



# Memorandum

Planning Division  
Community and Neighborhoods

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**To:** Salt Lake City Historic Landmark Commissioners

**From:** Lex Traughber – Senior Planner

**Date:** May 18, 2017

**Re: Amendments to the Local Historic District Demolition Process**

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## **Background**

In 2009, a petition was initiated to review the City’s regulations for demolition of landmark sites and contributing buildings/structures in local historic districts. This petition was actively worked on by Planning Staff at that time and subsequently heard by the Historic Landmark Commission and the Planning Commission with 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 are/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 district, it has become plainly evident that the overall demolition process is confusing and needs to be revised. Planning Staff is committed to revising the ordinance in an expeditious manner to address concerns in order to render the demolition process more transparent and user friendly.

## **Course of Action**

The following is a list of issues, in bold, concerning amendments to the overall demolition process for landmark sites and contributing principal buildings and structures in the City’s local historic districts, and the proposed changes at this time. Planning Staff is seeking input into these changes over the course of the ordinance revision.

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

Proposed change 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 following 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. 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. This assumes that the HLC panelist will support the HLC's decision to deny an economic hardship based on the fact that a demolition request was previously denied, and the applicant's panelist would side with the applicant.

### **Timeline**

The following is an anticipated timeline for the proposed ordinance changes related to the demolition process:

- May 22, 2017 – Open House at the Forest Dale Golf Course club house from 5-7p.m.
- June 1, 2017 – Follow up HLC work session.
- July 6, 2017 – HLC public hearing.
- July 12, 2017 – Planning Commission public hearing.
- July 27, 2017 – Transmittal to the Director of Community & Neighborhoods.
- September/October – City Council action.

### **Request of HLC**

Please review the proposed ordinance changes as well as the proposed ordinance itself and provide comment and direction to Planning Staff in order to move the petition forward.

### **Attachment**

Proposed draft ordinance 5/18/2017

**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 or structure would amount to a regulatory taking of the owner's property without just compensation.

**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 and/or structure;
- (2) Substantial alteration of or addition to a noncontributing site;
- (3) Partial demolition of either a landmark site or a contributing structure;
- (4) Demolition of an accessory structure;
- (5) Demolition of a noncontributing 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. ~~For~~ of Application For Demolition Of A Noncontributing Structure: An application for demolition of a noncontributing 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 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;

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

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

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

(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 principal building or 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 shall not be issued until the appeal period has expired.~~ Appeals of a decision of the historic landmark commission on an application for a certificate of appropriateness for demolition of a landmark site or contributing building or structure shall stay

consideration of a reuse plan for new construction until the appeals hearing officer or the mayor makes a determination. The applicant may choose either the appeals hearing officer or the mayor to decide an appeal.

(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 Decision To Appeals Hearing Officer or the Mayor: 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.~~ Appeals of a decision by the Historic Landmark Commission shall proceed pursuant to the requirements 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 or Mayor 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.~~ Appeals of a decision by the appeals hearing officer or the mayor shall proceed pursuant to the requirements of Chapter 21A.16 of this title.

~~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 Principal Building or Structure In An H Historic Preservation Overlay District:** ~~When~~ When considering an application a request for approval of a certificate of appropriateness for demolition of a contributing principal building or structure, 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 principal building or structure 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 affected if the principal building or structure were to be demolished;
- c. The demolition would not adversely affect 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 principal building or structure;
- e. The reuse plan is consistent with the standards outlined in subsection H of this section;

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

- (1) Wilful or negligent acts ~~by the owner~~ that have caused the deteriorates deterioration of the principal building or structure,
- (2) Failure to perform ~~normal~~ routine maintenance and repairs,
- (3) Failure to diligently solicit and retain tenants, and,
- (4) Failure to secure and board the principal building or structure if vacant; ~~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 or structure 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, not conditions personal to the landowner. Evidence may include, but is not limited to:

a. Knowledge of the 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 income producing 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 and structures as to the structural soundness of any structures 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 two of the following as to the economic feasibility of rehabilitation or reuse of the existing structure or building on the property: an architect, developer, real estate consultant, appraiser, or any other professional experienced in rehabilitation of older structures and 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, and that includes City code violations.

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

3. Procedure For Determination Of Economic Hardship: The Planning Director shall appoint, and keep on retainer, 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 a regulatory taking of the property. The expert should have considerable and demonstrated experience in appraising 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 appointed qualified expert as necessary.

a. Review Of Evidence: The historic landmark commission shall consider an application and the advice/testimony of the appointed qualified expert for determination of economic hardship within 120 days from receipt of an application.

b. Finding Of Economic Hardship: If after reviewing all of the evidence presented by the applicant and the advice/testimony of the 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 use and/or reasonable economic return cannot be obtained, the applicant must show that:

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

(a) The site, building or structure currently cannot be economically used or rented at a reasonable rate of return in its present condition or if rehabilitated taking into consideration any available incentives. Reasonable rate of return does not mean highest rate of return.

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

(a) The site, building or structure cannot now be put to any beneficial use in its present condition or if rehabilitated taking into consideration any available incentives.

c. Certificate Of Appropriateness for Demolition: The validity of a 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. Post Demolition Plan:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building or structure to be demolished is to be replaced with a new building or structure that meets the following criteria:

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

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

**N. Requirements For Certificate Of Appropriateness For Demolition:** Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing principal building or structure, the applicant shall submit all of the following information to the planning director before the certificate of appropriateness for demolition is issued.

1. Issued approvals and permits for the new construction.

2. Financial proof as demonstrated to the planning director of the owner's ability to complete any replacement project on the property, which may include but not be limited to a valid and

binding commitment or commitments from financial institutions sufficient for the replacement principal building or structure or other financial resources that are sufficient (together with any valid and binding commitments for financing) and available for such purpose.

3. Documentation of the landmark site or contributing principal building or structure in a historic district. Documentation shall include photos of the subject property and may also include drawings and/or written data if available and as warranted:

a. Photographs. Digital or print photographs that meet the standards of the National Register of Historic Places for National Register nominations. Views should include:

(1) Interior and exterior views;

(2) Close-ups of significant interior and exterior features;

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

b. Drawings. A set of measured drawings that includes the following:

(1) Site Plan: 1/16" = 1'0" site plan showing the location of the building and site features;

(2) Floor Plans: 1/8" = 1'0" scale, dimensioned and labeled floor plans;

(3) Building Elevations: 1/8" = 1'0" scale, dimensioned and labeled building elevations and sections (two perpendiculars) with reference to building materials;

(4) Landscape plan, including walkways, retaining walls, fountains and pools, trees and plantings, statues, and other decorative elements, such as light posts, railings, etc.

(5) Ceiling plans with architectural features such as skylights and plaster work;

(6) Interior plans with architectural features;

(7) Building sections; and,

(8) Specific architectural, structural, mechanical and electrical details;

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

4. Efforts made to salvage, relocate, donate, or adaptively reuse building materials of the site.

**O. 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 or structure 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. P. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous Structures:~~** A hazardous structure 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. Q. 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~~)