



MEMORANDUM

PLANNING DIVISION
DEPARTMENT *of* COMMUNITY
and NEIGHBORHOODS

To: Historic Landmark Commissioners

From: Anthony Riederer, AICP – Principal Planner
801-535-7625 or anthony.riederer@slcgov.com

Date: July 6, 2017

Re: Demolition of Contributing Structures on Bishop Place (PLNHLC2017-00014,
00015, 00021, 00023, 00028, 00031, 00027, 00022, 00018)

PURPOSE:

The purpose of this memo is to supplement the staff reports submitted at the April 20, 2017 Historic Landmark Commission Meeting to include information requested by the Commission.

RECOMMENDATION:

In light of the zoning administrative interpretation of the review process for demolition and additional information submitted by the applicant over the past several weeks, staff recommends that the commission proceed with a determination on the Standards for Demolition for each property.

As requested by the Chair, staff has prepared a summary matrix reflecting Staff's findings in the April 20, 2017 Staff Report. The purpose is to provide an easy reference to facilitate note taking and discussion at the meeting. This matrix is included as Attachment 1 to this document and will be provided in hard copy form to all commissioners at the July 6th meeting.

BACKGROUND:

At the April 20th meeting, there were questions raised about the completeness of information available to the commissioners in terms of the landscape plan as a reuse plan to satisfy a standard for demolition. The Commission also requested clarification about the demolition process. The HLC tabled the applications at this meeting.

On May 3rd, the Zoning Administrator issued an administrative interpretation in order to address questions and clarify the demolition process with regard to economic hardship. The interpretation is found in Attachment 2.

At the May 4th meeting, the commission discussed the demolition process and the Bishop Place applications and whether to move forward with them as requested by the applicant. After discussion, there was general consensus by the Historic Landmark Commission to allow the items to be heard, given applicant's request, at a future meeting chosen by the applicant.

ADDITIONAL INFORMATION:

Reuse Plan/Landscape Plan

At the April 20th meeting, the Commission requested a landscape plan be provided in order to review and make a finding on the standard for a reuse plan. Within their demolition application, the applicant's intent has always been to landscape the site. The applicant's reuse plan is for open space and has submitted a landscape plan in Attachment 3 of this memo. Open Space is an allowed use in the SR-3 zoning district for which all lots on Bishop Place are zoned.

A proposed reuse plan can be for any permitted use allowed in the zone. Demolition standard e. doesn't take into account all the possible uses that are allowed in the zone. A permitted use may not require the construction of a new structure. There are no standards in 21A.34.020 H (new construction or alteration of a noncontributing site) that address landscaping, therefore according to state law the commission needs to interpret the code in the favor of the land use application.

Staff's finding is that the landscape plan is an acceptable reuse plan and meets standard e. for demolition for all nine applications.

Economic Hardship

As a result of the Commission's concerns and subsequent tabling of the Bishop's Place demolition applications, the Zoning Administrator issued an administrative interpretation on the demolition process found in Attachment 2.

In all demolition requests since the creation of the current zoning ordinance in 1995, the Historic Landmarks Commission has made findings on the first six ordinance standards [21A.34.020(L)(1)(a-f)]. If demolition is denied or put into a bonafide preservation effort, the applicant has the ability to pursue demolition via the Economic Hardship process. A flow chart illustrating this process is included with this memo as Attachment 4.

As the commission may be aware, staff is currently working on significant revisions to the demolition process in the H Historic Preservation Overlay with the goal of improving and clarifying the process going forward.

ACTIONS BY OTHER DECISION MAKING BODIES:

On June 14, 2017, the Planning Commission took action to extend the approval of a planned development on the site. This represents the continued extension of the Planned Development granted by the Planning Commission in June of 2014. A preliminary subdivision and the rezoning of a portion of the site was also approved at that time. Copies of the pertinent minutes from this Planning Commission meeting are included as Attachment 5. The applicant requested the extension to keep this option viable in the event that the applicant is not permitted to demolish all of the structures.

The original intention of these petitions was to allow for the rehabilitation of the existing homes as well as for the construction of several new homes on the site, as per the agreement with Salt Lake City's Redevelopment Agency. A number of certificates of appropriateness were approved as well, allowing for sensitive additions to some of the smaller structures so that they might better meet contemporary housing needs. The Planned Development approval and modifications were allowed because the project met the objective of *"Preservation of buildings which are architecturally or historically significant or contribute to the character of the city."* The approval included the retention of the historic structures, without that aspect of the project the approval would no longer be valid.

