

**SALT LAKE CITY
HISTORIC LANDMARK COMMISSION
Minutes of the Meeting
Held at 451 South State Street, Room 126
April 4, 2007**

A field trip preceded the meeting and was attended by Commission Members David Fitzsimmons, Pete Ashdown, Paula Carl, Creed Haymond, Noreen Heid, Esther Hunter, Warren Lloyd, Jessica Norie, and Anne Oliver. Planning Staff present were Cheri Coffey, Janice Lew, Michael Maloy, Nick Norris, Lex Traughber, and Louise Harris. A quorum was present, therefore, minutes were taken of the field trip.

MINUTES OF THE FIELD TRIP

The Commission toured the Masonic Temple, which is designated as a Landmark site. Construction on the temple began in 1926 and was completed in 1927.

A discussion ensued regarding the need that some of the Commission Members had to leave the Historic Landmark Commission meeting early and as a large body of speakers was anticipated, whether a time limit would be imposed on speakers at the meeting. The group came to the conclusion that limiting the time that speakers had to speak was the prerogative of the Chair.

211-215 West 500 North

The group visited the site while staff described the project. The structure is listed as a contributory building on the available survey information. No known changes have occurred to the structure after the Capitol Hill Historic District was designated. A question was raised as to when the new windows were put in and what the proposed plan was for those windows. The group also wanted to discover what the applicant's plans were for the trees on the site.

Staff announced that Petition No. 470-06-53, which was denied by the Historic Landmark Commission on February 7, 2007, was appealed and would be heard by the Land Use Appeals Board on April 23, 2007.

MINUTES OF THE MEETING

The Historic Landmark Commission and staff assembled for the meeting. Present from the Historic Landmark Commission were Chairperson Fitzsimmons, Commissioner Ashdown, Commissioner Carl, Commissioner Christensen, Commissioner Haymond, Commissioner Heid, Commissioner Hunter, Commissioner Lloyd, Commissioner Norie, and Commissioner Oliver.

Present from the Planning Staff were George Shaw, Planning Director; Cheri Coffey, Deputy Planning Director; Janice Lew, Principal Planner; Michael Maloy, Principal Planner, Nick Norris, Principal Planner, Lex Traughber, Principal Planner, and Kathryn Weiler, Senior Secretary.

Lynn Pace, Deputy City Attorney, was present.

Chairperson Fitzsimmons called the meeting of the Historic Landmark Commission to order at 4:38 P.M.

Chairperson Fitzsimmons announced that each item would be reviewed in the same order as listed on the agenda and asked that all cellular telephones and pagers be turned off so there will be no disruption during the meeting.

An agenda was mailed to pertinent people and was posted in the appropriate locations in the building, in accordance with the open meeting law. A roll is being kept with the minutes of all who attended the Historic Landmark Commission meeting. The minutes are presented in agenda order, not necessarily as items were presented at the Historic Landmark Commission meeting. Electronic recordings of the meeting will be retained in the Commission office for a period of one year, after which they may be erased.

Chairperson Fitzsimmons inquired if all Commissioners had the opportunity to visit sites that would be the subject of discussion at this meeting. With the exception of Commissioner Hunter, the Commissioners indicated they had visited the sites.

COMMENTS TO THE COMMISSION

Chairperson Fitzsimmons stated comments would be taken on any issues affecting the historic districts and historic preservation in Salt Lake City. As there were no remarks, he proceeded with the next item on the agenda.

APPROVAL OF MINUTES

Commissioner Christensen stated that the minutes for February 7, 2007, should be corrected to read that he was present at the meeting, to correct the spelling of his name which is listed in the body of the minutes, and to insert the page number at the bottom of the page. Commissioner Christensen then moved that the minutes for the Historic Landmark Commission public hearing on February 7, 2007, be approved with the noted corrections. Commissioner Hunter seconded the motion. The motion was accepted unanimously with the exception of Commissioner Heid, who abstained, being absent from the February meetings. Commissioners Norie and Oliver are recent appointments to the Commission, therefore, not present at the February meeting.

UNFINISHED BUSINESS

(As Chairperson Fitzsimmons declared himself in a position of conflict of interest in the case before the Historic Landmark Commission, he recused himself from the Commission at 4:41 P.M. while the case was heard by the Commission. Acting Chairperson Heid conducted the hearing.)

Case No. 470-06-33 — a request by Everest Builders, represented by Eric Saxey, to review the findings of the Economic Review Panel regarding the proposed demolition of contributory structures located at approximately 256 South 700 East, 262-264 South

700 East, and 268 South 700 East, in the Central City Historic District.

(This item was heard at 4:42 P.M.)

The case was previously heard before the Historic Landmark Commission in September 2006. The application was denied by the Historic Landmark Commission, and the applicant subsequently submitted an application for Economic Hardship.

The staff report, which was delivered to the Commission was inadvertently missing a portion. The missing section was emailed to the Commissioners and a hard copy has been placed at each Commissioner's seat. Extra copies were accessible to the public.

Ms. Coffey presented the Staff Report by outlining the history and major issues of the case, and stating the findings of fact by the Economic Review Panel on March 13, 2007, which are recorded in the minutes of that meeting; a copy is also included in the Staff Report with Staff's recommendation. A complete copy of the Staff report is filed with the minutes.

Ms. Coffey explained that the Economic Review Panel (ERP) met on this case to consider the application submitted by Everest Builders, represented by Mr. Saxey. The case involved a potential Economic Hardship regarding the applicant's desire to demolish three contributing structures. At the time of the ERP meeting, Staff recommended that the Panel examine the case for each structure separately. The Panel determined to view the structures as a whole.

The burden is on the applicant to provide evidence to demonstrate that the application of the standards would deny him a reasonable economic use or return on his property.

Staff told the Panel that they could postpone their decision, but there is a time frame of forty-five days in the Zoning Ordinance in which time they must make their decision. They met on Tuesday and were required to make a decision by Friday.

