



Memorandum

Planning Division
Community & Economic Development Department

To: Historic Landmark Commission

From: Janice Lew, Senior Historic Preservation Planner

Date: January 31, 2013

**Re: Petition PLNPCM2009-00014 - Demolition Provisions of the H
Historic Preservation Overlay District**

Attached please find a revised version of the demolition provisions of the H Historic Preservation Overlay District. The ordinance reflects the Historic Landmark Commission's discussion from January 3, 2013. The changes that were suggested by the Commission are highlighted in yellow. The direction that staff received at the January meeting is as follows:

Subsections J1 & K1 - "Possible" is too broad of a term and should be replaced with "reasonable". (pgs. 4 & 5)

Subsection L1 - Provide means to determine a reasonable offering price. (pg. 7)

Subsection L5 - Provide requirement to secure a vacant property during a deferral period. (pg. 7)

Subsection O - Include a definition of "special merit exception" upfront. (pg. 13)

Summary of Proposed Ordinance Changes

The Planning Division is proposing specific changes to the zoning ordinance. The proposed major changes are discussed below in the order that they would appear in the ordinance.

1. Chapter 21A.06 – Decision Making Bodies

Provides language that gives the Planning Commission the authority to issue a certificate of appropriateness for demolition as part of an approved special merit exception and includes a recommendation from the Historic Landmark Commission. This allows the Commissions to balance historic preservation goals of the city with other objectives.

2. Chapter 21A.34.020 – Historic Preservation Overlay District

Provides new definitions for "Special Merit Exception" and "Unreasonable Economic Hardship." (subsection B)

Modifies standards for a certificate of appropriateness for demolition of a landmark site and contributing principal building or structure. (subsection J & K)

Clarifies the economic hardship determination process. Allows the HLC final authority in determinations of economic hardship and eliminates the Economic Hardship Review Panel. Establishes criteria for income producing and non-income producing property. Allows the HLC and planning staff to solicit expert advice. Sets limitations on economic hardship decisions. (subsection N)

Establishes a process for Special Merit Exceptions (subsection O)

Only allows the issuance of a CoA for demolition simultaneously with the appropriate approval and permits for the replacement building. Eliminates a landscape plan as an appropriate replacement plan. (subsection P)

Creates a preservation fund through additional fees for approved demolitions. (subsection P)

Outlines documentation requirements if demolition is approved. (subsection Q)

Requires salvage efforts if demolition is approved. (subsection Q)

Attachments

- A. Draft – Language proposed to be deleted is ~~stricken~~. Proposed wording is underlined. Notes are in red.

21A.06.030 PLANNING COMMISSION

8. Authorize issuance of a certificate of appropriateness for demolition as part of an approved special merit exception pursuant to the procedures and standards set forth in section 21A.34.020 of this title.

21A.06.050 HISTORIC LANDMARK COMMISSION

12. Make recommendations to the planning commission regarding special merit exceptions as defined in subsection 21A.34.020B.

ZONING ORDINANCE CHAPTER 21A.34.020 H Historic Preservation Overlay District

B. Definitions

9. Special Merit Exception: A project having significant benefits to the City or to the community by virtue of exemplary architecture, special features of land planning, or social or other benefits having a high priority for community services (See subsection O of this section).

10. Unreasonable Economic Hardship: Failure to issue a certificate of appropriateness for the demolition of a landmark site, or contributing principal building or structure would amount to a regulatory taking of the owner's property without just compensation (See subsection N of this section).

F. Procedure For Issuance Of Certificate Of Appropriateness

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

g. Review And Decision By The Historic Landmark Commission: The historic landmark commission shall make a decision at a regularly scheduled meeting, within sixty (60) days following receipt of a completed application, except that a ~~review and decision on~~ consideration of an application for a certificate of appropriateness for demolition of a landmark site or contributing principal building or structure declaring an economic hardship shall be made within ~~one hundred twenty (120)~~ ninety (90) days following receipt of a completed application.

