



# Memorandum

Planning Division  
Community and Neighborhoods

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**To:** Historic Landmark Commission

**From:** Lex Traughber – Senior Planner

**Date:** August 3, 2017

**Re: Amendments to the Local Historic District Demolition Process  
Petition PLNPCM2009-00014**

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At the HLC meeting on July 6, 2017, several questions were raised by Commissioners that Planning Staff would like to address and provide clarification. The questions posed were as follows:

## **1. Special Merit Exception**

The issue of special merit exception was raised by a member of the public and piqued the interest of several Commissioners. Planning Staff was tasked with providing additional information regarding special merit exceptions.

A special merit exception is defined as 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 amenities. The inclusion of a provision for a special merit exception in the historic preservation overlay zone is intended to provide a mechanism for consideration of the level of importance of other adopted City policies when considering demolition of a contributing principal building(s). In the event that a special merit exception review would be requested should the City adopt regulations, the Historic Landmark Commission and/or the Planning Commission would be tasked with deciding if a proposed new construction project provided significant public benefit, outweighing the benefit of preserving a contributing principal structure(s), based on multiple policies adopted by the City Council. A special merit exception process has the potential to usurp the demolition process.

The Historic Landmark Commission considered adding a provision for special merit exception when the demolition and economic hardship sections of the ordinance were being worked on in 2013. After reviewing Planning Staff's proposal for special merit exception, taking public comment, deliberating the benefits and detriments of such a proposal, the Historic Landmark Commission decided to forego a special merit exception provision as part of the proposed ordinance revisions at that time. The minutes from the HLC hearing on July 18, 2013 state, "The Commission reiterated concern over the special merit exception and questioned the need for this provision. It was noted that few cities in the country have similar provisions and that Salt Lake City's historic preservation

regulation do not create any major impediments to development which justify including the special merit exception.” The proposed ordinance revisions at that time were forwarded to the City Council with a recommendation for approval without the provision for a special merit exception. The Planning Commission likewise made a positive recommendation regarding the text amendments to the City Council without the special merit exception process.

At this time, consistent with prior sentiment of the Historic Landmark Commission, it is Planning Staff’s opinion that a special merit exception is not warranted, primarily for the potential of abuse of any special merit exception regulations adopted, and the opportunity for the special merit exception process to become the de facto demolition process for contributing principal structures. Should the Historic Landmark Commission desire further research into special merit exception regulations, Planning Staff would ask that the Historic Landmark Commission request that the Mayor initiate a separate petition to address special merit exception regulations as a stand-alone issue. It is imperative that proposed amendments to the demolition and economic hardship processes move forward at this time, as again, they are confusing and not readily transparent and need improvements.

## **2. Demolition standard concerning base zoning and reuse**

A question was raised for the need of a demolition standard addressing the base zoning of a property and the potential reuse of a building. Currently, the demolition ordinance includes the following standard, “The base zoning of the site is incompatible with the reuse of the structure.” This standard is proposed to be modified to read, “The base zoning of the site does not permit land uses that would allow the adaptive reuse of the contributing principal structure.” The issue raised was that following the first three standards relating to the integrity of the building, the effect of demolition on the streetscape, and then the effect of demolition on the district, a standard looking at zoning and reuse seems unnecessary. There was discussion to remove this standard.

It is Planning Staff’s opinion that a look at the zoning of any given site and any associated reuse of a building is a relevant question when considering demolition. In most instances, the zoning of a property will allow for the reuse of a contributing principal building. In the odd event that a given zone would not readily allow for reuse of a contributing principal building, this rare occurrence should be recognized and considered by Planning Staff and the Historic Landmark Commission in a demolition request.

Additionally, in any event where the zone allows for limited reuse options, it may be prudent to analyze other land use processes that could potentially allow for additional redevelopment opportunities for contributing principal buildings. For example, the Trolley Square South property on 600 South was recently rezoned to FB-UN2 (Form Based Urban Neighborhood District) from multi-family and single-family zones. This rezone action greatly expanded the reuse potential of the four residential properties on the subject site by introducing a commercial reuse option in addition to the residential options available under the prior multi-family and single-family zones.

## **3. Reuse Plan**

A question was posed regarding reuse plans and more specifically the option of landscaping a site as opposed to new construction on a site. Currently, under Section 21A.34.020P, a post demolition option is landscaping of a site after demolition. This section of the ordinance is proposed to be removed in the latest draft of revisions to

demolition requirements in the H – Historic Preservation Overlay District. The current proposal would require new construction to take place on a site that has been approved by the HLC for demolition (see proposed section “M” in the draft text). The Certificate of Appropriateness for demolition would be issued after new construction was approved by the HLC and issued concurrently with the appropriate approvals and permits for a replacement building.

Since the time of the HLC hearing on July 6, 2017, Planning Staff has made several modification to the proposed ordinance as discussed and noted in the meeting. The definitions of “Economic Hardship” and “Wilful Neglect” have been modified as suggested. Accordingly, proposed section 21A.34.020L3 has been modified to remain consistent with the proposed definition of “Economic Hardship”. The proposed introduction paragraph to section 21A.34.020K (Standards for Certificate of Appropriateness for Demolition of a Contributing Principal Building in an H Historic Preservation Overlay District) has been modified as suggested and the text “applicant has provided evidence that the project” has been removed.

In addition, section 21A.34.020F2j (Procedure for Issuance of a Certificate of Appropriateness – Review by City Attorney) has been struck as it is an unnecessary and redundant step that is addressed through the Economic Hardship process. Modifications have been included in section 21A.34.020J (Standards for a Certificate of Appropriateness for Demolition of a Landmark Site) to reflect references to other sections of the code, and to clarify the language for the economic hardship provision for the demolition of landmark sites consistent with the proposed definition for “Economic Hardship”. In the proposed introduction to section 21A.34.020L (Economic Hardship Determination), a sentence has been added to clarify that a request for a demolition of a landmark site can occur anytime as necessary to meet the standards of section 21A.34.020J.

At this time, Planning Staff requests that the Historic Landmark Commission review the proposed ordinance text, make any suggestions for changes to be followed up by Planning Staff, and forward a positive recommendation on to the Planning Commission and City Council for adoption of the text.

**Attachments**

- A. HLC staff report – July 6, 2017
- B. Draft HLC Minutes – July 6, 2017
- C. Draft Ordinance Text – August 3, 2017





# Staff Report

PLANNING DIVISION  
COMMUNITY & NEIGHBORHOODS

To: Salt Lake City Historic Landmark Commission  
From: Lex Traugher – Senior Planner  
(801) 535-6184 or lex.traugher@slcgov.com  
Date: July 6, 2017  
Re: Petition PLNPCM2009-00014, Local Historic District Demolition Process Text Amendment

## ZONING ORDINANCE TEXT AMENDMENT

**REQUEST:** A request by former Mayor Ralph Becker to amend certain sections of Title 21A (Zoning) of the Salt Lake City Code to amend and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide.

**RECOMMENDATION:** Planning Staff recommends that the Historic Landmark Commission forward a positive recommendation to the City Council regarding the amendments to sections 21A.34.020 and related provision in Title 21A-Zoning as proposed.

**MOTION:** Based on the analysis and findings listed in this staff report, testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments comply with the review standards as demonstrated in Attachment B of the staff report dated July 6, 2017.

