Front Yard Setback in the CN Neighborhood Commercial Zone is 15'. The applicant is requesting a reduction of 11' for a 4' setback along 500 East to match the setback of adjacent structures to the north. The subject property is located within Council District 5 represented by Darin Mano. (Staff contact: Lex Traughber at (385) 226-9056 or lex.traughber@slcgov.com) **Case number PLNPCM2021-00068**
3. **Zoning Map Amendment at approximately 1945 South 1300 East** - Salt Lake City received a request from Max Chang, representing American Estate Management Corp., the property owner, to amend the zoning map for a property located at approximately 1945 South 1300 East. The proposal would rezone the entire property from RMF-35 (Moderate Density Multi-Family Residential) to RMF-45 (Moderate/High Density Multi-Family Residential). The proposed amendment to the Zoning Map is intended to accommodate a new multi-family residential development to potentially provide a total of 46 residential units. The project is located within the RMF-35 (Moderate Density Multi-Family Residential) zoning district and within Council District 7, represented by Amy Fowler. (Staff contact: Nannette Larsen at (385) 386-2761 or Nannette.larsen@slcgov.com) **Case Number: PLNPCM2020-01022**
4. **Design Review for the 150 S Main Street Apartments** - Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 144 South Main Street on the site of the currently vacant Utah Theatre, one adjacent parcel at 156 S. Main and a portion of the parcel at 136 S Main Street. The properties at 144 and 156 S Main are owned by the Redevelopment Agency of Salt Lake City while the parcel at 136 S Main is owned by Hines, the developer. All properties are located in the D-1 – Central Business District. The proposed project is for a 400-unit mixed-use residential apartment building that will include a mid-block walkway/plaza and a park amenity on the top of the parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on Main Street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be approximately 392 feet. Mid-block buildings in excess of 100-feet tall in the D-1 zoning district may be approved through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being requested to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet. The subject property is located within Council District 4, represented by Ana Valdemoros. (Staff contact: David J. Gellner at (385) 226-3860 or david.gellner@slcgov.com) **Case number PLNPCM2021-00024**

*For Planning Commission agendas, staff reports, and minutes, visit the Planning Division's website at [slc.gov/planning/public-meetings](http://slc.gov/planning/public-meetings). Staff Reports will be posted the Friday prior to the meeting and minutes will be posted two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Planning Commission.*





**SALT LAKE CITY PLANNING DIVISION**

451 S State Street - Room 406  
Salt Lake City, UT 84114 - 5480  
PO BOX 145480



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Salt Lake City Planning - David Gellner

PO BOX 145480

Salt Lake City UT 84114

8411435480 B500



**PLANNING COMMISSION MEETING**

July 14, 2021 at 5:30 p.m.

*This meeting will be an electronic meeting held without an anchor location*

**A public hearing will be held on the following matter.**

**Design Review for the 150 S Main Street Apartments** - Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 144 South Main Street on the site of the currently vacant Utah Theatre, one adjacent parcel at 156 S. Main and a portion of the parcel at 136 S Main Street. The properties at 144 and 156 S Main are owned by the Redevelopment Agency of Salt Lake City while the parcel at 136 S Main is owned by Hines, the developer. All properties are located in the D-1 – Central Business District. The proposed project is for a 400-unit mixed-use residential apartment building that will include a mid-block walkway/plaza and a park amenity on the top of the parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on Main Street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be approximately 392 feet. Mid-block buildings in excess of 100-feet tall in the D-1 zoning district may be approved through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being requested to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet. The subject property is located within Council District 4, represented by Ana Valdemoros. (Staff contact: David J. Gellner at (385) 226-3860 or david.gellner@slcgov.com) **Case number PLNPCM2021-00024**

**This Meeting will not have an anchor location at the City and County Building.** Commission Members will connect remotely.