The Panel members were experts in their field and their role is to take the extensive information provided and determine if there is an Economic Hardship. The Landmark Commission's role is to determine whether they believe the Economic Review Panel did their job. If the Commission decides to reverse the Panel's decision, it must be based on the Commission's finding that the Panel's process was flawed, the standards were not adequately addressed, if the Panel's decision was arbitrary, or if the decision was made by an erroneous finding based upon material fact. The Historic Landmark Commission has one of three choices to make:

1. Affirm the decision of the Economic Review Panel;
2. Reverse the decision of the Economic Review Panel; or
3. Remand the case back to the Economic Review Panel. If they remand the case back to the ERP, they must give specific direction on what the Panel must focus on that they did not focus on before.

When the Panel met: they took public comment, closed the hearing, and deliberated on each of the standards. The Panel made the following findings:

1. The applicant did know of the historic designation;
2. The appraisal was a reliable appraisal;
3. Even with rehabilitation of the properties, the Panel did not believe that the rents could be increased enough to make it economically feasible due to the size of the units and the location of the units on that section of 700 East;
4. The Panel identified that there was a high debt service on the properties. Even though they did not believe that could be factored into the decision, they noted that the applicant made a very bad financial decision;
5. Because of that debt service, they did not believe that the properties could be rehabilitated and then sold. They did not believe that they could recoup their purchase price. They did not think that the properties could be rehabilitated and rented and bring a profit because of their location and the size of units;
6. Given that both the Master Plan and Zoning call for the property to be multi-family residential, commercial or mixed use development cannot be considered in this evaluation. Even as a planned development, the parking requirement will limit the number of new units that can be constructed on the site and the cost vs. the marketable rental rates for the existing units still are not economically reasonable.
7. For the planned development scenario to work, the six-plex and the duplex at 262-264 South 700 East would need to be demolished. That would leave the purple duplex isolated between the McDonalds and the new multi-family development. The Panel did not think this scenario would be viable or reasonable.

The Panel found that there was an Economic Hardship based upon the evidence and the public comment.

As a side note, Staff said that they are of the opinion that it is appropriate for the Economic Review Panel to hold public hearings. However, due to the public expectation that the Economic Review Panel will be a neutral body of experts, staff has requested that the Mayor initiate a petition to amend the current Ordinance regarding the makeup of the panel. Staff is prepared to request that the panel be changed to a standing body of experts in this subject matter that will be called upon whenever the Historic Landmark Commission receives Economic Hardship applications.

There are other portions of the Economic Hardship regulations that may also need to be modified. The consultant, who is hired to complete the preservation plan, is a specialist in preservation ordinances and will advise staff on how to improve the ordinance.

Staff discussion:

In response to questions by the Commission, Ms. Coffey explained that the applicant's analysis was that he could get two units on the vacant portion of the property with parking as the limiting factor. The Panel asked Ms. Coffey to develop a feasibility study as to what could possibly be built there through a Planned Development scenario. If all properties were grouped together, 26 units could be constructed, ten units already exist.

Through the Planned Development process, the Planning Commission can modify setbacks and those types of requirements which would allow more than two units, but Staff's opinion was that parking would still be a limiting factor.

The initial cost of that vacant parcel was not figured in as part of the debt burden for the purposes of the study. The Panel asked for the specific numbers that related to properties with the structures on them so that the debt on the vacant property would not be a burden on the other properties.

Commissioner Ashdown stated that as he understood it, the Panel was able to quantify, to basically isolate the vacant parcel. They were able to show numbers that the vacant parcel had a valuation that was not calculated.

Commissioner Hunter asked if the calculation for the vacant lot came from the county assessor or was it an actual appraisal on that vacant lot. Ms. Coffey replied that the applicant would have that answer.

The panel did not believe that the applicant could recoup his purchase price for the property because of the size and location of the units. They did not consider recapturing the value through reselling the property. The panel said that the applicant financed so much of the property that he would need to rehabilitate the property before reselling and he could not recapture the rehabilitation costs.

Commissioner Christensen stated that page 2 of the minutes read: "Ms. De Lay said that Mr. Saxey purchased the property for less than the appraisal at the time of the purchase." Property values have not gone down and have either stabilized or increased substantially in Salt Lake since the property was purchased. Even if some investment was needed to rehabilitate the properties before they were sellable, it seems reasonable to expect a return when the properties were purchased a little over a year ago below the established market value based upon the appraised value. It does not seem logical that he could lose money by selling it a year later.

Ms. Coffey stated that the Panel didn't specifically ask that if he were to resell his property a year later, would it have appreciated. They didn't believe that he could recapture his expenses as a result of his debt service.

Commissioners expressed frustration with the Ordinance which seems to allow demolition of buildings if a property owner wastes a lot of money on it.

Ms. Coffey confirmed that the Panel considered both state and federal tax incentives, but did not believe that even with the incentives, the applicant could recapture his loss.

Commissioner Hunter expressed concern that one of the Panelists who represented the applicant filled a dual role, and thus, the process did not appear equitable. She further stated that she was disturbed by the narrative that was engaged while the public gave testimony. The speaker was timed, but there was an excess of interruptions and contrary comments from the Panelist which continued throughout. Comments in opposition to demolition were debated immediately without giving the speaker an

opportunity to complete their presentation. It did not seem a reasonable way to conduct the meeting. Given that the Historic Landmark Commission is governed by Robert's Rules of order the Panel acting in behalf of the Historic Landmark Commission to gather data, should also be governed by those rules.

She further expressed concern regarding the information that was given to the Panel prior to the meeting. Due to the short time span between the distribution of the materials and the ERP meeting, the Panel did not seem to have sufficient time to consider the materials. And again today, materials were missing from the packet. In the middle of the work day, the Commissioners were given those materials which did not allow them time to deliberate.

Ms. Coffey explained that at the ERP meeting, the Panel had before them all of the information that was provided to Staff on the Thursday before the meeting when the packets were mailed. There was a copying error and the back sheet on one of the applicant's statements did not make it into the packet. The omitted statement page was discussed in length in the meeting so the original omission did not invalidate the findings of the Panel. The materials that the Panel received on the day of the meeting were submitted to Staff that day.

Commissioner Christensen asked about the comment of Ms. De Lay, who was not Chair, who stated that Ms. Cromer should not be heard because her testimony was tainted.

