



Communication to Historic Landmark Commission

Planning Division

To: Historic Landmark Commission Members
From: Patricia Comarell, Assistant Planning Director
Date: January 6, 2010
Re: Amendments to HLC Rules of Procedures

At a previous worksession, the staff suggested changes which might be made to the Rules of Procedure to ensure they reflect current practice and are in sync with the zoning ordinance relating to the HLC and Historic Overlay ordinance.

Attached are suggestions for changes or questions which the staff would like to review with the Commission. Most are "fine-tuning," but one major change is a paragraph related to approval of minutes which has been recommended by the City Attorney to meet expectations of state statutes.

If you have any questions or concerns, please do not hesitate to call 801-535-7660 or write pat.comarell@slcgov.com.

SALT LAKE CITY HISTORIC LANDMARK COMMISSION RULES OF PROCEDURES

A. Purpose

1. To more fully implement the requirements of and responsibilities outlined in the local ordinances to preserve historic structures and areas of Salt Lake City by establishing procedures for the organization of the business of the Salt Lake City Historic Landmark Commission hereafter termed Commission and processing applications for:
 - a. Exterior remodeling or alterations of structures or sites in historic districts or landmark sites;
 - b. Design of new structures; and
 - c. Demolition of landmark sites and structures within historic districts.

B. General Rules

2. The Commission shall be governed by the terms of the Salt Lake City Zoning Ordinance, especially Chapter 21A.34.020 entitled "H" Historic Preservation Overlay District as they may be amended or revised.

C. Organization

3. **Appointment of Chair and Vice Chair:** The Commission, at its first regular meeting in August, shall select a Chair and Vice Chair. Members shall be notified at the meeting one month in writing of the upcoming election of officers ~~at least fourteen (14) days at the meeting one month~~ prior to the election.
- 3.4. **The Chair to Preside at Commission Meetings:** The Chair shall preside at all meetings of the Commission and shall provide general direction for the meetings.
5. **Duties of the Vice Chair:** The Vice Chair, during the absence of the Chair, shall have and perform all of the duties and functions of the Chair. Should the Chair resign from the Commission, the Vice Chair shall serve as Chair until elections are held at the next available meeting ~~for which fourteen (14) days written notice has been provided to the members of the Commission.~~
6. **Temporary Chair:** In the event of the absence or the disability of both the Chair and the Vice Chair, the most senior member of the Commission present at the meeting shall serve as Chair until the Chair or Vice Chair returns. In such event,

the temporary Chair shall have all the powers and perform the functions and duties assigned to the Chair of the Commission.

7. **Elections Should both the Chair and Vice Chair Resign:** Should both the Chair and Vice Chair resign from the Commission, the most senior member of the Commission shall serve as Chair until elections can be held at the next available meeting ~~for which fourteen (14) days notice has been provided to the members of the Commission.~~
8. **Planner:** A Planning Division staff person shall act as the liaison between the Planning Division and the Commission. This staff person's duties shall include, but not be limited to, setting agendas, preparing staff reports, and handling administrative duties for the Commission. This person shall be the Planning Director or his or her designee(s), and shall serve as an ex officio member of the Commission without vote, as per Section 21A.06.050.D of the City's zoning ordinance.
9. **Secretary:** A Planning Division secretary shall serve as secretary of the Historic Landmark Commission.

D. Rights and Duties of Members

10. **Meeting Attendance:** Every member of the Commission shall attend the sessions of the Commission unless unable to attend because of extenuating circumstances. Any member desiring to be excused shall notify the secretary. The secretary shall inform the Chair and the Planning Director, or his/her appointed designee, of the absence.
 - a. If a Commission member misses three consecutive meetings or six meetings in a calendar year, the Chair shall confer with the member regarding the ability, interest and commitment of the member to continue his/her membership on the Commission.
 - b. If the Commission member continues to miss meetings, the Chair shall bring the matter to the full Commission. The Commission will decide upon an appropriate recommendation to the Mayor as to whether the member shall be removed from the Commission.
11. **Leave of Absence:** The Commission may grant its members leaves-of absence not to exceed six months.