(1) After reviewing all materials submitted for the case, the recommendation of the planning division and conducting a field inspection,

if necessary, the historic landmark commission shall make written findings of fact based on the standards of approval as outlined in this subsection F through subsection ~~L~~K of this section, whichever are applicable.

(2) On the basis of its written findings of fact the historic landmark commission shall either approve, deny or conditionally approve the certificate of appropriateness. A decision on an application for a certificate of appropriateness for demolition of a contributing principal building or structure may be deferred for up to one year pursuant to subsections ~~L~~K and ~~M~~L of this section.

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

(4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.

h. Appeal Of Historic Landmark Commission Decision To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized or registered organization pursuant to title 2, chapter 2.62 of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark commission's decision, may object to the decision by filing a written appeal with the appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers a demolition request for up to one year pursuant to the provisions of subsections ~~L~~K and ~~M~~L of this section.

J. Standards For Certificate Of Appropriateness For Demolition Of A

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

1. ~~The demolition is required to alleviate a threat to public health and safety pursuant to subsection Q of this section; or~~ The physical integrity of the site as defined in subsection C10b of this section is no longer evident nor is it **reasonable** to accurately re-establish the historical appearance in form and detailing as an integral part of a rehabilitation project. The loss of the site's historic appearance is not due to the willful or negligent acts that have caused the deterioration of the site or principal building or structure, as evidenced by the following:

- a. Failure to perform normal maintenance and repairs;
- b. Failure to diligently solicit and retain tenants; and/or
- c. Failure to secure and board the building if vacant.

The building official should retain the authority to approve the demolition of hazardous structures or buildings without going through the process of obtaining a certificate of appropriateness. Existing language already provides for this exception. (See Section 21A.34.020T)

This also takes into account whether the loss of historic integrity was “self created.”

- ~~2. The demolition is required to rectify a condition of economic hardship, as defined and determined pursuant to the provisions of subsection K of this section.~~

Under typical economic hardship procedures, an applicant may apply for a “certificate of economic hardship” after the preservation commission has denied his or her request to demolish a historic property.

~~LK.~~ **Standards For Certificate Of Appropriateness For Demolition Of A Contributing Principal Building or Structure In A H Historic Preservation Overlay District:** In considering an application for a certificate of appropriateness for demolition of a contributing structure, the historic landmark commission shall determine whether the project substantially complies with the following standards:

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

- a. The physical integrity of the site as defined in subsection C210b of this section is no longer evident ~~nor it is reasonable to re-establish the historical appearance of the site as an integral part of a rehabilitation project;~~

- b. The streetscape within the context of the H historic preservation overlay district would not be negatively affected.

- c. The demolition would not diminish the concentration of historic resources used to define the boundaries of the district.

- ~~ed. The demolition would not adversely affect the H historic preservation overlay district due to the surrounding noncontributing structures relationships to other distinctive buildings, sites, or areas which are eligible for preservation based on historical, cultural or architectural characteristics.~~

- ~~de. The base zoning of the site is incompatible with reuse of the structure; The current use is not consistent with any adopted policy set forth in the citywide, community, and/or small area master plan and future land use map applicable to the site;~~

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

f. The site has not suffered from willful neglect by past or current owners of the property, as evidenced by the following:

- (1). Willful or negligent acts that have caused the deterioration of the structure,
- (2) Failure to perform normal maintenance and repairs,
- (3) Failure to diligently solicit and retain tenants, and/or
- (4) Failure to secure and board the structure if vacant.

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

2. Historic Landmark Commission Determination of Compliance With Standards Of Approval: The historic landmark commission shall make a decision based upon compliance with the requisite number of standards in subsection ~~L~~K1 of this section as set forth below.

a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least ~~six (6)~~ five (5) of the standards are met, the historic landmark commission shall approve the certificate of appropriateness for demolition.