Ms. Coffey explained that her understanding of what Ms. De Lay said was there were conversations between Ms. Cromer and the applicant and there was an accusation that Ms. Cromer had offered to buy the applicant's property and that is why Ms. De Lay did not think that it was appropriate for Ms. Cromer to speak. Ms. De Lay noted Ms. Cromer's presence in the audience and stated Ms. De Lay could clarify her statement if necessary. Ms. Coffey went on to say that when Ms. Cromer got up to speak, she stated that was not the case. Ms. Cromer can clarify her conversations and her interest in the property.

Acting Chair Heid, seeing that there were no further questions for staff, invited the applicant to speak. She suggested a ten-minute presentation from the applicant and five minutes for each member of the public who wished to speak. The Commission could then determine in executive session if there is a need for further testimony.

Mr. Saxey, the applicant, introduced himself to the Commission. In response to a question posed by Commissioner Ashdown, he stated that he did not examine a copy of the materials submitted by Ms. Cromer as the sources were not identified and he did not consider them credible. He further stated that both tax incentives were discussed in the ERP meeting. The tax credits did not come close to making the venture profitable.

Commissioner Christensen asked Mr. Saxey if he purchased the property below appraised value and did he explore simply reselling the property.

Mr. Saxey replied that some of the units are unusable. The properties are deteriorated and continue to decay. It would cost too much to bring them back up to a rentable standard and get that cost out of the sales price.

Commissioner Christensen stated that property values in Salt Lake City are not depreciating. He asked if the properties had so deteriorated in one year of ownership to make them worth less than a bonafide appraisal when the property was purchased below appraised value.

Mr. Saxey explained that he spent a lot of money on the interest for the loan. One unit is completely unrentable and another unit was re-rented for approximately \$200 a month. There is almost \$800 to \$1000 between those two units plus the money spent in the meantime.

Mr. Saxey outlined some of the deterioration that manifested since he took over ownership. Some of the structural beams in the back of that purple house were knocked loose and there was no footing. The white house has water damage.

Mr. Saxey stated that he believed the appraiser was credible when Mr. Christensen asked him if he believed there was potentially some malpractice in the work of the appraiser who did the appraisal.

A lengthy discussion ensued regarding what the Commission believed would be a reasonable dollar amount on the return of the land and property. Mr. Saxey stated that he believed that six to eight percent would be reasonable.

Mr. Saxey stated that he felt that the Panel had already gone through the facts and arrived at a decision and that recommendation should be upheld.

Public Comment

Seeing as the Commissioners had no further questions, Acting Chairperson Heid opened the meeting for public comment.

Jody Bangeter, a neighborhood representative for the Benion area, which is 700 to 1000 East between 500 and 900 South, stated opposition to the finding of Economic Hardship. She said that the proposed demolition is not in the Benion Community, but in close proximity and thereby, the neighborhood was concerned.

1. The neighborhood feels strongly that a developer should not be able to come into a historic area, purchase a property for an inflated price, and then prove financial hardship and tear down the structures. Ms. Bangeter stated that a bad business decision is a bad business decision and the neighborhood should not suffer as a result.
2. The neighborhood had issues with the Panel selection process and is happy that the Board is now looking into how the Panel is formulated.
3. The neighborhood had some questions regarding the application. Stating that the application does not contain all necessary information, she noted that the applicant

states that Mr. Saxey looked into tax credits, but it did not identify to whom he spoke. As a result of this omission, he is not able to prove that he spoke to anyone.

In response to a question raised by the Commission Oliver, Commissioner Oliver clarified that the minutes reflect that the Community Council did not vote for outright demolition, but for demolition if Economic Hardship was proved.

Cindy Cromer, owner of two historic buildings on the block, stated opposition to the finding for Economic Hardship. Stating that the petitioner has not met the burden to prove Economic Hardship as required by the Ordinance, she said the burden requires a finding of no economic return. She has two buildings which were in comparable state to the subject property and shopped for two weeks for insurance. She has 30 years experience as a landlord and owns ten historic structures. She stated regret that some of the materials she submitted were not in the Commissioner packets, but the packets did contain a list of the materials she intended for the Commissioners to have.

Referencing comparables and information regarding vacant land for infill housing, which were missing from the packet, but given to the Commissioners at the meeting. Ms. Cromer disagreed with the statements made by the Panel that the lots are not buildable or financially viable. The packet contains a recent comparable of a 1.9 acre lot with a density potential of two units and that sold for just under \$200,000; making it appear that developers are willing to pay \$100,000 in land costs per unit in this area.

She stated further that she has looked at about six different proposals and a mountain of paperwork and did not find documentation of direction given to the Economic Hardship Panel. She urged the Commission that if they decided to remand the case back to the Panel, that they give explicit instructions to the person who is representing them on that Panel.

The Panel persisted on focusing only on rental values. The condo development is what is happening now. Rental is a very hard business now. The Economic Review Panel failed to consider redeveloping the historic structures as condo units. Many of the existing rentals are being redeveloped as condominiums. She further stated that Also it is sad that the architectural drawings reflected only a straightforward RMF-45 zone. The project is eligible for a Planned Unit Development (PUD) and to use a PUD to create a project that reflects a historic streetscape of the historic multi-story apartment buildings that are around the intersection of 700 East and 300 South should be considered.

There are buildings there that are three -to three -and- one- half stories, some of which have a minus setback from the property line. They actually have balconies hanging over public property. It would be inappropriate to use a twenty foot setback on any new construction on this site. That message has not been conveyed to the developer and his architect. It would be a travesty to waste the developable space on this site by setting the building back twenty feet.

Acknowledging that moving historical structures is normally considered a difficult way to proceed, Ms. Cromer produced handouts for the Commission which demonstrated a

plan to move the frame house. She explained that it is easy to save one of the structures (the building currently used as a six-plex) and possible to save two, but could not find a good way to get a large housing project and save all three of the structures. The frame house would be the easiest one to move.

Commissioner Ashdown asked Ms. Cromer if she had a financial interest in this property.

Ms. Cromer stated that she did say that she found the six-plex interesting, but has an interest in all historic buildings. She told him that she found it interesting because he said that no one would be interested in the property. She has no interest to invest in any property on a state highway, and this would not be a property that she would seriously pursue.

Commissioner Ashdown asked Ms. Cromer if she felt the facts and figures she provided to the ERP were adequately considered.