12. **Conflict of Interest:**

- a. If a Commission member believes he/she cannot render an objective review, the Commission member may declare a conflict of interest from specific agenda items.
- b. Members of the Commission who feel that they may have an actual, apparent, or reasonably foreseeable conflict of interest on any matter that is on the Commission agenda, shall explain the apparent conflict to the Commission. The Commission may then vote to decide whether the requested disqualification is justified.
- c. After declaring a conflict of interest, or after the Commission has made a determination of a conflict of interest, a Commission member shall not participate in the discussion and vote of that matter, nor attempt to use his/her influence with other Commission members before, during, or after the meeting. The Historic Landmark Commission may, by majority vote of the members present, allow a member, otherwise required to leave due to a conflict, to be present if required by special or unusual circumstances.
- d. Any member declaring a conflict of interest shall be disqualified and shall leave the table and not participate in or be present at the public hearing, the discussion, vote pertaining to that particular matter as a member of the Commission. A Commissioner may appear before the Commission through his/her employment as an advocate or agent for an applicant only after the Commissioner has disqualified him/or herself from the subject case as a member of the Commission.

Comment [C1]: Language added to be consistent with ordinance 21.06.050K

Below are some guidelines for conduct:

1. There may be a conflict of interest if there are personal, familial relationships, or financial ties between a Commission member and proponent/opponent of any item of business.
2. A Commission member may appear before the Commission through his/her employment as an advocate or agent for an applicant or as a property owner only after the Commissioner's disqualification on the subject matter.
3. A Commission member must not sell or offer to sell services or solicit prospective clients or employment by stating an ability to influence the decisions of any City board.
4. A Commission member must not use the power of office to seek or obtain a special advantage that is not in the public interest nor any special advantage that is not a matter of public knowledge.

- e. Architectural Committee: Conflict of interest rules, procedures, and guidelines shall also apply to the Architectural Committee, and other ad hoc committees established by the Commission.

E. Meetings

13. **Place:** All meetings of the Commission shall be held in Room 315 of the City and County Building, 451 South State Street, Salt Lake City, Utah, or at such other place as the Commission or Planning Division may designate. A meeting having been convened at the place designated, may be adjourned by the Commission to any other place within Salt Lake City for the sole purpose of investigating some particular matter of business which may be more conveniently investigated at such other place, or may be adjourned to any other room more convenient for conducting the business of the Commission so long as proper notice of meeting location is posted for the general public.
14. **Regular Meetings – Time for Notice:** Regular meetings of the Commission shall be held on the first and third Wednesdays of each month at the hour of ~~5:30~~ 5:45 P.M. At the discretion of the Chair, field trips or work sessions may be held on the first and third Wednesdays of each month at the hour of 4:00 P.M. or at such other appropriate time.
15. **Special Meetings:** The secretary shall give notice of the time and purpose of every special meeting of the Commission at least twenty-four (24) hours prior to such meeting. Such notice shall be delivered to each member of the Commission personally or by telephone. Such notice may also be given by the United States Mail, directed to the member of the Commission so to be notified at the member's residence and mailed no less than five (5) days prior to the time fixed for such special meeting. It is specifically provided, however, that any member may, in writing, waive prior notice of the meeting.
16. **Meetings – Matters Considered:** Other business items pertaining to the affairs of the Salt Lake City Historic Landmark Commission and falling within the authority and jurisdiction of the Commission may be considered and acted upon at any regular meeting of the Commission.
17. **Quorum:** A quorum of the Historic Landmark Commission shall consist of a majority of the voting members who are currently appointed. Any member disqualified because of a conflict of interest shall not be considered when determining whether a quorum is constituted. Members abstaining from a vote, however, shall count toward consideration of a quorum. Except as otherwise specifically provided in these rules, a majority vote of the Commission members present at a meeting shall be required and shall be sufficient to transact any business before the Commission.