**BACKGROUND AND PROJECT DESCRIPTION:** In 2009, a petition was initiated to review the City's regulations for demolition of landmark sites and contributing buildings in local historic districts, and the associated economic hardship process. The proposed modifications to the zoning ordinance were in response to a 1999 petition for amendments requested by the Planning Commission, a 2004 legislative action, the 2008 Citygate study of planning processes, and issues identified in the Community Preservation Plan. Primary issues identified at that time regarding the demolition and economic hardship provisions of the ordinance were:

- **Comments received during the development of the Community Preservation Plan suggested that the demolition provisions in the ordinance (including the economic hardship process) were too complex.**
- The standards for determination of economic hardship did not contribute to a clear and consistent process for landowners and applicants.
- Difficulty in balancing the goals of historic preservation with other goals of the City.
- **The economic hardship review panel's makeup of three people was/is difficult to achieve.** The three person panel is supposed to consist of a representative of the HLC, a representative of the applicant and a third party neutral expert. It is difficult to find a third party that meets the

qualifications and is also willing to volunteer their time to review large amounts of complicated documentation.

- **The three person economic review panel** was/is not a fair representation of either the applicant or the HLC, is a cumbersome process for everyone, and confusing to both the applicant and the public.

The petition was actively worked on by Planning Staff at that time and subsequently heard by the Historic Landmark Commission and the Planning Commission with positive recommendations given by both Commissions for City Council action. The petition was never transmitted to the City Council. The petition has remained in the Planning Division primarily due to the necessity to allocate time to other petitions and projects that were of greater priority.

At this time, due to recent intense interest in the overall historic landmark processes by the State legislature and **recent requests for demolition of contributing structures in a couple of the City's local historic districts**, it has become evident that the overall demolition and economic hardship processes remain confusing and need to be revised. Planning Staff has revised the ordinance to address concerns in order to render the demolition and economic hardship processes more transparent and user friendly.

**KEY ISSUES/DISCUSSION:** The key issues listed below have been identified through the analysis of the project, public input, and department review:

Issue 1. The current demolition regulations for landmark sites or contributing buildings and/or structures are too complex and confusing.

Proposed changes to address this issue:

- Change the order of the subsections in 21A.34.020 (H –Historic Preservation Overlay District) as related to demolition so that regulations follow the course of how processes actually occur. For example, the economic hardship process currently precedes the process for the issuance of a certificate of appropriateness for demolition, when these processes in practice are actually reversed. An applicant would apply for a certificate of appropriateness for demolition prior to applying for economic hardship if a demolition request was to be denied.
- **Elimination of standard “g” as currently outlined in the standards for approval for a certificate of appropriateness for demolition (Section 21A.34.020(L)(1)(g)).** Standard “g” currently states that a denial of a certificate of appropriateness for demolition would cause an economic hardship. This is being eliminated because there is a separate process to consider economic hardship that currently occurs after a decision for deferral or denial of demolition by the HLC. This standard has been very confusing for the public and for staff, and is in a redundant and illogical location.
- **Elimination of the requisite number of standards that the HLC must meet to make a decision for approval, deferral, or denial (Section 21A.34.020(L)(2)).** **Instead, the decision would be based on “substantially” meeting** the demolition standards as opposed to a decision based on meeting a specific number of standards. This change is consistent with how decisions are made for Conditional Uses, Planned Developments, and Conditional Building & Site Design review. Currently, a certificate of appropriateness would be approved if six (6) standards are met. If three (3) to five (5) standards are met, the HLC could defer a decision for up to a year pending a bona fide preservation effort by an applicant to save a building/structure. If two (2) or less standards are met then a demolition request would be denied. This system of achieving a specific number of standards is proposed to be eliminated.
- **Subsequent elimination of section 21A.34.020(M) that addresses a “Bona Fide Preservation Effort” should the** HLC defer a decision for a certificate of appropriateness when an applicant meets 3-5 of the standards for demolition. The requirement of an applicant to conduct a bona fide preservation effort has proven in the past to be ineffective in the preservation of the structure and some of the required bona fide efforts are not legally enforceable. In addition, an applicant has most likely pursued this effort prior to applying for demolition.

- Add additional definitions for terms used in the demolition ordinance to clarify language.

**2. The standards for determination of “Economic Hardship” as it relates to demolition requests** are not clear and are confusing for applicants.

Proposed changes to address this issue:

- Place the regulations for Economic Hardship after the regulations for Demolition as this is the order in which these processes would occur.
- An overhaul of the language in section 21A.34.020(K) to simplify and make more clear the regulations required for demonstration of economic hardship.
- Replace the set of required standards for economic hardship (21A.34.020(K)(2)), which is quite an extensive list of submittal items and therefore cumbersome and perhaps irrelevant for an applicant, with a list of items that an applicant may submit as evidence to demonstrate an economic hardship. It is incumbent upon an applicant to demonstrate an economic hardship and therefore an applicant should be able to submit documents that support their request as opposed to requiring a long list of submittal items that may or may not be relevant. A laundry list of evidence items has been proposed in the ordinance which an applicant may or may not choose to submit. This laundry list is not meant to be exhaustive. If other evidence items are relevant according to an applicant, then the proposed ordinance would encourage submittal of these items rather than limiting potential evidence items.
- Elimination of the current three-person economic review panel and replacement with an appointed qualified expert to decide economic hardship proposals. This expert would be appointed by the Planning Director. The current three-person economic review panel has proven problematic in the past for several reasons. First, it is difficult to find panelist. Second, because one panelist is appointed by the HLC, a second panelist appointed by the applicant, and a third **proposed by the HLC’s and the applicant’s panelists, the decision for economic hardship essentially falls upon the decision of the third panelist.**

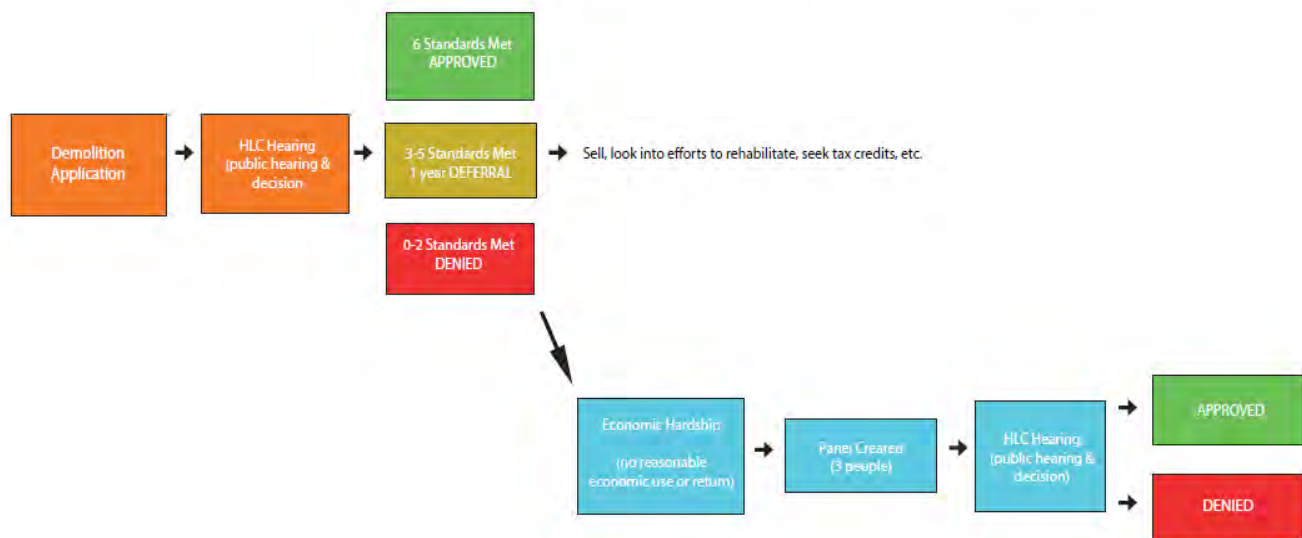
NEXT STEPS: The recommendation of the Historic Landmark Commission will be forwarded to the Planning Commission who will also make a recommendation to the City Council. Both the recommendation of the Historic Landmark Commission and the Planning Commission will be sent on to the City Council for a decision.