Ms. Cromer stated that the staff received some of that information days ahead of the ERP meeting and some of it on the day of the meeting. She said that the minutes showed an accurate picture of how the materials were considered. The Panel did not spend a great deal of time on it. She ran out of time to verbalize everything that was in the packet. She urged the Commission to look at all of the information she submitted and be very specific in the Commission's instruction to the Panel representative.

In response to a question posed by Commissioner Carl regarding the nature of the Community Council meeting where the vote for demolition was taken, Ms. Cromer stated that she was the only member from her block in attendance.

In the ERP meeting, Ms. Cromer raised the question as to whether the repairs quoted by BuildingCraft were cosmetic or if the quoted repairs were required by the City inspectors. The City Inspector was to inspect the property on the Friday after the Tuesday meeting. There was no resolution to the question as to whether the quoted repairs were actually required by the code.

In reference to the value of the vacant land, Ms. Cromer stated that if tax assessor's values are used, then all tax assessor's values should be used. If appraiser's values are used, then appraiser's values should be used straight across in order to come up with a number that is equitable. She noted vacant land is extremely rare in this part of the City, and the proximity to Traxx has made all the properties much more valuable.

Ms. Cromer also commented that the property did not have a reasonable debt service. In the market right now, it is typical to purchase land with cash resulting in zero debt service. It is difficult for landlords to compete in the rental market when they carry a debt on the property. To come in with a project with such a phenomenal debt service then hire a management company when you only have ten units, makes it even more difficult.

Executive Session

Seeing no further comments from the public, Acting Chairperson Heid closed the public hearing and the Commission went into Executive Session. She reminded the Commissioners that their task is to determine if the Economic Hardship Panel did their job correctly.

Commissioner Christensen asked a procedural clarifying question. He wanted to discern if the process required the property owner to consider options even if they are not options that the property owner would enact.

Mr. Pace explained that section 21A.020.k.2.c.i, ii, and iii of the Zoning Ordinance require that the Historic Landmark Commission take one of three actions:

- 1) Agree with the findings of the Economic Review Panel and issue a certificate of appropriateness for the demolition;
- 2) Find that the Panel erred and remand the case back to the original Panel; or
- 3) Find that the Panel erred and reverse the decision of the Panel.

Ms. Coffey stated that the owner is required to look at alternate uses of the property. The Panel did make comments that the owner did not appear to have done a lot of that, but as a Panel, they talked about alternate scenarios. The Panel found that they did not think there were any scenarios that would bring a reasonable income.

Commissioner Christensen noted that the applicant did not appear to want to go through the tax credit process because the recapture would take too many years, but it appears that the option was not fully understood until the meeting and the potential of 40% return on the work.

Commissioner Norie stated that she understood from what she read that the 20 percent federal tax credit was on the rehab or construction cost and the applicant rejected the 20% from the state because he would have to make a profit to take the tax credit.

Ms. Coffey confirmed that this was the argument the applicant made and that he was not getting any income from the property, so he thought he would not be able to take the tax credit.

Commissioner Christensen said that the income would need to be based on the property after rehabilitation, and to say that there is no income before the rehabilitation is illogical.

Ms. Coffey said that the applicant stated that rehabilitation would not result in an increase in income because the unit size and location would still bring in low rents. When purchased many of the units were empty and the applicant invested into upgrading some into rentable condition.

The Commission generally agreed that the burden of proof was on the applicant. The Commission asked to see different scenarios and did not get the information. The Commission agreed that they had not seen anything substantive from the applicant. A neighbor proposed a plan that was more thoroughly thought through than the applicant, the applicant's architect, or the applicant's representative.

The Commission considered the following to determine the completeness of the deliberation and recommendation from the ERP.

1. The avenues of alternative development was not explored. Creating condo units or resale of property was not considered as an economically viable solution.
2. The price was lower than the appraisal and the debt service was unreasonably high. The debt service was a pivotal point for the panel.

Commissioner Hunter stated that when the proceedings of the meeting were formed into minutes, it seemed somewhat reasonable, but she was at the meeting and did not find it a reasonable Panel. Representatives of the Commission did some number crunching and came back to give sound recommendations, but Commissioner Hunter did not feel comfortable that everything was considered fairly and accurately. While it may have been acceptable legally, technically it did not allow the Panel members to fairly consider the evidence.

The Commission asked for clarification if the findings were rejected.

Mr. Pace stated that rejection of the findings of the Panel was akin to reversal. The applicant could not reapply for Economic Hardship without substantial changes in circumstance. If the Commission decides that there was an erroneous finding of material fact, they would have to remand the case back to the original Panel or to reconsider the decision. If the case is remanded back to the Panel, the original Panel would be retained, and hold another hearing, but it is not obligated to hold a public hearing. Mr. Pace also stated that if the Commission decides to reverse the decision of the Panel, they will have to make findings on the criteria that support the reversal.

Commissioner Christensen stated that the Commission specifically asked to meet with prospective panelists prior to the meeting to participate in the selection process so the Commission would have the opportunity to state their concerns to the Panelist who would be representing them.

Ms. Coffey stated that the Commission gave her a list of names and she understood that she was to go through the list and if the first person rejected the opportunity to serve, she was to select the next person. The Commission did have a list of concerns that they wanted the Panelist to be aware of and she shared those concerns with the final Panel members.

Commissioner Ashdown expressed the concern that Ms. De Lay, one of the Panel members (Ms. De Lay) had a conflict of interest because she did not represent a neutral view, representing both the Panel and the applicant.

Mr. Pace explained that one Panelist was selected by the Historic Landmark Commission to represent their position, and one to represent the position of the applicant. Historically there have been incidents where the applicant actually served as a Panelist. It is not a neutral Panel and expected that the Panel will debate until a decision is made. This was the first time that the meeting was held as a public hearing which allowed public opinion. Having a public hearing did not change the nature of the meeting, but did allow for public testimony to be heard. The public are accustomed to seeing an impartial board who considers the material facts and testimony of the applicant. As this was not the nature of the meeting, some members of the public expressed concern that there was a potential conflict.

Commissioner Hunter stated that even if the process is legal, the members still should have decorum and not interrupt the speaker.

Mr. Pace noted that these issues are at the discretion of the Chair. He noted that it is not customary to question witnesses, but even the Commissioners did that today. He noted these hearings are not as formal as a court proceeding.