F. Procedure – Order of Business

18. **Order of business:** The order of business shall be as follows:

- a. Field trip;
- b. Work Session/ Dinner
- c. Comments to the Commission;
- d. Roll taken by the secretary;
- e. Approval of minutes;
- f. Consideration of agenda items, and
- g. Other business at the discretion of the Chair.

19. **Field trips:** On those occasions when site inspections are deemed advisable, field trips shall be held prior to the Historic Landmark Commission meetings, and the time of the field trip to be posted on the agenda. Only Historic Landmark Commission members and pertinent Planning Staff shall be allowed to attend the field trip in the City-owned van. The public shall be allowed at the sites of the field trip but are encouraged to present their case at the Historic Landmark Commission meeting, not during the field trip. Field trips shall be for the purpose of gathering information, not for discussing decisions.

20. **Agenda for Meetings:** The Planning Staff, with the assistance of the Chair, shall prepare a written agenda for each meeting as far in advance as possible and shall place such agenda in the hands of each member of the Commission prior to the commencement of the meeting. Such agenda shall be delivered to the members of the Commission fourteen (14) days prior to each meeting.

21. **Agenda Deadline:** Requests for Historic Landmark Commission consideration must be properly presented (i.e., fees paid, completed applications, zoning compliance), to the Planning Division within a time period to be determined by the Planning Staff. The time period must be sufficient to allow Staff to complete an analysis of the project prior to the Historic Landmark Commission consideration of the project. ~~The deadline for such applications should be no earlier than three (3) weeks prior to the Commission meeting.~~

22. **Staff Report:** All major issues presented to the Historic Landmark Commission for its consideration shall be accompanied by a staff report detailing the overview, proposal, analysis, and Staff recommendations which shall include findings of fact and conditions for approval. Staff reports shall address the portion of adopted guidelines/ordinances which relate to the project. Staff reports shall be as concise

Comment [C2]: Conflicts with ordinance. The ordinance provides on some items, the Planning Director or designee must make a determination within 30 days. If they determine the item must go to the HLC, the Director places the item on the agenda.

as possible while allowing for adequate coverage of the subject matter and shall be made available to the petitioner and anyone else requesting a copy.

Copies of staff reports and other pertinent materials shall be made available to the Historic Landmark Commission members **at least** five (5) days prior to regularly scheduled Historic Landmark Commission meetings.

23. **Submission of application:** Applicants and/or their representative should submit written and graphic materials to the Planning **Division** ~~at least three weeks, or a time period established in any submittal schedules approved by the Planning Director,~~ prior to the agendaed meeting to allow the Planning Division staff adequate time to review the materials, determine the appropriate recommendation and prepare a staff report.
24. **Submission of materials by interested parties:** Interested parties may submit written comments at any time prior to the Historic Landmark Commission or during the public comment period that pertains to a particular case or issue. If the interested party intends his/her comments to be included in the staff report, the comments must be submitted five (5) days prior to the Historic Landmark Commission meeting. Interested parties may also submit verbal comments to staff prior to the Historic Landmark Commission meeting to convey to the Commission members during the staff presentation of the application.
25. **Notification of Public Hearings:** Notices of all items scheduled for Historic Landmark Commission meetings shall be mailed in accordance with Section 21A.10.020(E) of the City's zoning ordinance. Anyone wishing to receive notice of Historic Landmark Commission meeting agendas, copies of minutes and/or staff reports may be placed on the regular mailing list by contacting the Historic Landmark Commission secretary. All notifications shall be consistent with the City Ordinance.
26. The secretary shall prepare minutes of each public meeting of the Commission in a timely manner and provide same to the Commission prior to its next regularly-scheduled public meeting. The Commission shall approve the minutes of its prior public meeting at its next regularly-scheduled public meeting with any appropriate modifications, unless the Commission by majority vote determines that the minutes are substantially inaccurate to the point where minor revisions will not adequately correct the minutes to accurately reflect the meeting for which they were made."