The Planning Commission meeting will be available on the following platforms:

- **YouTube:** [www.youtube.com/slclivemeetings](http://www.youtube.com/slclivemeetings)
- **SLCtv Channel 17 Live:** [www.slctv.com/livestream/SLCtv-Live/2](http://www.slctv.com/livestream/SLCtv-Live/2)

**Providing Comments:**

If you are interested in participating during the Public Hearing portion of the meeting or provide general comments, email: [planning.comments@slcgov.com](mailto:planning.comments@slcgov.com) or connect with us on WebEx at:

- <https://bit.ly/slc-pc-07142021>

For instructions on how to use WebEx visit: [www.slc.gov/planning/public-meetings](http://www.slc.gov/planning/public-meetings)

*For Planning Commission agendas, staff reports, and minutes, visit the Planning Division's website at [slc.gov/planning/public-meetings](http://slc.gov/planning/public-meetings). Staff Reports will be posted the Friday prior to the meeting and minutes will be posted two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Planning Commission.*



SALT LAKE CITY CORPORATION	PO BOX 145460	SALT LAKE CITY	UT	84114
ZIONS FIRST NATIONAL BANK NA	PO BOX 54288	LEXINGTON	KY	40555
39/42 LLC	51 E 400 S	SALT LAKE CITY	UT	84111
VMM ARROW PRESS LLC	51 E 400 S # 210	SALT LAKE CITY	UT	84111
ZIONS FIRST NATIONAL BANK NA	PO BOX 54288	LEXINGTON	KY	40555
UTAH POWER & LIGHT CO	825 NE MULTNOMAH ST #1900	PORTLAND	OR	97232
SALT LAKE COUNTY	PO BOX 144575	SALT LAKE CITY	UT	84114
KEARNS BUILDING JOINT VENTURE	136 S MAIN ST # 430	SALT LAKE CITY	UT	84101
BANDALOOPS, LLC	51 E 400 S # 210	SALT LAKE CITY	UT	84111
VMM ARROW PRESS LLC	51 E 400 S # 210	SALT LAKE CITY	UT	84111
200 SOUTH MAIN STREET INVESTORS LLC	PO BOX 1368	CARLSBAD	CA	92018
REDEVELOPMENT AGENCY OF SALT LAKE CITY	PO BOX 145518	SALT LAKE CITY	UT	84114
BVREF 175, LLC	PO BOX 51298	IDAHO FALLS	ID	83405
160 SOUTH MAIN, LLC	151 S 500 E	SALT LAKE CITY	UT	84102
OB-OK, LLC	230 NORTH STREET	DANVERS	MA	01923
CITYCREEKRANCH.COM LLC	PO BOX 1209	ARDMORE	OK	73402
HOPE PROPERTIES, LLC	789 N NORTHVIEW DR	SALT LAKE CITY	UT	84103
163 LLC	163 S MAIN ST	SALT LAKE CITY	UT	84111
SPEROS ENTERPRISES	PO BOX 17954	SALT LAKE CITY	UT	84117
WCH LLC	175 S MAIN ST # 610	SALT LAKE CITY	UT	84111
JD REV TRUST; MDD REV TRUST	413 10TH ST SW	ALBUQUERQUE	NM	87102
39/42 TRIBUNE LLC	51 E 400 S # 210	SALT LAKE CITY	UT	84111
EVA'S BAKERY LLC	155 S MAIN ST	SALT LAKE CITY	UT	84111
159 LLC	51 E 400 S # 210	SALT LAKE CITY	UT	84111
111 MAIN LLC	PO BOX 511196	SALT LAKE CITY	UT	84151
Current Occupant	49 W 100 S	Salt Lake City	UT	84101
Current Occupant	37 W 100 S	Salt Lake City	UT	84101
Current Occupant	33 W 100 S	Salt Lake City	UT	84101
Current Occupant	115 S WEST TEMPLE ST	Salt Lake City	UT	84101
Current Occupant	119 S WEST TEMPLE ST	Salt Lake City	UT	84101
Current Occupant	123 S WEST TEMPLE ST	Salt Lake City	UT	84101
Current Occupant	37 W 100 S	Salt Lake City	UT	84101
Current Occupant	155 S WEST TEMPLE ST	Salt Lake City	UT	84101
Current Occupant	40 W 200 S	Salt Lake City	UT	84101
Current Occupant	102 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	116 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	118 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	120 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	122 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	124 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	29 W 100 S	Salt Lake City	UT	84101
Current Occupant	136 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	55 W 100 S	Salt Lake City	UT	84101
Current Occupant	127 S WEST TEMPLE ST	Salt Lake City	UT	84101
Current Occupant	32 W 200 S	Salt Lake City	UT	84101