Commissioner Hunter stated that the applicant was able to talk about everything at the meeting but the public was limited to just talk about the economics of the case.

Mr. Pace stated that it is not uncustomary to allow the applicant more time to speak. There was not a procedural error relating to that.

The Commission noted that the current Ordinance allowed for what happened and that it should be changed, but they agreed that they must use the current ordinance to review this case.

Commissioner Hunter asked why the Panel was not allowed to look at commercial uses as part of the alternate scenarios.

Mr. Pace stated that because neither the Master Plan nor the Zoning allows for commercial uses, it is too speculative to consider a use that is not consistent with these documents.

Commissioner Carl asked if the Commission could ask for a Performa on other scenarios.

Mr. Pace stated that the Panel gets to determine what it needs to make its determination.

The Historic Landmark Commission may remand the case back to the Economic Review Panel with recommendations, but the Panel has the ultimate choice whether to make it a public hearing.

The Commissioners stated that an erroneous finding of fact on the part of the Economic Hardship Panel would include:

1) The Economic Review Panel categorized the subject contributing structures as non-significant. They misapplied the category, which is not an economic function, but as it was raised by a member of the Panel and was never refuted, it was viewed as fact.

Mr. Pace interjected that it was a material fact that they could cite.

Commissioner Lloyd asked whether relocating one of the structures would jeopardize its eligibility for tax credits.

2) The failure to look at alternative options or one as similar as the one proposed by Ms. Cromer today. The applicant did not provide adequate proof to the Panel that alternative options were investigated, as a result the Panel neglected to thoroughly consider alternative options such as condo development.

Commissioner Christensen stated that the applicant did not fully consider the tax credit option or a simple resale of the property either.

Commissioner Oliver suggested that the following recommendations be made to the ERP if the Commission decided to remand the case back:

1) Sell property as it is.

2) Work with staff to examine flexibility in zoning as it applies to a possible Planned Development.

3) Use a professional architect to develop a plan to convert the existing homes to condominiums and add condo structures to the land and adding new condominiums rather than rentals.

4) Consider relocating rather than demolition of one or more structure within the property in order to maximize space for new construction.

5) Explore the impact of tax credits after the rehabilitation when this becomes an income producing property.

(Commissioner Carl left the meeting at 6:10 P.M.)

Mr. Pace reminded the Commission that Federal Law and the City Ordinance require that the applicant be able to make a reasonable economic return.

Commissioner Hunter asked what the definition of a reasonable economic return is. The Commission discussed what that might be. Mr. Pace stated that zero percent return was not defensible in court. He also noted that the return from a bank is generally considered a low risk investment is different from the return expected from a higher risk investment in property.

Commissioner Norie requested information on the appraisal and purchase price.

Public Comment

The meeting was reopened for public comment as the Commission needed additional information to determine if it would be reasonable to believe that the ERP failed to recognize that an outright sale of the property would provide a reasonable economic return.

In response to a question stated by the Commission, Mr. Saxey stated that at the time of purchase, the property appraised at \$870,000. He purchased the property for \$830,900. He also stated that he subtracted the cost of the vacant property from the cost of the rest of the property. He also questioned how the Commission could assume that the scenarios submitted by Ms. Cromer were economically feasible. He believed that the scenario that he submitted was feasible.

Ms. Coffey stated for the record that the appraisal was done on March 9, 2006.

The Public Session was closed for Executive Session.

Executive Session

(Mr. Shaw left the meeting at 6:15 P.M.)

Commissioner Norie stated that if the Commission is looking at revising the decision of the ERP, they need to base the decision on fact, not speculation. She stated that the fact is the purchase price is less than the appraisal for the property, therefore, there is a possible economic return on the property. They should base their decision on that. It is reasonable to assume there has been no depreciation in value.

Commissioner Christensen wondered if they needed to consider the amount of interest the applicant has paid on the property in the last year.

Commissioner Norie asked Staff whether the applicant could have requested approval of the project before the actual purchase was final on the property. Staff acknowledged he could have and it routinely done that way.

Mr. Pace stated that he did not know whether the Panel had to take into consideration the interest that has been paid but he said, at some level is it appropriate to take into consideration the carrying costs as well as factor in potential appreciation of the value of the property.

The Commission generally agreed that the appraisal conducted a year ago in comparison to the purchase price along with the fact that properties have appreciated in Salt Lake City, lead them to believe that, if sold today, the property should sell for a profit, allowing the applicant a reasonable rate of return. As this scenario was not considered, the panel erred in its findings.

Motion

In regards to Case No. 470-06-33 Commissioner Ashdown made a motion to reverse the Economic Hardship Panel's erroneous decision based on the

purchase price and the appraised value presenting an economic return in addition to the fact that there is a self created hardship as a result of poor financial decisions; negligence of the owner should not be factored in to reduce the appraised values.

Commissioner Hunter seconded the motion.

Amended Motion

Commissioner Ashdown made a motion to amend the original motion regarding Case No. 470-06-33, to reverse the Economic Hardship Panel's erroneous decision which did not take into consideration 21A.34.020.2.a: the applicant's knowledge of the Landmark designation, the applicant was knowledgeable and 21A.34.020.k.2.d: there was a reasonable return based on the resale value of the property from a 2006 appraisal of \$870,000, the purchase price was \$830,900, and that those numbers in themselves would yield a 5% return if sold today.

Second: Commissioner Hunter

7 members voted, all voted aye, the motion carried.

Overview of development plans for Trolley Square located at approximately 602 East 500 South, in the Central City Historic District. The property owner, Trolley Square Associates, LLC, represented by Mark Blancarte, will provide an overview of proposed development at Trolley Square.

(This item was heard at 6:32 p.m.)

Chairperson Fitzsimmons resumed his position as Chairperson.

Mark Blancarte, owner of Trolley Square introduced his PowerPoint presentation, which showed an overview of the plans for Trolley Square. A copy of his presentation is filed with these minutes.

Case No. 470-07-08 — A request by Trolley Square Associates, LLC, to construct an exterior staircase on the South Façade of the main building at Trolley Square (southern building) located at approximately 602 East 500 South, in the Central City Historic District.

(This item was heard at 7:02 p.m.)