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

c. Deferral Of Decision For Up To One Year: Upon making findings that three (3) to ~~five (5)~~ four (4) of the standards are met, the historic landmark commission shall defer a decision for up to one year during which the applicant must conduct a bona fide effort to preserve the site pursuant to subsection ~~M~~L of this section.

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

1. Marketing the property for sale or lease. Prior to making an offer to sell or lease, an owner shall first file a statement with the planning division, identifying the property, the offering price or rent and the date the offer to

sell or lease shall begin. Documentation of the reasonableness of the price sought by the applicant shall be provided and may include:

- a A market analysis of at least three (3) comparables prepared by a licensed real estate broker or agent.
- b Assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor.
- c An appraisal, no older than six months, conducted by an appraiser from the City's Property Management Department's list of approved appraisers.

2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Hheritage Foundation revolving fund loans, redevelopment loans, etc.; and in consideration of other currently available incentives;
- 3 Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and other currently available incentives;
4. Obtaining two (2) written statements from licensed building contractors or architects with experience in historic rehabilitation detailing the actual estimated costs to rehabilitate the property to meet minimum International Building Code for Existing Buildings standards; and
5. Securing and boarding the property against unauthorized persons entering the building if vacant.

NM. Final Decision For Certificate of Appropriateness For Demolition

Following One-Year Deferral Period: Upon the completion of the one-year deferral period and if the applicant provides all evidence of a continuing bona fide, reasonable and unsuccessful effort to find a way to preserve, rehabilitate or restore the site, or building or structure preservation effort, the historic landmark commission shall ~~make a final decision approve~~ for the certificate of appropriateness for demolition pursuant to subsection F2 of this section. ~~The historic landmark commission shall approve the certificate of appropriateness for demolition and approve, approve with modifications or deny the certificate of appropriateness application for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

KN. Definition And Determination Of Economic Hardship: ~~The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property. The owner and/or owner's representative may, within thirty (30) calendar days upon denial of a certificate of appropriateness for demolition of a landmark site, or contributing principal building or structure within a H historic preservation~~

overly district, submit a request for a certificate of economic hardship. The owner and/or owner's representative shall attend a pre-application conference with representatives of the planning division for the purpose of discussing the review process, outlining the application requirements and providing information on incentives that may be available to the applicant. A certificate of economic hardship shall be approved if the applicant presents facts clearly demonstrating to the satisfaction of the historic landmark commission that there are no feasible measures that can be taken which would enable the owner to make a reasonable beneficial use of the property and/or derive a reasonable economic return from the property either in its current form or if rehabilitated.

1. Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be submitted to the planning division. The application must include photographs, information pertaining to the historical significance of the landmark site or contributing principal building or structure, and all information necessary to make findings on the standards. The burden of proof is on the owner or owner's representative to prove that all reasonable beneficial use and/or economic return has been denied as a result of a denial of a certificate of appropriateness for demolition. Simply showing some effect on value or purchasing the property for substantially more than market value at the time of purchase and considering its historic designation is not sufficient.

Denial of all reasonable use and return is the constitutional standard for a regulatory taking.

2. Standards Evidence For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship. The historic landmark commission may at its sole discretion solicit expert testimony and require that the applicant make submission concerning any or all of the information set forth below before it makes a determination on the application. Such material may include, but is not limited to:

- a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition, the applicant's knowledge of the condition of the property at time of purchase and the applicant's plans for the property at time of purchase;

An applicant's expectation of demolishing a historic property subject to a preservation ordinance at the time of purchase, or likely to be subject to a preservation ordinance, would not be reasonable. Also pertinent is whether the owner's objectives were realistic given the condition of the property at the time of purchase, or whether the owner simply overpaid for the property.