Current Occupant	170 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	38 W 200 S	Salt Lake City	UT	84101
Current Occupant	20 W 200 S	Salt Lake City	UT	84101
Current Occupant	144 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	156 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	175 S WEST TEMPLE ST	Salt Lake City	UT	84101
Current Occupant	160 S MAIN ST	Salt Lake City	UT	84101
Current Occupant	165 S WEST TEMPLE ST	Salt Lake City	UT	84101
Current Occupant	50 W 200 S	Salt Lake City	UT	84101
Current Occupant	147 S WEST TEMPLE ST	Salt Lake City	UT	84101
Current Occupant	147 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	149 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	151 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	165 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	175 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	170 S REGENT ST	Salt Lake City	UT	84111
Current Occupant	143 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	161 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	158 S REGENT ST	Salt Lake City	UT	84111
Current Occupant	159 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	111 S MAIN ST	Salt Lake City	UT	84111
Current Occupant	131 S MAIN ST	Salt Lake City	UT	84111
Salt Lake City Planning - David Gellner	PO BOX 145480	Salt Lake City	UT	84114

## **ATTACHMENT K: PUBLIC OUTREACH AND EARLY NOTIFICATION ITEMS**

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## Recognized Organization Input Notification & Comment Request 150 S Main Street Apartments – Approx. 150 S Main Street - Design Review

**TO:** Thomas Merrill, Chair, Downtown Community Council  
Dee Brewer, Downtown Alliance

**FROM:** David J. Gellner, AICP, Principal Planner, Salt Lake City Planning Division  
([david.gellner@slcgov.com](mailto:david.gellner@slcgov.com) or 385-226-3860)

**DATE:** March 8, 2021

**RE:** PLNPCM2021-00024 – 150 S Main Street Apartments - Design Review Application

The Planning Division has received the following request and is notifying your organization to solicit comments on the proposal:

**Request Type:** Design Review for Building Height for the 150 S Main Street Apartments

**Location:** Approx. 150 S Main Street

**Zone:** D-1 – Central Business District

### Request Description:

Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 150 S. Main Street on the site of the Utah Theatre. The combined 0.89 acre (39,000 square feet) parcel is owned by the Redevelopment Agency of Salt Lake City and is located in the D-1 – Central Business District.

The proposed project is for a 400-unit apartment building that will include 40 affordable, 355 market rate and 5 penthouse level housing units. The building will include a mid-block walkway and a park amenity on the separate parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on main street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be 392 feet.



### **Design Review for Building Height**

Buildings in excess of 100-feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being used to allow the residential lobby entrance to be set back 10-feet from Main Street. The zone specifies a maximum of 5-feet, but this may be modified through the Design Review process. This request is subject to the approval standards for Design Review located in chapter 21A.59 of the Salt Lake City Zoning Ordinance. Those standards are included at the end of this notification letter. Requests for additional building height require Planning Commission review. I have attached information submitted by the applicant relating to the project to facilitate your review.

### **Request for Input from Your Recognized Organization**

As part of this process, the City is required to solicit comments from Recognized Organizations. The purpose of the Recognized Organization review is to inform the community of the project and solicit comments/concerns they have with the project. The Recognized Organization may also take a vote to determine whether there is support for the project, but this is not required. Per City Code 2.60.050 - The recognized community organization chair(s) have **forty-five (45) days** to provide comments, from the date the notice was sent. A public hearing will not be held, nor will a final decision be made about the project within the forty-five (45) day notice period. This notice period ends on the following day:

**April 26, 2021**

### **Open House**

The Planning Division is holding an online open house via a City webpage where information about the proposal can be viewed. Questions can be e-mailed to City staff from the webpage and answers will be posted on this webpage. Information about the online open house is being sent to neighboring property owners and residents via a mailed notice.