Mr. Norris presented the Staff Report by outlining the history and major issues of the case. A complete copy of the Staff Report is filed with the minutes.

The proposed construction will impact the main building on the south eastern end on the second floor. The building code requires an additional exit. The owners of Trolley Square are proposing to install an external staircase and doorway on the south side of the main building. The applicants intend to remove two existing external staircases on

the southwest corner of the main building and replace them with a single staircase and doorway located on the southeast corner. The proposal is part of an internal remodel that includes some external changes to the main building. This Petition is being reviewed by the Historic Landmark Commission because it is highly visible and adds a new building element to a landmark site.

The applicants are proposing to install a new external staircase in conjunction with an interior remodel of the main building on Trolley Square. The staircase will provide an employee entrance to the second level of the main building. There are currently two external staircases on the south side of the main building that the applicants are proposing to remove. The staircases were added at some point after Trolley Square was converted to a shopping center.

The proposed staircase and doorway will be located near the southeast corner of the main building. The staircase will be masonry that matches the existing brick on the buildings at Trolley Square. The door will be a black metal. The staircase landing will be approximately twelve (12) feet above grade. The railing will extend 3-4 feet above the landing for a total height of fifteen (15) to sixteen (16) feet above grade. The grade slopes from the east to the west. The doorway will be a single door approximately three and one half (3 ½) feet wide. The structure will extend approximately four (4) feet from the building. The property line is approximately seven and one-half (7 ½) feet from the building. The existing staircases are approximately three and one-half (3 ½) feet from the property line.

The proposed staircase encroaches on the required corner side yard setback of thirty (30) feet. The south wall of the building encroaches within the setback as well. The applicants have submitted a Planned Development petition requesting that the Planning Commission consider reducing the corner side yard setback to allow construction of the staircase.

The standards for altering the exterior of a landmark site are outlined in Section 21A.34.020 (G) – Standards for Certificate of Appropriateness for Alteration of a Landmark Site or Contributing Structure – of the Salt Lake City Zoning Ordinance. The ordinance requires that the proposed project substantially complies with the following standards:

1. A property shall be used for its historic purpose or be used for a purpose that requires minimal change to the defining characteristics of the building and its site and environment
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create a false sense of history or architecture are not allowed;

Staff finds that the proposed development meets the standards specified in the ordinance, and recommends approval of this project, subject to following conditions:

- 1) This approval is for design only; all other City requirements must be met prior to obtaining a building permit.
- 2) That the staircase and doorway are designed to be consistent with other external staircases and doorways located on the site.
- 3) That the Planning Commission grants a reduction in the required setbacks through the Planned Development process.
- 4) If the Planning Commission proposes alterations that deviate substantially from the proposal reviewed by the Historic Landmark Commission, Staff recommends that the proposed project return to the Historic Landmark Commission for their review.

In response to questions of the Commission, Staff stated that the applicant is seeking approval of the conceptual design, and is willing to be flexible in regards to materials with sensitivity toward the Ordinance which states, *that architectural periods cannot be mimicked*. Staff had concerns regarding the proposed brick as the status of the existing brick is sandblasted and weathered. A staircase to the west has been constructed using similar type red brick that has not been sandblasted with a concrete step atop. Staff was not aware of a proposal to reuse the brick.

The Commission asked the applicant to come forward to answer questions from the Commission. In answer to Commissioner questions, the applicant stated that a reuse plan for the brick may involve filling in the roll up doors on the southern exposure, which were not part of the original design of the building.

The proposed design of the stairs is a concrete suspended base supported with columns which is open underneath.

Commissioner Fitzsimmons suggested that an open stair could lead to security concerns and trash collecting under the stair.

Commissioner Ashdown stated that a new red brick would be an appropriate material. Commissioner Lloyd noted that the solid base does close off the area.

Public Comment

Cindy Cromer, property owner, stated that she was pleased with the project but had three concerns:

1. Trolley Square is in a rough neighborhood and security needs to be considered by looking at site lines and possible surveillance.
2. The blank face of the façade should be broken up by the use of a different material.
3. The buildings in Trolley Square are industrial and an effort should be made to keep them from looking residential by not allowing the use of residential type material.

Executive Session

Noting that the existing nearby stair was built in the last 20 years and not a historic structure, that would need to be complimented in the design of a new stair, a discussion ensued where the Commission generally agreed that, as the staircase is not for use of the public, the staircase should not be too obvious or too attractive. Making the stair too inviting could draw public attention and potentially cause traffic in a location that might develop problematic security issues. Though a nominal style staircase is more appropriate when making security considerations, the Commission is overstepping its bounds when dictating design. A motion should be made that relates to approval for opening the façade for a doorway and address the size of the staircase with the decision regarding the materials and details left up to Staff.

Motion

Commissioner Heid moved in regards to Case No. 470-07-08 for the Historic Landmark Commission to approve the proposed building of a staircase on the south side as it is in compliance with the code and that the details regarding the materials to be approved by staff.

Commissioner Christensen seconded the motion.

All voted aye. The motion is unanimous.

Case No. 470-06-50 — A request by Trolley Square Associates, LLC, for final approval of a rooftop dome skylight over the central interior crossing in the main building at Trolley Square (southern building) located at approximately 602 East 500 South, in the Central City Historic District. This rooftop dome skylight request was conceptually approved by the Historic Landmark Commission at their hearing on December 6, 2006. The purpose of this hearing is to review final design and construction materials of the rooftop dome skylight.

(This item was heard at 7:27 P.M.)

Mr. Traugher presented the Staff Report by outlining the history and major issues of the case. (A complete copy of the Staff report is filed with the minutes.)

The above referenced request was approved conceptually by the Historic Landmark Commission on December 6, 2006. At the hearing on December 6, 2006, Commissioner Carl moved that the Historic Landmark Commission grant conceptual approval for the project, and required the applicant to return to the full Commission with final dome design. Details of the final construction materials, including fenestration details and details of the supporting structure were required. The motion was seconded by Commissioner Heid. Commissioner Lloyd requested an amendment to the motion to stipulate that the peak of the skylight dome not exceed forty-five feet above grade.