Comment [C3]: Conflicts with ordinance

Comment [C4]: Added by the attorney to meet State law.

G. Procedure – Order and Decorum

26. **Order of Consideration of Items:** The following procedure will normally be observed, however, it may be rearranged by the Chair for individual items if necessary for the expeditious conduct of business:
- a. Item introduction by Chair;
 - b. Staff presentation and recommendation;
 - c. Applicant presentation of proposal;
 - d. Community Council presentation/response
 - e. Public comment;
 - f. Motion and vote to close the public hearing; and
 - g. Historic Landmark Commission discussion and vote in executive session.
The discussion is closed to Staff, the applicant, and public unless the Historic Landmark Commission requests additional information of them. If additional information is required by the Commission, the public portion of the meeting may be reopened.

Comment [Z5]: There have been times when the attorney, manager or staff have interjected with additional information or guidance, when they were not asked. Does the Commission prefer we not do that? What if the HLC is proposing something that does not meet City ordinances?

H. Procedure – Motions

27. **Making Motions:** Any Commission member, with the exception of the Chair, may make or second a motion. Motions should state findings for approval or denial within the motion:
- a. Motions should state findings at the beginning of the motion followed by the recommendation to the appropriate body, if any, and should be concluded with the conditions of approval. The motion may refer to the staff report for the detail of the findings of fact and conditions for approval if the author of the motion finds them acceptable.
 - b. The staff summary should be sufficient in detail to assist the Commission in stating findings.
 - c. Motions may be repeated for clarification following discussion and prior to the vote at the request of any Commissioner.
 - d. Commissioners may request legal advice from the City Attorney in the preparation, discussion and deliberation of motions.

- e. Second Required: Each motion of the Commission must be seconded with the exception of motions to amend a motion and motions to adjourn the Commission meeting.
- f. Withdrawing a Motion: After a motion is stated, the motion shall be in the possession of the Commission but may be withdrawn by the author of the motion prior to the vote. Withdrawal of a second is not necessary.
- g. Motion to Table: A motion to table an agenda item for further study should be accompanied by specific reasons for continuing the matter and whenever possible, a specific date to rehear the matter should be scheduled.
- h. Amending Motions: When a motion is pending before the Commission, any member may suggest an amendment without a second, at any time prior to the Chair putting the motion to a vote. The amendment must be accepted by the author and the second of the motion in order for it to amend the stated motion. The author and the second may choose not to accept the amendment.
- i. Amending Amendments to Motions: An amendment to a motion may be amended, no second required, at any time prior to the Chair putting the motion to a vote. The amendment to the amendment must be accepted by the author and the second of the motion in order for it to amend the stated motion. The author and the second may choose not to accept the additional amendment.
- j. Substitute Motions: A substitute motion, which shall replace the original motion may be made prior to a vote on the original motion.
- k. To Rescind a Motion: A motion to rescind or make void the results of a prior motion may take place when the applicant and other persons directly affected by the motion have not materially changed their positioning reliance on the Commission's action on the motion.
- l. To Reconsider a Motion: To recall a previous motion for further evaluation and/or action, a motion for reconsideration may be made by a Commissioner who voted with the majority. The motion to reconsider must pass with a majority vote. If it is determined that the motion should stand as previously approved, no formal vote is necessary. If the former motion is to be amended or made void, the motion shall be put to a formal vote of the Commission. Motions to reconsider a previous motion must take place during the same meeting the motion was made or when the minutes containing the particular item are approved.
- m. Motion to Open and Close Public Hearings: The Chair shall open and close the public portion of each informal hearing prior to the Commission discussion and vote on the matter.

- n. Motion to Recess: The Chair shall call for a break for a specific purpose while also stipulating a specific time to reconvene the meeting. The time to reconvene must be during the same day as the meeting in which the motion to recess was made.
- o. Motion to Adjourn: The Chair shall adjourn the meeting at the end of each Commission meeting.