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

- (1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased,
- (2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,
- (3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years,
- (4) Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor,
- (5) An appraisal, no older than six months at the time of application for determination of economic hardship conducted by an appraiser from the City's Property Management Department's list of approved appraisers. Also Aall appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property,
- (6) The fair market value of the property, taking into consideration the regulations of the H historic preservation overlay district, and the inherent assumptions that a principal structure or building might not be allowed to be demolished. Assembled lots shall be considered individually and not as a whole; property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed,

The argument often presented by the applicant is that they are entitled to the highest and best use of their property, and that anything less than this constitutes a taking. However, extensive case law exists that support anti-demolition ordinances, and that taking occurs only when an owner is totally deprived of all use of his/her property.

This also addresses the inflated land values that may be paid by an applicant to assemble property.

- (7) Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and
- (8) Any state or federal income tax returns on or relating to the property for the previous two (2) years;

- c. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
 - (1) Any real estate broker or firm engaged to sell or lease the property,
 - (2) Reasonableness of the price or rent sought by the applicant, and
 - (3) Any advertisements placed for the sale or rent of the property,
- d. The infeasibility of alternative uses that can earn a reasonable economic return in the case of income producing uses, for the property as considered in relation to the following:
 - (1) A report from a licensed engineer or architect with demonstrated experience in rehabilitation of older buildings and structures as to the structural soundness of any structures on the property and their suitability for rehabilitation,
 - (2) ~~An Estimate of the cost of the proposed construction or alteration, including the cost of demolition or and removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations,~~
 - (3) ~~The Estimated market value of the property in the current condition, after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use, and~~
 - (4) ~~The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in two of the following as to the economic feasibility of rehabilitation or reuse of the existing structure or building on the property. Testimony should be solicited from an architect, developer, real estate consultant, appraiser, or any other professional experienced in rehabilitation of older structures and buildings.~~
- e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- f. Description of past and current use.
- g. An itemized report that identifies what is deficient if the building does not meet City building code, and information as to the cause of the building's current condition.

- h. Consideration of conditional use options, variances or financial incentives to alleviate hardship.
 - i. The City and the applicant may submit additional evidence relevant to the issue and determination of economic hardship for the review and consideration of the historic landmark commission.
- 3. Procedure For Determination Of Economic Hardship: The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period. The Planning Director may appoint an expert or expert team to evaluate the application and provide advice and/or testimony concerning the value of the property and whether or not the denial of demolition could result in a governmental taking of the property. The expert(s) should have considerable experience in at least two of the following: appraising historic properties, real estate development, economics, accounting, finance or law.
 - a. Review Of Evidence: The historic landmark commission shall consider an application for determination of economic hardship within 90 days from receipt of a complete application. All of the evidence and documentation presented to the historic landmark commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting complying with the open meetings act to review the evidence of economic hardship in relation to the standards set forth in subsection K2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party; provided, that notice for such public hearing shall be in accordance with chapter 21A.10, "General Application And Public Hearing Procedures", subsection [21A.10.020E](#) and section [21A.10.030](#) of this title.

Throughout the country, requests for relief on economic hardship grounds are typically decided by historic preservation commissions. Under current provisions, the Economic Review Panel was difficult to administer because it was hard to find qualified volunteers that would be willing to spend the time necessary to evaluate the evidence and reach a conclusion.

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

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

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

b. (4) Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the applicant has demonstrated clear and convincing evidence supporting an unreasonable economic hardship if the application for a certificate of appropriateness for demolition is denied, application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall approve a certificate of economic hardship demolition. The Historic Landmark Commission shall make findings concerning economic hardship for each separate property proposed for demolition. In order to show that any reasonable beneficial use or economic return cannot be obtained, the applicant must show that:

(1) For demolition of an income-producing property:

(a) the site, building or structure currently is not capable of providing any reasonable return in its present condition. Reasonable rate of return does not mean highest rate of return;

(b) bona fide efforts to sell or lease the site, or building or structure have been unsuccessful; and

(c) the cost required to rehabilitate the property, building or structure is such that any reasonable return on such an investment is not achievable taking into account any financial incentives available for rehabilitation.