The applicant had originally requested a skylight dome having the dimensions of approximately 53 feet by 58 feet in the structure known as Building D fronting 700 East and 600 South by 200 feet respectively (see the original attached site plan for details

(Exhibit 1). The construction materials for the dome included clear thermal glazed clerestory windows with white metal roofing and siding. No further details of the dome materials were provided at that time.

Presently, the applicant proposes an area of approximately 3,752 square feet (56'x67') to be opened in the roof structure. Because the roof has a series of gables, this area will be framed with a nearly level platform slightly above the top of the gable. This platform will provide the base for a twenty-four foot (24') diameter glass dome skylight. The height of the revised skylight dome will be forty-four feet (44') measured from grade to the peak of the proposed structure. The skylight dome will be a manufactured unit with standard finish aluminum frame. Double glazing will be clear with minimal tint, low-e and U-factor 0.40. The horizontal base platform will have white PVC roofing matching the existing roof. Vertical platform walls will be sheathed with standing seam metal, pre-finished in a light gray color. The revised plans are in the Staff Report. (Exhibit 2).

The revised skylight dome structure should have less of an impact on the site than the original proposal, while the interior will achieve the desired revitalization of increased natural light. Further, the exterior design will be simple and functional, while minimizing visual impact from surrounding properties primarily due to the setbacks from the property lines.

Staff recommends that the Historic Landmark Commission grant final approval of the skylight dome as proposed.

The Commission asked Staff to summarize the basic changes made to the plans since the last time they were submitted to the HLC.

Mr. Traugher responded that In the previous design, the roof was not of glass, but there were glass upright supports which allowed indirect lighting from the upper sides. The roof will now be made of glass and does not exceed the forty-five foot (45') height and the clearstory section has been deleted, replaced with the skylight in circular form which is barely above the gable height, making it three to four feet lower. This allows for direct lighting and creates less impact on the site than the original proposal. The height dimension of the previous structure was unclear. The proposed drawing of the second structure clearly shows that the height falls below the ordinance limit and has diminished the impact for the view from the street.

The roof structure was originally a non-transparent roof with glass uprights. The uprights are no longer necessary as it sits more on the base.

Public Comment

No public expressed the desire to speak to this case.

Executive Session

Commissioner Lloyd expressed the opinion that the changed design was a positive response to the comments the Commission made in December 2006. The skylight scheme seems more believable, yet it would meet their objective of adding natural light into the structure.

Motion

Commissioner Lloyd moved in Case No. 470-06-50, a request for final approval for the dome skylight, that the Commission accept the recommendation of the Planning Staff and approve the design as indicated on the submitted drawings and request that the Planning Staff resolve any unresolved construction details.

Second by Commissioner Haymond.

All voted aye; passed unanimous.

Ms. Coffey informed the Commission that the overall project would need to go before the Planning Commission for Planned Development approval. A subcommittee needs to be formulated consisting of both Planning Commission and Historic Landmark Commission members. Ms. Coffey asked for volunteers to serve on the Subcommittee.

Commissioners Heid, Hunter, and Lloyd, volunteered. Commissioner Ashdown volunteered as a back up.

Case No. 470-07-03 — A request by Joseph Marty to alter the existing building and replace a missing porch element. The property is located at approximately 211-215 West 500 North Street, in the Capitol Hill Historic District.

(This item was heard at 7:34 p.m.)

Ms. Lew presented the Staff Report by outlining the history and major issues of the case, and findings of fact. (A copy of the Staff Report with Staff's recommendation is filed with the minutes.)

The applicant, Joseph Marty, is requesting approval to alter existing wall openings of the building located at approximately 211-215 West 500 North Street and re-establish a porch element. The subject property is located in the Capitol Hill Historic District, in a SR-1A Special Development Pattern Residential District. This request is before the Historic Landmark Commission because the proposed addition is highly visible from the street and the replacement feature is a new design.

The building has a flat roof and a symmetrical pairing of doors on the principal façade. The attached 1911 Sanborn Map indicates that a front porch was included in the original design (See Exhibit 1). The 1936 tax photograph and property appraisal cards show a large single-story porch with a roof-line balustrade that later became two enclosed two-story porch elements. These were then removed and the concrete stoops that exist today constructed. Stucco has been applied to the exterior.

Salt Lake City Building Services recognizes the subject property as a legal nonconforming nine (9) unit apartment complex. Multi-family dwellings are not permitted in the SR1-A Zoning District; therefore, the use is considered legal nonconforming.

The applicant proposes to reduce the number of dwelling units from nine (9) to seven (7) and intends to convert the apartment complex to condominium ownership. The applicant is proposing to construct a two-story porch on the front of the building. The proposed full-width addition would have a shallow pitched shed roof capped by a double gable detail. The dominate features of these balconies are square wood posts, overhanging rafters and a rock veneer foundation wall. The size and the shape of the window and door openings of the front elevation will be altered to accommodate the proposed addition. The applicant also proposes to replace all existing windows with vinyl windows. The submitted plans show that some window openings will be modified.

Staff finds that the proposed alterations to the existing building and design of the replacement porch at 211-215 West 500 North Street do not comply with the City's historic preservation standards as stated above and are inconsistent with the architectural character of the building.

Questions to Staff

In response to a question from the Commission, Ms. Lew explained that the proposed elements would be covered and that she did not believe that the applicant owned the property at the time that the windows were replaced.

The Commission requested that the applicant come to the table to answer questions. In response to questions posed by the Commission the applicant, Joe Marty of 250 West State Street, stated that he has owned the building for one year. The structure is in need of remodeling. The applicant desires to turn the structure into condos with private porches. The model is in scale and proportion, but not an exact match of the original, but believes that the design is an improvement upon the original. The original doors which go out onto the porch have been covered up. The applicant strongly desires a segmented covered porch element which will allow each unit a private porch. He is willing to restore the original door opening accesses to the porch. He would be willing to work with Staff to make the porch more compatible to fit the historic district.

Commissioner Lloyd commented that the tier gables were interrupting the upper floor roof.

Commissioner Fitzsimmons commented that the gables and the extended joist are the elements which make the proposed project the most different from the old photo. He wondered if the applicant would consider a different design.

The applicant stated that even though the design was not the same as the original structure, the elements were typical of the historical time period.

Commissioner Lloyd commented that he had a hard time finding similar trellis elements in the Capitol Hill Historic District.