The petition Open House webpage, project information and associated documents can be found under the project links for the **150 Main Street Apartments – Design Review** as follows:

<https://www.slc.gov/planning/2021/03/08/150-s-main-street-apartments-design-review/>

OR

<http://tiny.cc/slc-openhouse-00024>

### **Comment Guidance**

Public comments will be received up to the date of the Planning Commission public hearing. However, you should submit your organization's comments within 45 days of receiving this notice in order for those comments to be included in the staff report. As a Recognized Organization, we ask that you address the following questions in your comments:

- What issues were raised at the meeting and whether any suggestions were made to address the issues.
- The number of persons that attended the meeting (not including those with the applicant or City Staff).
- Whether a vote was taken on the matter and if so, what the vote tally was.

### **Comment Submission Address**

You may submit your written comments via e-mail to [david.gellner@slcgov.com](mailto:david.gellner@slcgov.com) or mail them to:

**Salt Lake City Planning Division  
ATTN: David Gellner  
451 S State St Rm 406  
PO Box 145480  
Salt Lake City UT 84114-5480**

Please **reference file PLNPCM2021-00024** in your comments.

If you have any questions, please call me at (385) 226-3860 or contact me via e-mail.

## **Standards for Design Review – Salt Lake City Zoning Ordinance - Chapter 21A.59.050**

The standards in this section apply to all applications for design review as follows:

For applications seeking modification of base zoning design standards, applicants shall demonstrate how the applicant's proposal complies with the standards for design review that are directly applicable to the design standard(s) that is proposed to be modified.

- A. Any new development shall comply with the intent of the purpose statement of the zoning district and specific design regulations found within the zoning district in which the project is located as well as the City's adopted "urban design element" and adopted master plan policies and design guidelines governing the specific area of the proposed development.
- B. Development shall be primarily oriented to the sidewalk, not an interior courtyard or parking lot.
  - 1. Primary entrances shall face the public sidewalk (secondary entrances can face a parking lot).
  - 2. Building(s) shall be sited close to the public sidewalk, following and responding to the desired development patterns of the neighborhood.
  - 3. Parking shall be located within, behind, or to the side of buildings.
- C. Building facades shall include detailing and glass in sufficient quantities to facilitate pedestrian interest and interaction.
  - 1. Locate active ground floor uses at or near the public sidewalk.
  - 2. Maximize transparency of ground floor facades.
  - 3. Use or reinterpret traditional storefront elements like sign bands, clerestory glazing, articulation, and architectural detail at window transitions.
  - 4. Locate outdoor dining patios, courtyards, plazas, habitable landscaped yards, and open spaces so that they have a direct visual connection to the street and outdoor spaces.
- D. Large building masses shall be divided into heights and sizes that relate to human scale.
  - 1. Relate building scale and massing to the size and scale of existing and anticipated buildings, such as alignments with established cornice heights, building massing, step-backs and vertical emphasis.
  - 2. Modulate the design of a larger building using a series of vertical or horizontal emphases to equate with the scale (heights and widths) of the buildings in the context and reduce the visual width or height.
  - 3. Include secondary elements such as balconies, porches, vertical bays, belt courses, fenestration and window reveals.
  - 4. Reflect the scale and solid-to-void ratio of windows and doors of the established character of the neighborhood or that which is desired in the master plan.
- E. Building facades that exceed a combined contiguous building length of two hundred feet (200') shall include:
  - 1. Changes in vertical plane (breaks in facade);
  - 2. Material changes; and
  - 3. Massing changes.
- F. If provided, privately-owned public spaces shall include at least three (3) of the six (6) following elements:
  - 1. Sitting space of at least one sitting space for each two hundred fifty (250) square feet shall be included in the plaza. Seating shall be a minimum of sixteen inches (16") in height and thirty inches (30") in width. Ledge benches shall have a minimum depth of thirty inches (30");
  - 2. A mixture of areas that provide seasonal shade;
  - 3. Trees in proportion to the space at a minimum of one tree per eight hundred (800) square feet, at least two inch (2") caliper when planted;
  - 4. Water features or public art;
  - 5. Outdoor dining areas; and
  - 6. Other amenities not listed above that provide a public benefit.
- G. Building height shall be modified to relate to human scale and minimize negative impacts. In downtown and in the CSHBD Sugar House Business District, building height shall contribute to a distinctive City skyline.
  - 1. Human scale:
    - a. Utilize stepbacks to design a building that relate to the height and scale of adjacent and nearby buildings, or where identified, goals for future scale defined in adopted master plans.
    - b. For buildings more than three (3) stories or buildings with vertical mixed use, compose the design of a building with distinct base, middle and top sections to reduce the sense of apparent height.