(2) For demolition of a non-income producing property:

(a) the site, building or structure cannot now be put to any beneficial use in its present condition;

(b) bona fide efforts to sell or lease the site, building or structure have been unsuccessful; and

(c) it is not economically feasible to rehabilitate the site, building or structure taking into account any financial incentives available for rehabilitation.

c. Certificate Of Economic Hardship: The certificate of economic hardship shall be valid for a period of one (1) year unless a certificate of appropriateness for demolition is issued within that time. The planning director may approve extensions of this one (1) year period, not to exceed a total of two (2) years provided that a written request by the applicant is received prior to the expiration date of the certificate of economic hardship that shows circumstances beyond the control of the applicant. If a certificate of economic hardship expires, a new certificate must first be obtained before a certificate of appropriateness for demolition may be issued.

~~d.(2) Denial Of A Certificate Of Economic Hardship: If the historic landmark commission finds that the applicant has failed to provide information that proves an unreasonable economic hardship, the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of economic hardship shall be denied.~~

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

(2) It shall be the responsibility of the owner to stabilize and maintain the property so as not to create a structurally unsound, hazardous or dangerous structure or building as determined by the chief building official.

(3) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of economic hardship may appeal to the appeals hearing officer in accordance with the provisions of chapter 21A.16 of this title.

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

O. Special Merit Exception: The planning commission may authorize issuance of a certificate of appropriateness for demolition as part of a special merit exception at the request of any applicant, including the City itself. A special merit exception shall be considered necessary in the public interest if it exhibits exceptional

qualities and provides significant benefits to the overall community. A special merit exception shall be processed in accordance with the following procedures:

1. Application: An application shall be made to the zoning administrator on a form or forms provided by the office of the zoning administrator, which shall include at least the following information:

a. General Information:

- (1) The applicant's name, address, telephone number and interest in the property;
- (2) The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;
- (3) The street address and legal description of the subject property;
- (4) The zoning classification, zoning district boundaries and present use of the subject property;
- (5) A vicinity map with north arrow, scale, and date, indicating the zoning classifications and current uses of properties within eighty five feet (85') (exclusive of intervening streets and alleys) of the subject property;
- (6) The proposed title of the project and the names, addresses and telephone numbers of the architect, landscape architect, planner or engineer on the project; and
- (7) A signed statement that the applicant has met with and explained the proposed special merit exception to the appropriate neighborhood organization entitled to receive notice pursuant to title 2, chapter 2.62 of this code.

b. Development Plan: A development plan at a scale of twenty feet (20') to the inch or larger, unless otherwise approved by the zoning administrator, setting forth at least the following, unless waived by the zoning administrator:

- (1) The location, dimensions and total area of the site;
- (2) The location, dimensions, floor area, type of construction and use of each proposed building or structure;
- (3) The number, the size and type of dwelling units in each building, and the overall dwelling unit density;
- (4) The proposed treatment of open spaces and the exterior surfaces of all buildings and structures, with sketches of proposed landscaping, buildings and structures, including typical elevations;
- (5) Architectural graphics, if requested by the zoning administrator, including typical floor plans and elevations, profiles and cross sections;
- (6) The number, location and dimensions of parking spaces and loading docks, with means of ingress and egress;

- (7) The proposed traffic circulation pattern within the area of the development, including the location and description of public improvements to be installed, including any streets and access easements;
- (8) A traffic impact analysis;
- (9) The location and purpose of any existing or proposed dedication or easement;
- (10) The general drainage plan for the development tract;
- (11) The location and dimensions of adjacent properties, abutting public rights of way and easements, and utilities serving the site;
- (12) Significant topographical or physical features of the site, including existing trees;
- (13) Soils and subsurface conditions, if requested;
- (14) The location and proposed treatment of any historical structure or other historical design element or feature;
- (15) One copy of the development plan colored or shaded (unmounted) for legibility and presentation at public meetings; and
- (16) A reduction of the preliminary development plan to eight and one-half by eleven inches (8 1/2x 11"). The reduction need not include any area outside the property lines of the subject site.