ATTACHMENTS:

- A. Current Process Flowchart
- B. Analysis of Standards
- C. Public Process and Comments
- D. Proposed Text Amendments (Strike and Underline)

## ATTACHMENT A: CURRENT PROCESS FLOWCHART

### Demolition & Economic Hardship Process Contributing & Landmark Buildings





## ATTACHMENT B: ANALYSIS OF STANDARDS

### 21A.50.050: STANDARDS FOR GENERAL AMENDMENTS:

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard.

A. In making its decision concerning a proposed text amendment, the city council should consider the following factors:

Standard	Finding	Rationale
Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents	Complies	The proposed text revisions are for the purpose of maintaining, updating, and clarifying the Zoning Ordinance, and as such are consistent with adopted city planning documents.
Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance	Complies	The proposed text amendments further the specific purpose statement for the H Historic Preservation Overlay District located in Title 21A.34.020 of the Salt Lake City Zoning Ordinance.
Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards	Complies	The proposed text amendments are consistent with the purposes and provisions of applicable overlay zoning districts, and help to clarify and improve the provisions of the local historic district demolition process.
The extent to which a proposed text amendment implements best current, professional practices of urban planning and design	Complies	The framework and structure of Salt Lake <b>City's zoning regulations and development</b> standards are sound and do not require wholesale restructuring. However, at times code changes are processed due to land use policy changes adopted by the City or because of State enabling regulation changes. It is beneficial for Salt Lake City to make code revisions that lead to a greater ease of use and understanding. Clarifying the local historic district demolition process is consistent with best practices with regard to public process and transparency.

## ATTACHMENT C: PUBLIC PROCESS AND COMMENTS

### Public Notice, Meetings and Comments

The following is summary of the public notice that has occurred, as well a list of meetings that have been held, and other public input opportunities related to the proposed project.

#### Project Posted to City Websites:

- Citizen Access Portal/Accela – May 11, 2017.
- Open City Hall – May 19, 2017.

#### Notification of Recognized Organizations:

- All recognized organizations were sent notification of the proposal via email on May 8, 2017.

#### Meetings

- An Open House was held on May 22, 2017.
- HLC briefing and work session held on June 1, 2017 (Minutes are attached).

#### Notice of the public hearing for the proposal include:

- Newspaper notification on June 20, 2017.
- Agenda posted on the Planning Division and Utah Public Meeting Notice websites on June 23, 2017.

#### Public Comments:

- All written public comments as of the production and distribution of this staff report are included for review.
- All comments received via Open City Hall as of the production and distribution of this staff report are included for review.

# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

*Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.*

All Registered Statements sorted chronologically

As of June 22, 2017, 11:31 AM



*Open City Hall is not a certified voting system or ballot box. As with any public comment process, participation in Open City Hall is voluntary. The statements in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.*

# Ordinance on Demolition of Landmark Sites or in Local Historic Districts

*Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.*

As of June 22, 2017, 11:31 AM, this forum had:

Attendees:	48
Registered Statements:	4
All Statements:	4
Minutes of Public Comment:	12

This topic started on May 12, 2017, 11:50 AM.

## Ordinance on Demolition of Landmark Sites or in Local Historic Districts

Please provide your feedback on the proposed regulation and process changes relating to demolition of a landmark site or a contributing building/structure in a local historic district.

Carl Kibler inside Council District 4

June 8, 2017, 4:24 PM

I agree with the view that reducing decisions from 3 to 1 persons is a mistake. It makes that single person a lightning rod for all opinions - it makes it personal and subject to whim and pressure more than a panel of 3 would.

Rule streamlining looks good otherwise.

Personally, I like turnover and change in our neighborhoods and cities to let them adapt to the present. The label of 'historic' is far over-applied to lock neighborhoods into particular decades of construction.

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Name not shown inside Council District 7

June 8, 2017, 12:42 PM

I support every revision/change except the change from a multi-person panel to a single appointed position.

1 Supporter

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Name not shown inside Council District 6

May 31, 2017, 9:13 PM

I do not agree with replacing a 3 person panel with one (1) person. That is placing too much power with one individual, not elected, to make a decision re: demolitions in Historic Districts.

I also do not support changes that would make it easier to demolish original historic structures. The point in establishing districts is to maintain that very essence, not destroy it.

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Name not shown inside Council District 6

May 30, 2017, 8:17 AM

This seems like a sensible revision to a confusing process. Perhaps an additional public hearing process could also be included so that demolition of structures within historic districts could receive more input from the public.

1 Supporter

**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact is Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was looking for comments and suggestions on the proposal.

The Commission and Staff discussed and stated the following:

- The legal definition of the term “substantially” and how it is applied in the demolition ordinance.
- Would strongly suggest a set number of the standards had to be met thus not leaving a developer to wonder how the Commission would determine the substantial compliance of a petition.
- Each case was different and there were different elements to consider.
- A definition was needed for the following:
  - Willful neglect.
  - An architect with expertise in rehabilitation of older buildings.
    - Link it to the park service's standards of qualifications.
  - Partial demolition
- The more you define the more tied down the Commission would become.
- The standard for regulatory takings and if it was the correct standard to apply to the demolition ordinance.
- How a taking was determined and the process to appeal a taking.
- The different ways to obtain a demolition.
- If the Historic Landmark Commission should be the body to determine economic hardship or if it should be removed from the ordinance.
- Removing the language regarding regulatory takings and tie the language to the standards of economic hardship.
- If there needed to be a difference stated between income and non- income generating property.
- The demolition standards for a non-contributing structure.
- The importance of keeping contributing property information up to date.
- Giving Staff the ability to approve all solar panel petitions and the pros and cons of doing so.
- Clarifying the meaning of a principal structure and principal building and how each was reviewed.
- Page 3:
  - H.3 - Clarification on the appeal period.

- Page 4:
  - Remove the appeal language and refer to the appeal section.
- The City's response to vacant non maintained buildings.
- How boarded buildings are regulated.
- Encouraged Staff to notify the Commission of boarded buildings in historic districts.
- If property owners were notified that willful neglect was not grounds for demolition when boarding letters are sent.
- Page 7:
  - Change the phrase adverse effect to state, would not create a material adverse effect.
  - Tie a demotion to engaging an implementation of the reuse plan.
- The certification of appropriateness for demolition should not be issued until an acceptable, consistent reuse plan was approved and building permits concurrent with the demolition plan were issued.
- Make the title for the post demolition/ reuse plan consistent throughout the plan.
- Clarify the language regarding willful or negligent in regards to deterioration.
- How to determine routine maintenance in relation to the status of the building.
- Page 9:
  - Reword the language regarding the condition of the property upon purchase.
  - Reword the language about conditions personal to the landowner.
- Page 10:
  - Remove the number of professionals required for testimony.
  - Indicate the required experience for the historic professional to be considered as versed in Historic Preservation.
  - Review the 120 day period for processing the application.
- Page 11:
  - Reword B. to say the appointed Planning Director's expert.
  - Address rentals and owner occupied buildings in the ordinance.
  - Review the language regarding reasonable rate of return.
- Page 13:
  - If bonding should be required and where it would fit in the process.
  - Who determined the level of historic documentation required prior to demolition?
  - Need to require photos to be sent to SHPO prior to demolition with a written history.
  - How to determine what buildings should have detailed documentation.

Staff will make the changes and bring the document back to the Commission for further review.

## Traughber, Lex

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**From:** Dave Alderman <  
**Sent:** Tuesday, May 23, 2017 9:20 AM  
**To:** Traughber, Lex  
**Subject:** Comments on Changes to the Historic District Demolition and New Construction Standards

Lex - Following up on our discussion yesterday at the Open House. Overall, both documents appear to be a good step to streamline some processes. Below are our comments.