NEXT STEPS:

If the applications are approved for demolition, the applicant can move forward with submitting the necessary information for demolition permits.

If the applications are denied or put into a bonafide preservation effort, the applicant can move into the Economic Hardship process.

Attachments:

1. [Summary Matrix on Standards for Demolition](#)
2. [Administrative Interpretation Regarding Economic Hardship Process](#)
3. [Landscape Plan for Bishop Place Site](#)
4. [Flowchart of Demolition Process](#)
5. [Pertinent Minutes from June 14th Planning Commission Meeting](#)

Attachment 1

Summary Matrix on Standards for Demolition

Bishop Place Demolitions - Summary Matrix

Address	Standard A Integrity not Evident	Standard B No Effect on Streetscape	Standard C Surrounding Non Contributing Structures	Standard D Zoning Incompatible with Reuse	Standard E Reuse Plan	Standard F Willful Neglect	
241 W Bishop Place	Not Met	Not Met	Not Met	Not Met	Met	Not Met	<p>241 W Bishop</p> 
Notes							
245 W Bishop Place	Not Met	Not Met	Not Met	Not Met	Met	Not Met	<p>245 W Bishop</p> 
Notes							
249 W Bishop Place	Not Met	Not Met	Not Met	Not Met	Met	Not Met	<p>249 W Bishop</p> 
Notes							
259 W Bishop Place	Not Met	Not Met	Not Met	Not Met	Met	Not Met	<p>259 W Bishop</p> 
Notes							
265 W Bishop Place	Not Met	Not Met	Not Met	Not Met	Met	Not Met	<p>265 W Bishop</p> 
Notes							

Address	Standard A Integrity not Evident	Standard B No Effect on Streetscape	Standard C Surrounding Non Contributing Structures	Standard D Zoning Incompatible with Reuse	Standard E Reuse Plan	Standard F Willful Neglect	
432 N 300 West	Not Met	Not Met	Not Met	Not Met	Met	Not Met	432 N 300 W 
Notes							
262 W Bishop Place	Not Met	Not Met	Not Met	Not Met	Met	Not Met	262 W Bishop 
Notes							
258 W Bishop Place	Not Met	Not Met	Not Met	Not Met	Met	Not Met	258 W Bishop 
Notes							
248 W Bishop Place	Not Met	Not Met	Not Met	Not Met	Met	Not Met	248 W Bishop 
Notes							

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.

- If at least 6 of the standards are met = Approve
- If 3-5 of standards are met = Defer decision for Bona Fide Preservation Effort, or Economic Hardship
- If 2 or less standards are met = Deny, and/or Economic Hardship



Attachment 2

Administrative Interpretation Regarding Economic Hardship Process

ADMINISTRATIVE INTERPRETATION DECISION AND FINDINGS

REQUEST:

This is a request for an administrative interpretation to clarify the process used by the Historic Landmark Commission to consider the demolition of a contributing structure located within a local historic district. An interpretation is required because the list of demolition standards in Zoning Ordinance section 21A.34.020.L includes the following language as a standard:

- 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.*

The inclusion of the economic hardship process as one of the demolition standards is confusing to both decision makers, staff, applicants and the public and has resulted in inconsistent administration of the ordinance.

DECISION:

The Zoning Administrator finds that the economic hardship process shall not be used as a standard by the Historic Landmark Commission when considering a request to demolish a contributing structure. The Historic Landmark Commission shall make a decision on such a request using the six demolition standards listed in 21A.34.020.L.a through f as noted below:

21A.34.020.L

- 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 affected;*
 - c. The demolition would not adversely affect the H historic preservation overlay district due to the surrounding noncontributing structures;*
 - d. The base zoning of the site is incompatible with reuse of the structure;*
 - e. The reuse plan is consistent with the standards outlined in subsection H of this section;*
 - f. The site has not suffered from willful neglect, as evidenced by the following:*
 - (1) Willful or negligent acts by the owner that deteriorates the structure,*
 - (2) Failure to perform normal maintenance and repairs,*
 - (3) Failure to diligently solicit and retain tenants, and*
 - (4) Failure to secure and board the structure if vacant.*

If a demolition request considered by the Historic Landmark Commission is denied or deferred for a period of up to one year, the property owner is then entitled to request a determination of economic hardship under the provisions listed in 21A.34.020.K.