2. Negative impacts:
  - a. Modulate taller buildings vertically and horizontally so that it steps up or down to its neighbors.
  - b. Minimize shadow impacts of building height on the public realm and semi-public spaces by varying building massing. Demonstrate impact from shadows due to building height for the portions of the building that are subject to the request for additional height.
  - c. Modify tall buildings to minimize wind impacts on public and private spaces, such as the inclusion of a wind break above the first level of the building.
3. Cornices and rooflines:
  - a. Cohesiveness: Shape and define rooflines to be cohesive with the building's overall form and composition.
  - b. Complement Surrounding Buildings: Include roof forms that complement the rooflines of surrounding buildings.
  - c. Green Roof and Roof Deck: Include a green roof and/or accessible roof deck to support a more visually compelling roof landscape and reduce solar gain, air pollution, and the amount of water entering the stormwater system.
- H. Parking and on site circulation shall be provided with an emphasis on making safe pedestrian connections to the sidewalk, transit facilities, or midblock walkway.
- I. Waste and recycling containers, mechanical equipment, storage areas, and loading docks shall be fully screened from public view and shall incorporate building materials and detailing compatible with the building being served. Service uses shall be set back from the front line of building or located within the structure. (See subsection 21A.37.050K of this title.)
- J. Signage shall emphasize the pedestrian/mass transit orientation.
  1. Define specific spaces for signage that are integral to building design, such as commercial sign bands framed by a material change, columns for blade signs, or other clearly articulated band on the face of the building.
  2. Coordinate signage locations with appropriate lighting, awnings, and other projections.
  3. Coordinate sign location with landscaping to avoid conflicts.
- K. Lighting shall support pedestrian comfort and safety, neighborhood image, and dark sky goals.
  1. Provide street lights as indicated in the Salt Lake City Lighting Master Plan.
  2. Outdoor lighting should be designed for low-level illumination and to minimize glare and light trespass onto adjacent properties and uplighting directly to the sky.
  3. Coordinate lighting with architecture, signage, and pedestrian circulation to accentuate significant building features, improve sign legibility, and support pedestrian comfort and safety.
- L. Streetscape improvements shall be provided as follows:
  1. One street tree chosen from the street tree list consistent with the City's urban forestry guidelines and with the approval of the City's Urban Forester shall be placed for each thirty feet (30') of property frontage on a street. Existing street trees removed as the result of a development project shall be replaced by the developer with trees approved by the City's Urban Forester.
  2. Hardscape (paving material) shall be utilized to differentiate privately-owned public spaces from public spaces. Hardscape for public sidewalks shall follow applicable design standards. Permitted materials for privately-owned public spaces shall meet the following standards:
    - a. Use materials that are durable (withstand wear, pressure, damage), require a minimum of maintenance, and are easily repairable or replaceable should damage or defacement occur.
    - b. Where practical, as in lower-traffic areas, use materials that allow rainwater to infiltrate into the ground and recharge the water table.
    - c. Limit contribution to urban heat island effect by limiting use of dark materials and incorporating materials with a high Solar-Reflective Index (SRI).
    - d. Utilize materials and designs that have an identifiable relationship to the character of the site, the neighborhood, or Salt Lake City.
    - e. Use materials (like textured ground surfaces) and features (like ramps and seating at key resting points) to support access and comfort for people of all abilities.
    - f. Asphalt shall be limited to vehicle drive aisles.





## EARLY NOTIFICATION OF A PROJECT IN YOUR NEIGHBORHOOD

*This meeting will be an electronic meeting pursuant to Salt Lake City Emergency Proclamation No. 2 of 2020 (2)(b).*

### 150 S Main Street Apartments

Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 150 S. Main Street on the site of the Utah Theatre. The combined 0.89 acre (39,000 square feet) parcel is owned by the Redevelopment Agency of Salt Lake City and is located in the D-1 – Central Business District. The proposed project is for a 400-unit apartment building that will include 40 affordable, 355 market rate and 5 penthouse level housing units. The building will include a mid-block walkway and a park amenity on the separate parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on main street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be 392 feet. Buildings in excess of 100 feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being used to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet.