### Demolition and New Construction Text

F.1.a.(3) - Partial demolition of a landmark or contributing structure should go to the HLC. Administrative approval of non-contributing or accessory structures is acceptable. But contributing structures should get a more detailed, public review.

Also, the solar panel wording needs to be consistent between the two documents. Installation of solar panels, except on the front of the house, should be handled administratively.

### New Construction Text

F.1.a.(6) - Construction of new one or two family dwellings should continue to be seen by the HLC. This allows for a more public process to allow the design to be fine-tuned to fit the neighborhood. If a substantial addition requires HLC review, then why shouldn't a complete new build?

### General

It's not addressed in either text amendment, but any requests for variances or special exceptions, such as height, setbacks, etc., should go to the HLC. And very few should be approved.

Thanks for the opportunity to provide our input.

Dave and Peg Alderman



## Traughber, Lex

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**From:** Oktay, Michaela  
**Sent:** Thursday, June 1, 2017 9:43 AM  
**To:** Poland, Michelle  
**Cc:** Norris, Nick; Coffey, Cheri; Traughber, Lex  
**Subject:** FW: tonight's HLC meeting

Michelle,

Can you please forward these comments to the HLC members.

Thanks.

**From:** Allen Roberts [mailto:[allen@crsa-us.com](mailto:allen@crsa-us.com)]  
**Sent:** Thursday, June 01, 2017 9:09 AM  
**To:** Oktay, Michaela <[Michaela.Oktay@slcgov.com](mailto:Michaela.Oktay@slcgov.com)>  
**Subject:** FW: tonight's HLC meeting

Michaela: Enclosed is an email I just sent to Doug White and Khosrow Semnani containing talking points to tonight's HLC meeting.

Do you know what the format will be for public input? Also, do you know where this item appears on the agenda? (I haven't seen the agenda.)

If there is no public input, then I would like my 5 points to be included as input into the official record, along with the written comments I made on the ordinance changes that I sent to you a couple of months ago.

Thanks, as always. Allen

**Allen Roberts, FAIA**  
Senior Principal



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**From:** Allen Roberts  
**Sent:** Thursday, June 01, 2017 9:03 AM  
**To:** Douglas White

**Cc:** Khosrow B. Semnani

**Subject:** tonight's HLC meeting

Doug, Khos: Tonight at the SLC HLC meeting the HLC will be discussing the proposed changes to their HLC ordinance, including the demolition section. I sent them comments in writing a couple of months ago, but tonight would be a good opportunity to give your input in person. I don't know what the meeting format will be like an whether the public will be much of an opportunity to make comments (perhaps two minutes each?), but I think it will help to advance your project, especially if you comment on the demolition section. Also, let me know if you would like me to attend and make comments. If we are given only 2 minutes each, here are some of the most important comments I suggest we make:

- 1) The City needs to change its policy of saving its thousands of non-significant, contributory building by denying their demolition, especially where streetscapes have already been heavily compromised. Keeping the present the present policy is preventing many developments, especially needed housing projects, throughout the city's numerous historic district. Freezing these large areas against future development is an unwise, no-growth policy.
- 2) The demolition ordinance is one-sided, unbalanced and unfair, highly subjective in its administration as well as overly complex, cumbersome and difficult for applicants to deal with.
- 3) There are many legitimated reasons for approving the demolition of small numbers of the city's thousands of contributory buildings. The demolition ordinance should acknowledge this and be more balanced in its requirements. We specifically recommend these changes:
  - a. Clarify, simplify and upgrade the six-seven (or however many) criteria.
  - b. Require that only 3 or 4 of the criteria be met. Requiring 6 is one-sided and totally unbalanced.
  - c. Revise or eliminate the economic hardship requirement.
- 4) Reevaluate all of the city's historic districts and their boundaries and adjust them, bringing them up-to-date. Many of them are based on building surveys conducted as long as over 40 years ago. Many changes have occurred during those decades, including the demolition of historic buildings and the construction of new buildings.
- 5) When amending the district boundaries, use credible industry-standard guidelines for the creation of new boundaries.

Best regards, Allen

**Allen Roberts, FAIA**  
Senior Principal



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## Traughber, Lex

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**From:** Oktay, Michaela  
**Sent:** Thursday, June 1, 2017 11:07 AM  
**To:** Traughber, Lex  
**Subject:** FW: proposed new City Demolition Ordinance.

**From:** Allen Roberts [mailto:allen@crsa-us.com]  
**Sent:** Tuesday, March 21, 2017 11:00 AM  
**To:** Oktay, Michaela <Michaela.Oktay@slcgov.com>  
**Subject:** proposed new City Demolition Ordinance.

Michaela: Good morning and happy Spring.

I have taken some time this week to review the proposed revision/zoning text amendment of the City's Demolition Ordinance and have some comments on it:

- 1) I was hoping this would be a newly-conceived, re-thought-out ordinance but what I found is that it is a tweaking and reworking of parts of the existing ordinance. The problem with that is that the present ordinance is too long, complex, confusing and unbalanced/unfair for the average person to deal with. And the public shouldn't have to hire a team of architects, preservationists, attorneys, realtors, economists, etc. to apply for demolition.
- 2) I agree with the validity of the five problems listed on p. 3, although I'm not sure the new wording solves them all.
- 3) The main weakness or flaw in the ordinance is the absence of a "Special Merit" provision. Without it, the ordinance is unbalanced—in favor of preservation and against reasonably justified demolition. I see on p. 4 that Commission considered such a provision but decided not to include it (as you indicated to me might be the case). However, the few arguments made against Special Merit were one-sided and not a balanced weighing of pros and cons. (Special Merit would be just the right provision to help the Trolley Towers project, for example. Basically that is a very beneficial and worthwhile project being held hostage by four dwellings, two of which are severely structurally damaged and beyond repair, one of which was moved onto the site and placed on a newer, incompatibly high, concrete foundation, and one intact house which is surrounded by parking lots and is indistinguishable from thousands of other, similar cottages throughout the city. They are in a part of an historic district which should not be in the district (due to lack of streetscape integrity and lack of any concentration of historic structures) and therefore should not be protected as contributory structures within a district. The entire district is flawed because it was created as a two-block buffer for 600 East rather than for its inclusion of a concentration of significant and contributory buildings—which do not exist throughout many parts of the district. The district boundaries should be re-drawn using the industry standards for creating historic districts, not the non-conforming, over-reaching whim of a neighborhood group not familiar with preservation standards.) In short, the revised ordinance does not solve problems such as this one, in part due its lack of Special Merit. Put another way, if this ordinance had been in place, say in 1900, most of the city's most significant landmarks would not exist today because they would not have been allowed to replace buildings protected then.
- 4) The Economic Hardship provision is still too unreasonable if not Draconian for a typical citizen to deal with.
- 5) On the positive side, it is helpful and more fair for the applicant to have to meet fewer standards (4 or 5 of 6 instead of 6 of 6), so that's a step in the right direction, but having decisions deferred for up to one year is unfair (p.14). Some of the other waiting periods (90 and 100 days, etc.) are too long too.