I. Procedure – Voting

- 28. **Changing a Vote** : No member may change his/her vote after the decision is announced by the Chair.
- 29. **Tie vote**: Tie votes shall be broken by the Chair casting a vote.
- 30. **Abstention**: Any member abstaining from a vote may remain seated at the table and participate in the discussion. Reasons for abstention may be stated at the time of the abstention and such reason shall not be considered a conflict of interest.
- 31. **Explaining the Vote**: After the vote is taken, any member of the Commission desiring to explain his/her vote shall be allowed an opportunity to do so.
- 32. **Not to Vote Unless Present**: No member of the Commission is permitted to vote on any motion unless the member shall be present when the vote is taken.

J. Procedure – Suspension of Rules

- 33. **Suspension of Alternation of Rules**: No standing rules of the Historic Landmark Commission shall be altered, amended, suspended, or rescinded without the vote of a majority of the members of the Commission.

K. Approved Application

- 34. If the application is approved, the Planning staff shall prepare a Certificate of Appropriateness. A copy of the Certificate of Appropriateness shall be provided to the applicant or the appropriate representative, ~~to be submitted to the Permits Counter when a building permit is obtained.~~ The Certificate of Appropriateness **including any attachments** is a document that should be attached to all sets of plans available to the appropriate building inspector and/or enforcement officer, who are responsible for its enforcement.

L. Denied Application

35. If an application is denied, a copy of the minutes for the meeting and written reason(s) for denial shall be mailed to the applicant.

M. Letter from Planner

36. After the Historic Landmark Commission hearing, the Planning Staff shall prepare a ~~letter stating the decision~~ Record of Decision of the Commission, and outlining any subsequent action the applicant must take. This letter shall ~~accompany the Findings and Orders~~ be prepared by the Commission secretary, and shall be forwarded to the appropriate building inspector and/or enforcement officer and the Permits Counter Supervisor, who are responsible for its enforcement.

N. Modifications of Applications

37. An approved or pending application for a Certificate of Appropriateness may be modified by a written request from the applicant to the Planning Staff. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans, or sketches, where necessary. If the Planning Staff finds that the modification constitutes a substantial change, the applicant shall submit the information as a new application to the full Commission for approval.

O. Reconsideration of Applications Which Have Been Denied

38. The order of business for reconsideration of applications for Certificate of Appropriateness which previously have been denied shall be, as follows:
 - a. The applicant must submit to the Planning staff, evidence which supports claims that the application has been altered to the extent that it warrants reconsideration.
 - b. The Planning staff shall be charged with presenting such evidence to the Commission. Such evidence shall be limited to that which is necessary to enable the Commission to determine whether or not there has been a substantial change in the facts, evidence, or conditions relating to the application provided; however, that the applicant shall be given the opportunity to present any other additional supporting evidence, if the Commission decides to reconsider the application.
 - c. After receiving the evidence, the Commission shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence, or conditions relating to the application which would warrant reconsideration. If

Comment [Z6]: or when the design guidelines or ordinance have significantly changes since the last decision?

the Commission finds that there has been such a change, it shall thereupon treat the request as a new application received at that time.

P. Appeals

39. ~~Appeals of the recommendation of the Commission may be made, as follows:~~

~~An applicant, any owner of abutting property or of property located within the same "H" Historic Landmark Overlay District, any recognized or registered organization pursuant to Chapter 2.62 of the Salt Lake City Code, the Utah State Historic Society or the Utah Heritage Foundation, may object to the decision by filing a written appeal with the Land Use Appeals Board within thirty (30) days following the decision.~~