Seeing as the Commission had no further questions, Chairperson Fitzsimmons opened the meeting to public comments.

Public Comment

Seeing as no public expressed the desire to speak, Commissioner Fitzsimmons closed Public comment portion of the meeting and moved to executive session.

Executive Session

Commissioner Lloyd stated that the intent is good for the neighborhood, but believed the proposal was problematic from a historic, street view, and neighborhood standpoint. The gables, truss elements, extended joists were all elements, if removed along with restoration of the doors, would be more compatible.

Commissioner Haymond noted that the design is a nice improvement, but the Commission was here to uphold the standards of the Historic District.

The Commissioners discussed the continuous porch verses sectioned porch units. There is precedence in Salt Lake City to have the sectioned porch units. Even though it will not be like the original, there is some flexibility. If the design was changed to add essential historical details, the Commission could show some leniency to allow the sectioned porches. The proposal is interesting, but needs to be reworked. A short trellis could provide the separation of units while preventing a divided wall.

Commissioner Christensen noted that the Commission has rejected porches that were a stretch from the original, when they can document the original. He stated that he loved the stacked porches, but in this case where there is photographic evidence as to what was the original, the Commission is stepping outside the boundaries when we are proposing true stacked porches when that clearly was not the original.

He stated that he has seen houses where the long porch is shared, there is typically a low wall sectioning the porches but does not allow for privacy.

Ms. Coffey stated that historically the Historic Landmark Commission did allow a different porch than what was suggested by the photo based on the architecture of the neighborhood.

Chairperson Fitzsimmons and Commissioner Oliver discussed the lack of an adaptive reuse provision in the Zoning Ordinance.

Commissioner Lloyd suggested that the Commission make the option available for the applicant to work with an architectural subcommittee to help him discover possible design choices that fit within the Capitol Hill Historic District or have a subcommittee member sit in with staff when they discuss the project with the applicant.

Ms. Coffey reminded the Commission that if they are not looking for a major change in design elements, the Commission can approve the application, outlining the portions of the design that are not approved, and delegating the final details to staff. Usually the Commission will look at the design elements and make recommendations to staff. The Commission said it does not feel comfortable making six or seven conditions and then delegating to Staff because they have heard the discussion and know what they are looking for.

Commissioner Lloyd commented that there will need to be a process of investigation to discover whether the doors have been filled in.

Commissioner Hunter wondered if it would be possible to hold a subcommittee.

Commissioner Heid stated that she believed that one of the issues of using architectural subcommittees in the past was the concern that there would have been an assumption made that, if the subcommittee approved a project then the Commission would approve it, and the subcommittee was not a public process.

In response to a question from the Commission, Ms. Coffey explained that the Planning Commission uses a Planned Development Subcommittee which reviews the project first. When using a Subcommittee, the Planning Commission still makes the final decision.

Public Comment

Commissioner Fitzsimmons opened the public comment portion of the meeting to allow the applicant to speak further. The applicant asked for input from Staff to help give feedback as they designed the porch based on the design guidelines. The applicant also stated that he would like a porch and would like to keep it covered if possible.

No other members of the public expressed the desire to speak.

Commissioner Fitzsimmons closed the public comment portion of the meeting and reopened the executive session.

Executive Session

Commissioner Christensen immediately made a motion.

Motion

Commissioner Christensen moved that in case 470-07-03 the Commission agrees with the Staff Report findings that the proposal as presented is not one that the Commission can accept because of those alterations to the existing building and the design in the placement of the porch do not comply with the City's Historic Standards. Furthermore, he moved that this case be tabled and invite the applicants to meet with members of the Historic Landmark Commission Subcommittee to work on design elements which would be more in keeping with the design elements of this property, with the case then to come before the full Commission at the appropriate time to be designated by the applicant for final approval.

Seconded by Commissioner Lloyd.

The Commission clarified that there can be an architectural subcommittee, but the project must still come back before the entire body for final approval.

Amended motion

Commissioner Lloyd moved to amend the motion to read that the Historic Landmark Commission suggests to the architectural subcommittee that they recommend a flat versus a pitched design which is compatible with other stacked porches in the Capitol Hill Historic District, and that the trellis, gables, and extended joist be removed from the plans.

Commissioner Christensen accepted the amendment.

All voted aye; passed unanimous.

REPORT FROM THE PLANNING DIRECTOR

As the Planning Director was no longer in attendance, Ms. Coffey gave the report of the Planning Director.

Ms. Coffey requested volunteers for the second Architectural Subcommittee. Chairperson Fitzsimmons, Commissioner Lloyd, and Anne Oliver volunteered.

Ms. Coffey announced that the Heritage Foundation Conference would be on April 26-27, 2007. Commissioner Hunter expressed interest in attending and Commissioner Lloyd indicated that he already planned to attend.

Ms. Coffey indicated that the Commissioners received a memo which outlined the status of the Historical Grant projects in process.

Ms. Coffey indicated a Preservation Planning firm had been selected to lead the Preservation Plan project, but an official announcement could not be made at this time as there were still some procedural matters to complete.

Ms. Coffey reminded the Commission that there would be a Historic Landmark Commission Meeting on April 18, 2007.

OTHER BUSINESS

Commissioner Ashdown indicated that he was pleased that one Staff Report was emailed to the Commissioners. He indicated that he would like to see more Staff Reports emailed. He also indicated that the January minutes had not been posted.

The Historic Landmark Commission welcomed Jessica Norie and Anne Oliver, who are new members to the Commission.

Chairperson Fitzsimmons announced that Oktai Parvaz who served as a Historic Landmark Commissioner from August 13, 2002 to July 14, 2005, and as Chair for some of that time, passed away on March 23, 2007. The Commission expressed sympathy to his family.

Chairperson Fitzsimmons presented Commissioner Christensen with a plaque to show the appreciation of the Historic Landmark Commission for his years of service. Commissioner Christensen was appointed to the Commission on March 21, 2000. His term of service expired on July 14, 2006, but continued to serve with special permission by the Attorney's Office through today, April 4, 2007.

There being no further business, Commissioner Hunter moved to adjourn the meeting at 8:32 P.M.

Dave Fitzsimmons, Chairperson

Noreen Heid, Acting Chairperson

Kathryn Weiler, Historic Landmark Commission Secretary