- 6) The fees listed on page 21 are excessive. They are unjustifiably penalizing. What is the justification for these fees?
- 7) The requirements of part P., p. 21, are excessive, especially for contributory buildings of low/minimal significance. The rule should be: Significant buildings get lots of documentation; contributory building less documentation.
- 8) The requirement that the applicant submit and have approved architectural plans for the replacement project before demolition is granted is extraordinarily expensive, time-consuming and unfair to the applicant. As a preservationist, I do not like speculative demolition (like the Newhouse Hotel) or demolition by neglect (like the two collapsing houses Mr. Semnani bought on his parking lot property), but this particular requirement is truly unreasonable. There must be a better way to achieve its preservation goal without so severely burdening the applicant.
- 9) Overall, I think the City needs to re-think its policy of preserving all of the contributory buildings in all of its historic districts. Because there are now many districts, some of them quite large, there are thousands of these minimally significant buildings, yet they are holding up and even killing worthwhile projects and obstructing other City goals like providing more housing and reversing urban blight.
- 10) Finally, both the present and proposed demolition ordinance, as well as some related preservation ordinances and policies, are dangerous in that they are part of the reason being advanced to the State Legislature for passing laws prohibiting the creation of future historic districts. Think of the recent problems with the Harvard-Yale District. In Park City, for example, building owners and developers were so angry about the City's preservation policies and practices that the City totally did away with the City Landmarks Commission and its supporting documents, leaving it solely to the planning staff to deal with preservation issues. In summary, the new demo ordinance needs to be balanced, fair, reasonable, and accessible and easy to use for both the applicant and the planning staff

I have comments on some of the details in the specific language of the proposed ordinance but I'm still working through those and will try to get them in order later. Overall, though, speaking as a life-long, career preservationist who has served as chairman of three historic district commissions in Utah and designed hundreds of preservation projects throughout the West, I find both the present and proposed demolition ordinances to be, as I've said, too long, complex, confusing, unbalanced/one-sided, costly, unfair and based on faulty underlying resource data, such as the protection of historic districts created with faulty, non-standard boundaries, thereby protecting contributing structures which should not be granted protection, in the process delaying and sometimes killing highly worthwhile, Special Merit projects which would greatly benefit the city.

Sorry for be so negative, but the local preservation pendulum needs some re-tilting back to the middle. Thanks in advance for taking these observations and ideas into consideration as the demolition ordinance moves through City processes.

Allen

**Allen Roberts, FAIA**  
Senior Principal



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## Traughber, Lex

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**From:** Allen Roberts <allen@crsa-us.com>  
**Sent:** Thursday, June 1, 2017 4:10 PM  
**To:** Oktay, Michaela; Traughber, Lex  
**Subject:** one more item...

Michaela, Lex: One more item that should be on the earlier list I sent today:

I (and my various clients like Trolley Square and the Elks Club group) strongly recommend that the revised ordinance include a Special Merit provision in the demolition section. This will help prevent the disapproval to demolish a few non-significant, contributory buildings from stopping or delaying major projects of great merit from being built.

My definition of sacrifice is giving up something of lesser value to achieve something of greater value. A Special Merit provision would allow such justifiable sacrifices to occur.

Thanks again for including my input in the HLC discussion.

Allen

**Allen Roberts, FAIA**  
Senior Principal



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## ATTACHMENT D: PROPOSED TEXT AMENDMENTS



## **ZONING ORDINANCE CHAPTER 21A.34.020**

### **H – HISTORIC PRESERATION OVERLAY DISTRICT**

#### **B. Definitions**

Economic Hardship: Failure to issue a certification of appropriateness for the demolition of a landmark site or contributing principal building will deny the property owner all reasonable beneficial or economically viable use of the property without just compensation.

Wilful Neglect: The intentional absence of routine maintenance and repair of a building over time, leading to structural weakness, decay, or deterioration to the point where a building is beyond rehabilitation or adaptive reuse is no longer feasible.

#### **F. Procedure For Issuance Of Certificate Of Appropriateness:**

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

a. Types Of Construction: The following may be approved by administrative decision:

(1) Minor alteration of or addition to a landmark site or contributing principal building ~~site~~ and/or structure;

(2) Substantial alteration of or addition to a noncontributing site;

(3) Partial demolition of either a landmark site or a contributing principal building or structure;

(4) Demolition of an accessory building or structure;

(5) Demolition of a noncontributing building or structure; and

~~(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section [21A.40.190](#) of this title.~~

(6) Installation of solar energy collection systems pursuant to section [21A.40.190](#) of this title.

b. Submission Of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to chapter 21A.10 of this title, and shall forward the application for review and decision.

c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model, window frame sections and samples deemed necessary to consider the application properly and completely.

d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.

e. Notice ~~For~~ of Application For Demolition Of A Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

f. Standards ~~For~~ of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.

g. Review And Decision By The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

h. Referral Of Application By Planning Director To Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the H historic preservation overlay district, or the need for consultation for expertise regarding architectural, construction or preservation issues.

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:

a. Types Of Construction: The following shall be reviewed by the historic landmark commission:

- (1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ principal building;
- (2) New construction of principal building in H historic preservation overlay district;
- (3) Relocation of landmark site or contributing ~~site~~ principal building;
- (4) Demolition of landmark site or contributing ~~site~~ principal building;



(5) Applications for administrative approval referred by the planning director; and

~~(6) Installation of solar energy collection systems pursuant to section [21A.40.190](#) of this title.~~

(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section [21A.40.190](#) of this title.

b. Submission Of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F1b of this section.

c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

d. Materials Submitted With Application: The requirements for the materials to be submitted upon application for a certificate of appropriateness shall be the same as specified in subsection F1c of this section. Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to chapter 21A.10 of this title.

f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to chapter 21A.10 of this title.

g. Standards For Approval: The application shall be reviewed according to the standards set forth in subsections G through ~~L~~ K of this section, whichever are applicable.

h. 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 an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) 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 structure may be deferred for up to one year pursuant to subsections L and M 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~~ principal buildings 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 made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.

~~i. Appeal Of Historic Landmark Commission Decisions 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 organization pursuant to title 2, chapter 2.60 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 and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of chapter 21A.16 of this title.~~

~~j. Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~

~~k. Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~

~~K. 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.~~

~~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 historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.~~

~~2. Standards For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:~~

~~a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;~~

~~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) All 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 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;~~

~~(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 for the property as considered in relation to the following:~~

~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~

~~(2) Estimate of the cost of the proposed construction, alteration, demolition or 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) 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 rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~

~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~

~~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.~~

~~a. Review Of Evidence: 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 of this title.~~

~~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.~~

~~(1) Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~

~~(2) Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~

~~(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.~~

**L. K. Standards For Certificate Of Appropriateness For Demolition Of A Contributing Structure Principal Building In An H Historic Preservation Overlay District:** ~~In~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing structure principal building, the historic landmark commission shall determine whether the applicant has provided evidence that the project request substantially complies with the following standards:

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

a. The physical integrity of the site contributing principal building as defined in subsection C15b of this section is no longer evident;

b. The streetscape within the context of the H historic preservation overlay district would not be negatively materially affected if the contributing principal building were to be demolished;

c. The demolition would not create a material adversely affect on the H historic preservation overlay district due to the surrounding noncontributing structures concentration of historic resources used to define the boundaries or maintain the integrity of the district;

d. The base zoning of the site ~~is incompatible with~~ does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;

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

~~f. The site contributing principal building has not suffered from wilful neglect, as evidenced by the following:~~

~~(1) Wilful or negligent acts by the owner that have caused significant deteriorates deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,~~

~~(2) Failure to perform normal routine and appropriate maintenance and repairs to maintain the structural integrity of the contributing principal building, or~~

~~(3) Failure to diligently solicit and retain tenants, and~~

~~(4 3) Failure to secure and board the structure contributing principal building, if vacant, per section 18.64.045 of this title,; and~~

~~g. The denial of a certificate of appropriateness for 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 L1 of this section as set forth below: If the Historic Landmark Commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the Historic Landmark Commission shall approve the request for a certificate of appropriateness for demolition. If the Historic Landmark Commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the Historic Landmark Commission shall deny the request for a certificate of appropriateness for demolition.~~

~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) 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) 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 of this section.~~

**K. L. Economic Hardship Exception:** Upon denial of a certificate of appropriateness for demolition of a landmark site or contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship.

1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.

2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.

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 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.

(4) Real estate taxes for the previous three (3) years by the Salt Lake County assessor,

(5) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) 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 H historic preservation overlay district;

(7) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;

c. The marketability of the property for sale or lease, as determined by 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 in terms of fair market value or rent sought by the applicant, and

(3) Any advertisements placed for the sale or rental of the property,

d. The feasibility of alternative uses for the property as considered in relation to the following:

(1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,

(2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,

(3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and

(4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.