Comment [C7]: Is more an ordinance provision than a Rules of Procedure item

Q.P. COMMITTEES

40. The Historic Landmark Commission shall establish standing or ad hoc committees, consisting of members from the full Commission, to address specific issues or to perform specific tasks. These committees shall meet on an as-needed basis. Their recommendations shall be forwarded to the Historic Landmark Commission prior to the subsequent regularly-scheduled meeting.
41. **Architectural Committee:** It shall be the policy of the Historic Landmark Commission that an Architectural Committee of the Commission shall be available to meet with applicants to give them technical advice regarding their project upon the direction of the Commission.
 - a. The Architectural Committee, in the Architectural Committee meeting collectively and individually, shall not indicate the approval or disapproval of the application. No advice or opinion given, or reported as having been given, by any member of the Architectural Committee at such an informal meeting shall be in any way official or binding. The Commission shall direct the staff to issue final approval of projects reviewed by the Architectural Committee, or require the applicant to return to the Commission for final review after the applicant has worked with the Architectural Committee.
 - b. In most cases regarding new construction, the applicant should first meet with the Historic Landmark Commission in order to obtain a general direction from all of the members of the Commission. Once the general direction is given and the issues have been raised, the Historic Landmark Commission may direct the applicant to meet with the Architectural Committee to work out the technical details on the project. The Commission shall determine if the application for new construction shall be issued final approval by the staff or referred back to the Commission for further review and/or final approval after the applicant or representative has met with the Architectural Committee.

- c. The Planning staff attending the Architectural Committee shall take notes of the discussion. The recommendation of the Architectural Committee shall be presented in written form to the Historic Landmark Commission prior to their subsequent public hearing.

Comment [Z8]: Our "policy document" also mentions a documentation committee. Maybe the committees should be defined in the ordinance rather than here? Who can be on the committees? The ARC should have at least one architect. Are the members standing or volunteered with each case?

Q. Administrative Approval (Screening)

- 43. It shall be the policy of the Historic Landmark Commission that alteration requests may be administratively ~~approved~~ reviewed by the Planning Staff. The Planning Staff shall have the authority to approve routine alterations determined to be "ordinary maintenance," the replacement of deteriorated elements which match the original in design and materials, alterations to the rear of the structure which are not visible from the public rights-of-way and work that meets the adopted criteria for such work in historic districts or on designated landmark sites.
- 44. If the Planning Staff ~~denies~~ cannot approve a request for a Certificate of Appropriateness, the applicant has the option of revising the request to meet the standards of the ordinance and design guidelines and reapplying for an administrative approval, or ~~appealing the administrative decision to the Commission requesting the application be reviewed by the full commission. The appealed administrative decision shall be treated as a routine application.~~ Records shall be kept of all administrative approvals. A written report of these decisions shall be included in the Historic Landmark Commission Annual Report and with each Commission meeting's packet of information.

Comment [Z9]: This language is different than the ordinance which states that staff can review: minor alteration of or addition to a non-contributing structure, substantial alteration of or addition to a non-contributing site, partial demolition of either a landmark site or a contributing structure, demolition of an accessory structure, and demolition of a non-contributing structure

R. Annual Report

- 45. The Planning Staff shall prepare an Annual Report to be presented to the Historic Landmark Commission at its regularly scheduled meeting in February. The report shall include information about the number, type and disposition of standard cases, administrative review cases, and information regarding other City or Staff activities involving historic preservation. The Annual Report will be compiled with additional information detailing the activities of the Planning Division and forwarded to the City Council ~~and Mayor's Office.~~

S. Amendment of Rules

- 46. These Rules of Procedure may be amended at any meeting of the Historic Landmark Commission held after not less than fourteen (14) days written notice of the proposal to amend the rules, upon a majority vote of all of the members of the Historic Landmark Commission.

U.I. Recording of Rules

47. These rules and all subsequent amendments shall be recorded by the secretary in the Historic Landmark Commission Members Handbook and copies shall be furnished to each member of the Commission.

Approved by the Historic Landmark Commission on ~~March~~ January 6, 2004~~2010~~.

Signature of the Chair
Salt Lake City Historic Landmark Commission

Formatted: Bullets and Numbering