2. Fees: The application for a special merit exception shall be accompanied by the fee shown on the Salt Lake City consolidated fee schedule. Applications filed by the City shall not require the payment of any fees.

3. Determination Of Completeness: Upon receipt of an application for a special merit exception, the zoning administrator shall make a determination of completeness pursuant to section 21A.10.010, "General Application Procedures", of this title.

4. Staff Report: A staff report evaluating the special merit application shall be prepared by planning staff.

5. Historic Landmark Commission Public Hearing: The historic landmark commission shall schedule and hold a public hearing on the completed application in accordance with the standards and procedures for conduct of the public hearing set forth in chapter 21A.10, "General Application And Public Hearing Procedures", of this title.

6. Historic Landmark Commission Recommendation: Following the public hearing, the commission shall recommend approval, approval with modifications or denial of the proposed special merit exception.

7. Planning Commission Hearing: The planning commission shall schedule and hold a public hearing to consider the proposed special merit exception in accordance with the standards and procedures for conduct of the public hearing set forth in chapter 21A.10, "General Application And Public Hearing Procedures", of this title.

8. Planning Commission Decision: Following the hearing, the planning commission may approve the proposed special merit exception, approve the proposed special merit exception with modifications, or deny the proposed special merit exception.

a. In making its decision concerning a proposed certificate of appropriateness for demolition as part of a special merit exception, the planning commission should consider the following factors:

(1) Evidence of the alternatives to demolition which were considered, as well as detailed information concerning why the various alternatives were rejected including the redesign of the development to include the subject landmark site or contributing building, structure or site.

(2) Whether the building or structure can be moved to an alternative site;

(3) Whether the project is of exceptional design, utilizing the highest quality of exterior materials in a manner compatible with the surrounding streetscape, area and district;

(4) Whether the project will provide significant public and civic benefits including, without limitation, social or other benefits which are a high priority to the community and particularly desirable at the location proposed. Such benefits must substantially outweigh the loss of the affected landmark site or contributing building(s) or structure(s) in a district. Factors common to all projects would not be considered "special"; and

(5) Whether specific features of the proposed development promote the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents and exceed the minimum requirements of the zoning ordinance.

9. Limitations on Special Merit Exception: Subject to an extension of time granted by the planning commission, no special merit exception shall be valid for a period longer than one year unless a building permit has been issued or complete building plans have been submitted to the division of building services and licensing within that period and is thereafter diligently pursued to completion, or unless a certificate of occupancy is issued and a use commenced within that period, or unless a longer time is requested and granted by the planning commission. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. The approval of a proposed special merit exception by the planning commission shall authorize only the particular project for which it was issued.

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

1. The replacement building or structure satisfies all applicable zoning and H historic preservation overlay district standards;

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

3. Once the replacement plans are approved a fee as shown on the Salt Lake City consolidated fee schedule shall be assessed for the demolition based on the approved replacement plan square footage. The fee must be paid in full prior to issuance of any permits and shall be deposited into an account as directed by the City Council for the benefit and rehabilitation of local historic resources. Fees shall be as follows and are in addition to any fees charged by the City:

- a. 0 – 2,500 square feet = \$2,000.00
- b. 2,501 – 10,000 square feet = \$5,000.00
- c. 10,001 – 25,000 square feet = \$10,000.00
- d. 25,001 – 50,000 square feet = \$20, 000.00
- e. Over 50,000 square feet = \$30,000.00

San Antonio's fee schedule

QQ. Recordation Requirements For Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing principal structure or building, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structures(s) being demolished all of the following before the certificate of appropriateness for demolition is issued. The historic landmark commission may require that the applicant return to the full commission or may delegate review authority to planning staff:

1. Construction Waste Management Plan: A construction waste management plan shall be submitted with all new construction and demolition permits and shall describe how at least fifty-five percent (55%), by weight, of new construction waste materials and demolition waste will be recycled or reused. The construction waste management plan shall also describe:
 - a. Steps that will be taken to reduce the amount of waste created by the project;
 - b. How subcontractors and employees will be trained to ensure material will be reused or recycled to the maximum extent possible;
 - c. On-site collection system for waste, including any separation required. Hazardous waste must be kept separate for proper handling;
 - d. Names of facilities which will receive or process construction and demolition waste material.

These provisions were created by the City's Division of Sustainability and Environment and are currently under consideration by the City Council.

2. Issued approvals and permits for the new construction.
3. Financial proof as demonstrated to the planning director of the owner's ability to complete any replacement project on the property, which may include but not be limited to a valid and binding commitment or commitments from financial institutions sufficient for the replacement structure or building or other financial resources that are sufficient (together with any valid and binding commitments for financing) and available for such purpose.
4. Documentation of the landmark site or contributing structure or building in a historic district as specified by a documentation committee consisting of historic landmark commission members. Documentation may include any or all of the following as determined by the documentation committee following a site inspection, if necessary, of the subject property:
 - a. Drawings. A full set of measured drawings that includes the following:
 - (1) 1/16" = 1'0" site plan showing the location of the building and its access;
 - (2) 1/8" = 1'0" scale, dimensioned and labeled floor plans;
 - (3) 1/8" = 1'0" scale, dimensioned and labeled building elevations and sections (two perpendiculars) with reference to building materials;
 - (4) Landscape plan, including walkways, retaining walls, fountains and pools, trees and plantings, statues, and other decorative elements, such as light posts, railings, etc.
 - (5) Ceiling plans with architectural features such as skylights and plaster work;
 - (6) Interior plans with architectural features;
 - (7) Building sections; and/or
 - (8) Specific architectural, structural, mechanical and electrical details;
 - b. Photographs. Digital or print photographs that meet the standards of the National Register of Historic Places for National Register nominations. Views should include:
 - (1) Interior and exterior views;
 - (2) Close-ups of significant interior and exterior features;

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

c. Written Data. History and description with specific information that is unique to the building, structure or site and the context of the building in Salt Lake City history.

PR. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate of Appropriateness For Demolition: Revocation Of The Designation Of A Landmark Site: Prior to approval of any certificate of appropriateness for demolition the historic landmark commission shall review the postdemolition plans to assure that the plans comply with the standards of subsection H of this section. If the postdemolition plan is to landscape the site, a bond shall be required to ensure the completion of the landscape of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in section 21A.48.050 of this title. If a landmark site is approved for demolition, the landmark site designation shall be removed after the property has been demolished, but not before.

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

S. Issuance of Certificate of Occupancy: Prior to the issuance of a certificate of occupancy, the applicant shall submit a construction waste audit performed by the company (or companies) contracted to remove waste and recyclables. The audit receipt shall include information such as pictures and an itemized list of material contained in each load, the makeup of the waste stream and the percentage (by weight) of the materials recycled, reused or otherwise diverted from the landfill.

QT. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous Structures: A hazardous structure shall be exempt from the provisions governing demolition if the chief building official determines, in writing, that the building currently is an imminent hazard to public safety. ~~Hazardous structures demolished under this section shall comply with subsection P of this section.~~ Prior to the issuance of a demolition permit, the building official shall notify the planning director of the decision. (Ord. 20-11: Ord. 69-09 §§ 6,7, 2009: §§ 4, 5 1996: Ord. 70-96 § 1, 1996: Ord. 88-95 § 1 (Exh. A), 1995: Ord. 26-95 § 2(17-1), 1995