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 minimum City building code standards or violations of City code.

h. Consideration of conditional use options or special exceptions to alleviate hardship.

3. Procedure For Determination Of Economic Hardship: The Planning Director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the Historic Landmark Commission concerning the value of the property and whether or not the denial of demolition could result in the property owner being denied of all reasonable beneficial or economically viable use of the property without just compensation. The extent of the authority of the Planning Director's appointed qualified expert is limited to rendering advice and testimony to



the Historic Landmark Commission. The Planning Director's appointed qualified expert has no decision making capacity. The Planning Director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The Historic Landmark Commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the Planning Director's appointed qualified expert as necessary.

a. Review Of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the Planning Director's appointed qualified expert for determination of economic hardship after receipt of a complete application.

b. Finding Of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the Planning Director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

(1) For demolition of non-residential or multifamily property:

(a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

(2) For demolition of a residential property (single or two family):

(a) The contributing principal building cannot be put to any beneficial use in its present condition.

c. Certificate Of Appropriateness for Demolition: A certificate of appropriateness for demolition shall be valid for one (1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to section 21A.10(D).

d. Denial Of Economic Hardship: If the historic landmark commission finds that the applicant has failed to prove an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

(1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are 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) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~M. 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 structure. The one year 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;~~
- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision 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 for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.~~

**M. Requirements for Certificate of Appropriateness for Demolition:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is to be replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H historic preservation overlay district standards for new construction,

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

3. Submittal of documentation to the Planning Division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.

a. Photographs. Digital or print photographs. Views should include:

(1) Exterior views;

(2) Close-ups of significant exterior features;

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

b. Site plan showing the location of the building and site features.

**N. Revocation Of The Designation Of A Landmark Site:** If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition: 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 plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.~~

~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and 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.~~

**Q. O. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous Structures Building:** A hazardous structure building shall be exempt from the provisions governing demolition if the 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.

**~~R. P.~~ P. Expiration Of Approvals:** Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) 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 longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. (~~Ord. 67-16, 2016: Ord. 60-15, 2015: Ord. 54-14, 2014: Ord. 58-13, 2013: Ord. 74-12, 2012~~)

## **Motion Sheet for PLNPCM2009-00014 – Local Historic District Demolition Process Text Amendment**

### **Motion to approve:**

Based on the analysis and findings listed in this staff report, testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council approve petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments comply with the review standards as demonstrated in Attachment B of the staff report dated July 6, 2017.

### **Motion to deny:**

Based on the testimony and the proposal presented, as well as input received during the public hearing, I move that the Commission recommend that the City Council deny petition PLNPCM2009-00014 regarding the amendments to section 21A.34.020 and related sections. The Commission finds that the proposed amendments do not comply with the review standards in Attachment B of the staff report dated July 6, 2017. (The Commission should list what standards, factors, etc. were considered to recommend denial if different from the analysis of standards outlined in the staff report).



**Commissioner Harding amended the motion to state Standard E had been met. Commissioner Brennan seconded the amendment.**

The Commission and Staff discussed the following

- If landscaping was an appropriate reuse plan.
- Willful neglect as stated in the ordinance and that the Commission would have to find that all of the standards for willful neglect had been demonstrated.

**Commissioners Harding, Peters, Shepherd and Brennan voted “aye”. Commissioner Adams and Hyde voted “nay”. The motion passed 4-2.**

The Commission took a five minute break. [9:03:13 PM](#)

The Commission reconvened. [9:08:22 PM](#)

[9:08:26 PM](#)

**Amendments to the Local Historic District Demolition Process - A text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning the demolition of historic resources in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to make the demolition process more transparent. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition as necessary. The changes would apply citywide. (Staff contact: Lex Traughber at (801)535-6184 or [lex.traughber@slcgov.com](mailto:lex.traughber@slcgov.com).) Case number: PLNPCM2009-00014**

Mr. Lex Traughber, Senior Planner, gave an overview of the proposal as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Historic Landmark Commission forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The standards for appropriateness of demolition of a contributing principal building.
  - Under K add the language to state “the request substantially complies with the following standards.”
- Definition of economic hardship should state “the property owner was denied all reasonable benefit, economical, viable use based on the certificate of appropriateness being denied”.
- The definition of an appropriate reuse plan.

**PUBLIC HEARING** [9:19:58 PM](#)

Chairperson Shepherd opened the Public Hearing.

The following individuals spoke to the petitions: Ms. Polly Hart, Mr. Allen Roberts, Ms. Cindy Cromer and Mr. Douglas White.

The following comments were made:

- There was a difference between making the demolition process simpler, not easier and the goal was to not make demolition easier to achieve.
- The ordinance was a hoop not a barrier to demolition as it should be more difficult to demolish historic structures.
- Did not like people buying historic properties simply to demolish them.
- The six standards should remain in the ordinance as they were the only thing standing between buildings remaining or be demolished.
- The merit provision was deleted from the current proposal and should be re-added as sometimes the demolition of a historic structure was justified.
- Special merit existed to allow demolitions when the new project had considerable merit.
- Almost every major historic building in the city was built on the site of a previous historic building.
- Preservation was not the only priority of the city.
- The city needed a special merit provision to allow for growth.
- The Staff Report needed to look at taking some of the subjectivity out of Section L as it pitted the property owner against preservation efforts.
- Under section L, g. needed to be removed.
- Please do not do away with the three person economic hardship panel.
- The Special Merit was not always what it presented itself to be and was a huge risk.
- There are a limited number of people in Salt Lake City that truly have expertise with historic structures and their rehabilitation.
- Remove demolitions from the political process and hire someone who was unbiased to review these petitions.

The Commission, Staff and Mr. Roberts discussed the following:

- Why the Special Merit provision was removed from the ordinance?
  - It was determined that if a Special Merit provision was implemented it would become the sole process developers would chose in order to achieve demolition.
- Some version of Special Merit was needed to allow for growth and a proposal would have to be exceptional to allow for demolition of a historic structure.
- How surveys affected the demolition process.

Chairperson Shepherd closed the Public Hearing.

The Commission and Staff discussed and stated the following:

- The reuse plan and how it was addressed in the proposed ordinance.
  - The landscape plan had been removed from the proposed ordinance as a reuse option.
- If there were two different approvals one for the demolition and one for the site/reuse plan?
- The standards for demolition approval.



- How base zoning affected demolition and how it was applied in the ordinance.
- If the base zoning standard should be part of the economic hardship process.
- The standards and language under willful neglect.
- The Commission had helped developers to streamline proposals and allow development to move forward.
- The Special Merit program and how it applied to demolitions.
  - The Commission would like more information on Special Merit programs and how other cities use the program.
- If an outside unbiased entity should review demolitions or if the three person panel was a better option.

**MOTION [10:11:50 PM](#)**

Commissioner Brennan stated regarding PLNPCM2009-00014 – Local Historic District Demolition Process Text Amendment, tabled the petition to a future meeting to allow Staff to gather information on the items of question. Commissioner Harding seconded the motion. Commissioners Peters, Harding Adams, Brennan, Hyde and Svendsen voted “aye”. The motion passed unanimously.