A public hearing with the Planning Commission has not been scheduled at this time. You will be notified of the public hearing at a later date.

The purpose of this notice is to make you aware of the proposed development and let you know how you may obtain more information about and comment on the project early in the review process. Additionally, notice of this application has been sent to the Downtown Alliance and Downtown Community Council Chairs. **If you would like additional information, please contact the project planner:**

**David J. Gellner at 385-226-3860 or [david.gellner@slcgov.com](mailto:david.gellner@slcgov.com)**  
**(Case number PLNPCM2021-00024)**

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### ATTENDING THE OPEN HOUSE

This Open House meeting will not have an anchor location. The Planning Division will be hosting an online version of the open as an opportunity to review the project information and provide comments and questions. Your input is valuable!

**Join our Online Open House:**

<http://tiny.cc/slc-openhouse-00024>

**Public Comments and Questions:**

We want to hear from you! To submit a comment or question please contact the staff planner via email or leave a voicemail, your questions will be answered within a week after the comment window has ended.

- **Start of the Public Comment Period:** March 8, 2021
  - **End of the Public Comment Period:** April 26, 2021
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**Salt Lake City Planning Division - Public Information Sheet**  
**Design Review for Building Height – PLNPCM2021-00024**  
**150 S Main Street Apartments**



**Request Type:** Design Review for Building Height  
**Location:** 150 S Main Street  
**Zone:** D-1 – Central Business District

Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 150 S. Main Street on the site of the Utah Theatre. The combined 0.89 acre (39,000 square feet) parcel is owned by the Redevelopment Agency of Salt Lake City and is located in the D-1 – Central Business District.

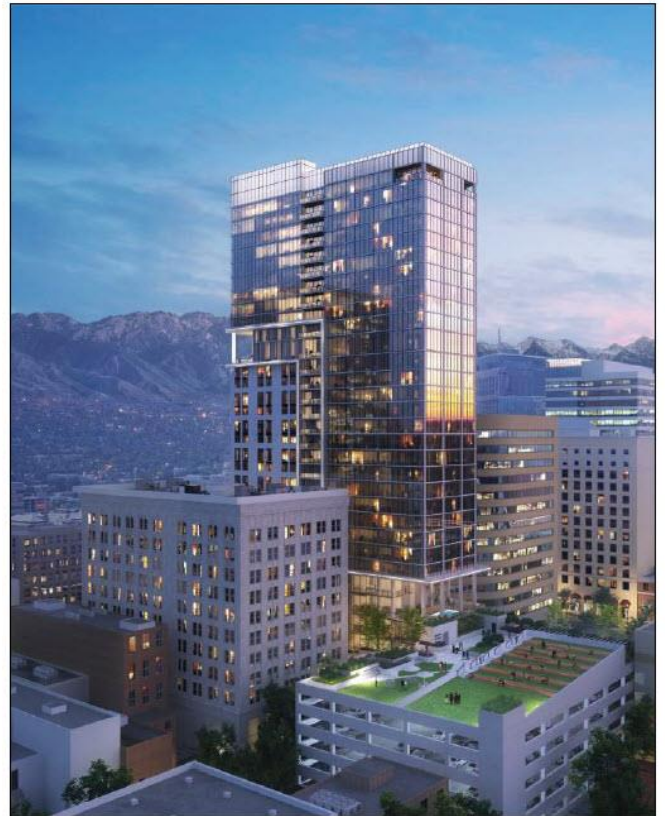
The proposed project is for a 400-unit apartment building that will include 40 affordable, 355 market rate and 5 penthouse level housing units. The building will include a mid-block walkway and a park amenity on the separate parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on main street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be 392 feet.

Buildings in excess of 100-feet tall in the D-1 zoning district are allowed through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being used to allow the residential lobby entrance to be set back 10-feet from Main Street. The zone specifies a maximum of 5-feet but this may be modified through the Design Review.

Renderings of the proposed structure are included below and on the following page of this information sheet.







If you have questions about the project or have comments, please contact the project planner:

David J. Gellner, AICP, Principal Planner  
(385) 226-3860

[david.gellner@slcgov.com](mailto:david.gellner@slcgov.com)