FINDINGS:

- According to section 21A.34.020.K, the economic hardship process determines if the “application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.” In other words, the

economic hardship process determines whether there would be a regulatory taking of property after the Historic Landmark Commission applies the standards and denies or defers a demolition request.

- Using the economic hardship process as one of the standards for demolition unnecessarily extends the time frame for making a demolition decision. If economic hardship analysis is required as part of the Commission’s consideration, an economic review panel must be established and complete its analysis prior to the Historic Landmark Commission’s consideration of the demolition based on the other standards in 21A.34.020.L. It also assumes that the commission will deny or defer the decision before the commission has actually made that determination.
- The ordinance includes different processes for the demolition of Landmark Sites and contributing structures. The order of these provisions adds to the confusion regarding the use of the economic hardship process.
- The first demolition process listed in the ordinance is for landmark sites (21A.34.020.J). The Historic Landmark Commission shall only approve a demolition of a landmark site if demolition is required to alleviate a threat to public health and safety or if demolition is required to rectify a condition of “economic hardship.” Because making a finding of economic hardship is a specific requirement to approve a demolition of a landmark site, the economic hardship process is described in the following subsection of the ordinance, 21A.34.020.K.
- The standards for demolition of a contributing structure, 21A.34.020.L, follows the economic hardship provisions.
- Because the provisions for the economic hardship process precede the standards for the demolition of contributing structures, some believe that the economic hardship process must take place before the Historic Landmark Commission can consider the demolition standards for a contributing structure. However, the particular location of the economic hardship provisions within the code is because the economic hardship provisions may apply to either the demolition of a landmark site (21A.34.020.J) or the demolition of a contributing structure (21A.34.020.L)

If you have any questions regarding this interpretation please contact Joel Paterson at (801) 535-6141 or by email at joel.paterson@slcgov.com.

APPEAL PROCESS:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <http://www.slcgov.com/planning/planning-applications> along with information about the applicable fee. Appeals may be filed in person or by mail at:

In Person: Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT	US Mail: Salt Lake City Corp Planning Counter PO Box 145471 Salt Lake City, UT 84114-5417
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NOTICE:

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.

Dated this 3rd day of May, 2017 in Salt Lake City, Utah.



Joel Paterson, AICP
Zoning Administrator

cc: Nick Norris, Planning Director
Mike Reberg, Director of Community and Neighborhoods
Paul Nielson, Deputy City Attorney
Greg Mikolash, Development Review Supervisor
Posted to Web
Applicable Recognized Organizations