**[10:13:06 PM](#)**

**Amendments to the New Construction Standards for Local Historic Districts - A** text amendment to amend sections of Title 21A (Zoning) of the Salt Lake City Code and clarify regulations concerning new construction in the H – Historic Preservation Overlay District. Changes proposed are intended to clarify language and to improve the new construction process. The proposed regulation changes will affect section 21A.34.020 of the zoning ordinance. Related provisions of title 21A may also be amended as part of this petition. The changes would apply citywide. (Staff contact: Anthony Riederer at (801) 535-7625 or [Anthony.riederer@slcgov.com](mailto:Anthony.riederer@slcgov.com).) Case number: PLNPCM2016-00905

**MOTION [10:13:25 PM](#)**

Commissioner Brennan stated regarding PLNPCM2016-00905 - Amendments to the New Construction Standards for Local Historic Districts, he moved to table the petition to the August 3, 2017 meeting. Commissioner Peters seconded the motion. Commissioners Peters, Adams, Brennan, Harding, Hyde and Svendsen voted “aye”. The motion passed unanimously.

Commissioners Harding and Adams recused themselves from the meeting. [10:13:48 PM](#)

**Work Session [10:14:24 PM](#)**

**Trolley Square Ventures Rezone Briefing at approximately 603 S 600 East Street -** Douglas White, on behalf of Trolley Squares Ventures LLC, has requested a zoning map amendment from RMF-30 Low Density Multi-Family Residential District to R-MU-35 Residential/Mixed Use District at the above listed address. Currently the land is used for parking. The purpose of the request is to develop a 24 unit apartment building that will not exceed 35 feet in height. Although the applicant



## **ZONING ORDINANCE CHAPTER 21A.34.020**

### **H – HISTORIC PRESERATION OVERLAY DISTRICT**

#### **B. Definitions**

Economic Hardship: Denial of a property owner of all reasonable beneficial or economically viable use of a property without just compensation.

Wilful Neglect: The intentional absence of routine maintenance and repair of a building over time, leading to significant structural weakness, decay, or deterioration.

#### **F. Procedure For Issuance Of Certificate Of Appropriateness:**

1. Administrative Decision: Certain types of construction or demolition may be approved administratively subject to the following procedures:

a. Types Of Construction: The following may be approved by administrative decision:

- (1) Minor alteration of or addition to a landmark site or contributing site, building, and/or structure;
- (2) Substantial alteration of or addition to a noncontributing site;
- (3) Partial demolition of either a landmark site or a contributing principal building or structure;
- (4) Demolition of an accessory building or structure;
- (5) Demolition of a noncontributing building or structure; and
- ~~(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section [21A.40.190](#) of this title.~~

(6) Installation of solar energy collection systems pursuant to section [21A.40.190](#) of this title.

b. Submission Of Application: An application for a certificate of appropriateness shall be made on a form prepared by the planning director or designee, and shall be submitted to the planning division. The planning director shall make a determination of completeness pursuant to chapter 21A.10 of this title, and shall forward the application for review and decision.

c. Materials Submitted With Application: The application shall include photographs, construction drawings, and other documentation such as an architectural or massing model,

window frame sections and samples deemed necessary to consider the application properly and completely.

d. Fees: No application fee will be required for a certificate of appropriateness that is administratively approved.

e. Notice ~~For~~ of Application For Demolition Of A Noncontributing Building or Structure: An application for demolition of a noncontributing building or structure shall require notice for determination of noncontributing sites pursuant to chapter 21A.10 of this title. The applicant shall be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

f. Standards ~~For~~ of Approval: The application shall be reviewed according to the standards set forth in subsections G and H of this section, whichever is applicable.

g. Review And Decision By The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve or conditionally approve the certificate of appropriateness based on the standards in subsections G and H of this section, whichever is applicable, within thirty (30) days following receipt of a completed application. The decision of the planning director shall become effective at the time the decision is made.

h. Referral Of Application By Planning Director To Historic Landmark Commission: The planning director may refer any application to the historic landmark commission due to the complexity of the application, the significance of change to the landmark site or contributing ~~structure~~ building in the H historic preservation overlay district, or the need for consultation for expertise regarding architectural, construction or preservation issues.

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:

a. Types Of Construction: The following shall be reviewed by the historic landmark commission:

(1) Substantial alteration or addition to a landmark site or contributing ~~structure/site~~ site, building, and/or structure;

(2) New construction of principal building in H historic preservation overlay district;

(3) Relocation of landmark site or contributing ~~site~~ principal building;

(4) Demolition of landmark site or contributing ~~site~~ principal building;

(5) Applications for administrative approval referred by the planning director; and

~~(6) Installation of solar energy collection systems pursuant to section 21A.40.190 of this title.~~

(6) Installation of solar energy collection systems on the front facade of the principal building in a location most compatible with the character defining features of the home pursuant to section 21A.40.190 of this title.

b. Submission Of Application: The procedure for an application for a certificate of appropriateness shall be the same as specified in subsection F1b of this section.

c. Fees: The application shall be accompanied by the applicable fees shown on the Salt Lake City consolidated fee schedule. The applicant shall also be responsible for payment of all fees established for providing the public notice required by chapter 21A.10 of this title.

d. Materials Submitted With Application: The requirements for the materials to be submitted upon application for a certificate of appropriateness shall be the same as specified in subsection F1c of this section. Applications for a certificate of appropriateness for demolition shall also submit a reuse plan for the property.

e. Notice: Applications for a certificate of appropriateness shall require notice pursuant to chapter 21A.10 of this title.

f. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to chapter 21A.10 of this title.

g. Standards For Approval: The application shall be reviewed according to the standards set forth in subsections G through ~~L~~ K of this section, whichever are applicable.

h. 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 an application for a certificate of appropriateness for demolition of a landmark site or contributing structure declaring an economic hardship shall be made within one hundred twenty (120) 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 structure may be deferred for up to one year pursuant to subsections L and M 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~~ principal buildings 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 made ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~ pursuant to the provisions of Section 21A.10.030 of this title.

i. ~~Appeal Of Historic Landmark Commission Decisions 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 organization pursuant to title 2, chapter 2.60 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 and M of this section. Any person adversely affected by a final decision of the historic landmark commission may file an appeal in accordance with the provisions of chapter 21A.16 of this title.~~

j. ~~Review By City Attorney: Following the filing of an appeal to the appeals hearing officer of a decision of the historic landmark commission to deny or defer a certificate of appropriateness for demolition, the planning director shall secure an opinion of the city attorney evaluating whether the denial or deferral of a decision of the demolition would result in an unconstitutional taking of property without just compensation under the Utah and United States constitutions or otherwise violate any applicable constitutional provision, law, ordinance or regulation.~~

k. ~~Appeal Of Appeals Hearing Officer Decision To District Court: Any party aggrieved by the decision of the appeals hearing officer may file a petition for review with the district court within thirty (30) days following the decision of the appeals hearing officer. The filing of an appeal of the appeals hearing officer decision shall stay the decision of the appeals hearing officer pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the appeals hearing officer if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.~~

K. ~~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.~~

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 historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.

2. Standards For Determination Of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:

a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;

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) All 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 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;

(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 for the property as considered in relation to the following:~~

~~(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;~~

~~(2) Estimate of the cost of the proposed construction, alteration, demolition or 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) 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 rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;~~

~~e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.~~

~~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.~~

~~a. Review Of Evidence: 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 of this title.~~

~~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.~~

~~(1) Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section results in economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition.~~

~~(2) Denial Of Economic Hardship: If the historic landmark commission finds that the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.~~

~~(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.~~

**J. Standards For Certificate Of Appropriateness For Demolition Of 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 O of this section; or
2. The demolition is required to rectify a condition of "economic hardship", as defined and determined A determination of economic hardship has been granted by the Historic Landmark Commission pursuant to the provisions of subsection K L of this section.

**L. K. Standards For Certificate Of Appropriateness For Demolition Of A Contributing Structure Principal Building In An H Historic Preservation Overlay District:** ~~In~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing structure principal building, the historic landmark commission shall determine whether the project request 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 C15b of this section is no longer evident;

b. The streetscape within the context of the H historic preservation overlay district would not be negatively materially affected if the contributing principal building were to be demolished;

c. The demolition would not create a material adversely affect on the H historic preservation overlay district due to the surrounding noncontributing structures concentration of historic resources used to define the boundaries or maintain the integrity of the district;

d. The base zoning of the site ~~is incompatible with~~ does not permit land uses that would allow the adaptive reuse of the structure contributing principal building;

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

~~f-e.~~ The site contributing principal building has not suffered from wilful neglect, as evidenced by the following:

(1) ~~Wilful or negligent acts by the owner that have caused significant deteriorates~~ deterioration of the structure structural integrity of the contributing principal building to the point that the building fails to substantially conform to applicable standards of the state construction code,

(2) ~~Failure to perform normal routine and appropriate maintenance and repairs to~~ maintain the structural integrity of the contributing principal building, or

(3) ~~Failure to diligently solicit and retain tenants, and~~

(4 ~~3~~) ~~Failure to secure and board the structure contributing principal building, if vacant, per section 18.64.045 of this title,; and~~

~~g. The denial of a certificate of appropriateness for 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 L1 of this section as set forth below: If the historic landmark commission finds that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the historic landmark commission shall approve the request for a certificate of appropriateness for demolition. If the historic landmark commission does not find that the request for a certificate of appropriateness for demolition substantially complies with the standards in subsection K1 of this section, then the historic landmark commission shall deny the request for a certificate of appropriateness for demolition.~~

~~a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least six (6) 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) 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 of this section.~~

**K. L. Economic Hardship Determination:** Upon denial of a certificate of appropriateness for demolition of a contributing principal building by the historic landmark commission, the owner and/or owner's representative will have one (1) year from the end of the appeal period as described in Chapter 21A.16 of this title, to submit an application for determination of economic hardship. In the case of a landmark site, an application for determination of economic hardship can be submitted at any time as necessary to meet the standard of subsection J2 of this section.

1. Application for Determination of Economic Hardship: An application for a determination of economic hardship shall be made on a form provided by the planning director and shall be submitted to the planning division.

2. Evidence for Determination of Economic Hardship: The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate an economic hardship. Any finding in support of economic hardship shall be based solely on the hardship of the property. Evidence may include, but is not limited to:

a. Condition of the property at time of purchase and the applicant's plans for the property at time of purchase.

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 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.

(4) Real estate taxes for the previous three (3) years by the Salt Lake County assessor,

(5) An appraisal, no older than six (6) months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also all appraisals obtained within the previous three (3) 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 H historic preservation overlay district;

(7) For non-residential or multifamily properties, any state or federal income tax returns on or relating to the property for the previous three (3) years;

c. The marketability of the property for sale or lease, as determined by 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 in terms of fair market value or rent sought by the applicant, and

(3) Any advertisements placed for the sale or rental of the property,

d. The feasibility of alternative uses for the property as considered in relation to the following:

(1) Report from a licensed engineer or architect with experience in rehabilitation of older buildings as to the structural soundness of any building on the property,

(2) An estimate of the cost of the proposed construction or alteration, including the cost of demolition and removal, and potential cost savings for reuse of materials,

(3) The estimated market values of the property in current condition, after completion of the demolition; and after renovation of the existing property for continued use, and

(4) The testimony of an experienced professional as to the economic feasibility of rehabilitation or reuse of the existing building on the property. An experienced professional may include, but is not limited to, an architect, developer, real estate consultant, appraiser, or any other professional experienced in preservation or rehabilitation of older buildings and licensed within the State of Utah.

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 minimum City building code standards or violations of City code.

h. Consideration of map amendment, conditional use, special exception or other land use processes to alleviate hardship

3. Procedure For Determination Of Economic Hardship: The planning director shall appoint a qualified expert to evaluate the application and provide advice and/or testimony to the historic landmark commission concerning the value of the property and whether or not the denial of demolition could result in an economic hardship. The extent of the authority of the planning director's appointed qualified expert is limited to rendering advice and testimony to the historic landmark commission. The planning director's appointed qualified expert has no decision making capacity. The planning director's appointed qualified expert should have considerable and demonstrated experience in appraising, renovating, or restoring historic properties, real estate development, economics, accounting, finance and/or law. The historic landmark commission may also, at its sole discretion, solicit other expert testimony upon reviewing the evidence presented by the applicant or receiving the advice/testimony of the planning director's appointed qualified expert as necessary.

a. Review of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the planning director's appointed qualified expert for determination of economic hardship after receipt of a complete application.

b. Finding of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the planning director's appointed qualified expert, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship, then the historic landmark commission shall issue a certificate of appropriateness for demolition in accordance with subsections M and N of this subsection. In order to show that all beneficial or economically viable use cannot be obtained, the historic landmark commission must find that:

(1) For demolition of non-residential or multifamily property:

(a) The contributing principal building currently cannot be economically used or rented at a reasonable rate of return in its present condition.

(2) For demolition of a residential property (single or two family):

(a) The contributing principal building cannot be put to any beneficial use in its present condition.

c. Certificate of Appropriateness for Demolition: If the historic landmark commission finds an economic hardship, a certificate of appropriateness for demolition shall be valid for one

(1) year. Extensions of time for an approved certificate of appropriateness for demolition shall be subject to section 21A.10D.

d. Denial of Economic Hardship: If the historic landmark commission does not find an economic hardship, then the application for a certificate of appropriateness for demolition shall be denied.

(1) No further economic hardship determination applications may be considered for the subject property for three (3) years from the date of the final decision of the historic landmark commission. The historic landmark commission may waive this restriction if the historic landmark commission finds there are 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) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of appropriateness for demolition may appeal the decision to the appeals hearing officer or the mayor in accordance with the provisions of chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~M. 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 structure. The one year 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;~~
- ~~2. Filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, etc.;~~
- ~~3. Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, etc.; and~~
- ~~4. Obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.~~

~~N. Final Decision For Certificate Of Appropriateness For Demolition Following One Year Deferral: Upon the completion of the one year period and if the applicant provides evidence of a bona fide preservation effort, the historic landmark commission shall make a final decision 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 for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

~~O. Recordation Requirement For Approved Certificate Of Appropriateness For Demolition: Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing structure, the historic landmark commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished for the purpose of providing documentation to state archives.~~

**M. Requirements for Certificate of Appropriateness for Demolition:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building to be demolished is to be replaced with a new building that meets the following criteria:

1. The replacement building satisfies all applicable zoning and H historic preservation overlay district standards for new construction.
2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building.
3. Submittal of documentation to the planning division of the landmark site or contributing principal building in a historic district. Documentation shall include photos of the subject property and a site plan. Documentation may also include drawings and/or written data if available.

a. Photographs. Digital or print photographs. Views should include:

- (1) Exterior views;
- (2) Close-ups of significant exterior features;
- (3) Views that show the relationship of the primary building to the overall site, accessory structures and/or site features.

b. Site plan showing the location of the building and site features.

**N. Revocation of the Designation of a Landmark Site:** If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building has been demolished (See subsection D of this section).

~~P. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate Of Appropriateness For Demolition: 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 plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in chapter 21A.48 of this title.~~

- ~~1. The bond shall be issued in a form approved by the city attorney. The bond shall be in an amount determined by the building official and 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.~~

**Q. O. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous**

**Structures Buildings:** A hazardous ~~structure~~ building shall be exempt from the provisions governing demolition if the 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.

**R. P. Expiration Of Approvals:** Subject to an extension of time granted by the historic landmark commission, or in the case of an administratively approved certificate of appropriateness, the planning director or designee, no certificate of appropriateness shall be valid for a period of longer than one (1) 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 longer time is requested and granted by the historic landmark commission or in the case of an administrative approval the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. (~~Ord. 67-16, 2016; Ord. 60-15, 2015; Ord. 54-14, 2014; Ord. 58-13, 2013; Ord. 74-12, 2012~~)