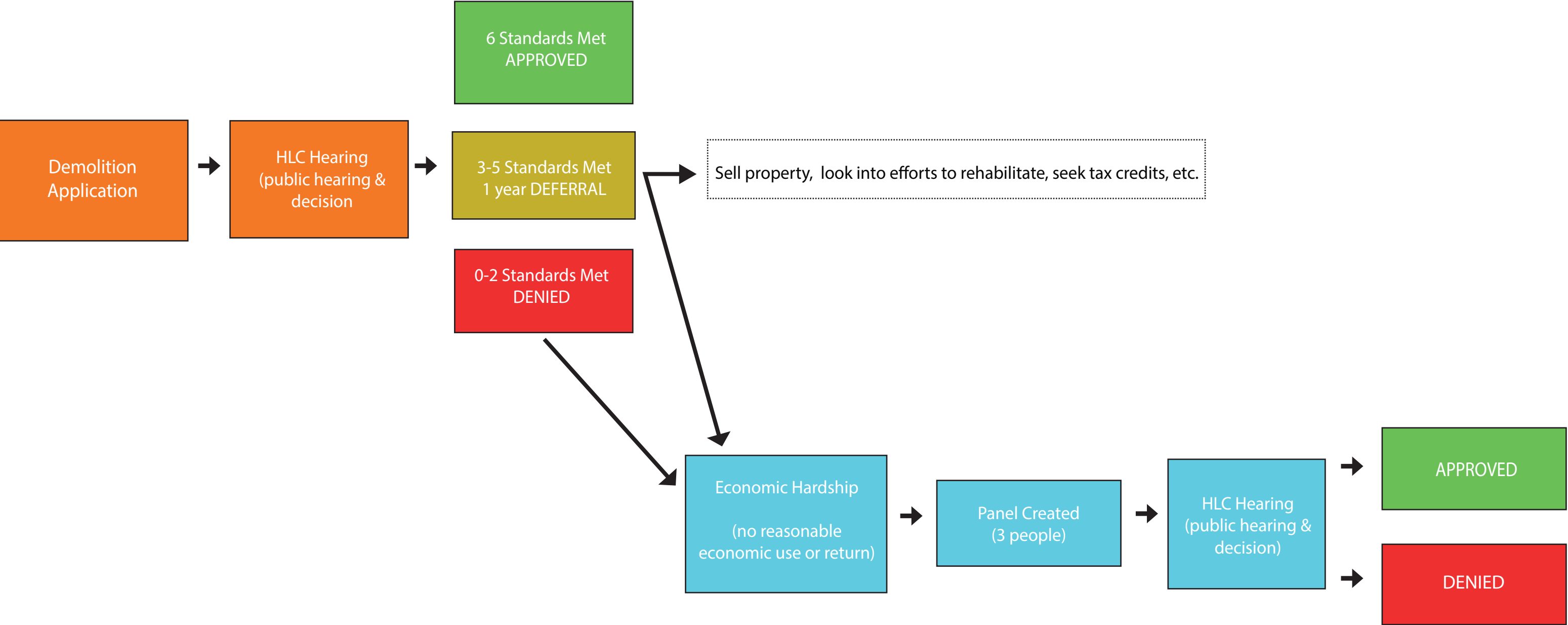
Attachment 3

Landscape Plan for Bishop Place Site

Attachment 4

Flowchart of Demolition Process

Demolition & Economic Hardship Process Contributing & Landmark Buildings



Attachment 5

Pertinent Minutes from June 14th Planning Commission Meeting

SALT LAKE CITY PLANNING COMMISSION MEETING
City & County Building
451 South State Street, Room 326, Salt Lake City, Utah
Wednesday, June 14, 2017

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at [5:30:13 PM](#). Audio recordings of the Planning Commission meetings are retained for a period of time.

Present for the Planning Commission meeting were: Chairperson Matt Lyon, Vice ChairpersonCarolynn Hoskins; Commissioners Maurine Bachman, Emily Drown, Sara Urquhart, Brenda Scheer, Weston Clark and Andres Paredes. Commissioners Ivis Garcia and Clark Ruttinger were excused.

Planning Staff members present at the meeting were Nick Norris, Planning Director; Wayne Mills, Planning Manager; Daniel Echeverria, Senior Planner; Katia Pace, Principal Planner; Amy Thompson, Principal Planner; Michelle Poland Administrative Secretary and Paul Nielson, Senior City Attorney.

Field Trip

A field trip was held prior to the work session. Planning Commissioners present were: Sara Urquhart, Carolyn Hoskins, Maurine Bachman and Weston Clark . Staff members in attendance were Nick Norris, Wayne Mills and Amy Thompson.

- **75 S. 2400 West** – Staff gave an overview of the proposal and oriented the Commission to the area. The Commission asked where the access to the site would be. Staff indicated the location of the property access. The Commission asked what landscaping was proposed to address the heat island. Staff stated landscaping and some covered parking stalls would be added.

APPROVAL OF THE MAY 24, 2017, MEETING MINUTES. [5:30:25 PM](#)

MOTION

Commissioner Urquhart moved to approve the May 24, 2017, meeting minutes. Commissioner Clark seconded the motion. Commissioners Hoskins, Bachman, Urquhart, Scheer, Clark and Paredes voted “aye”. Commissioner Drown and Bachman abstained from voting as they were not present at the subject meeting. The motion passed unanimously.

REPORT OF THE CHAIR AND VICE CHAIR [5:31:05 PM](#)

Chairperson Matt Lyon stated he had nothing to report.

Vice Chairperson Carolynn Hoskins stated she had nothing to report.

REPORT OF THE DIRECTOR [5:31:13 PM](#)

Mr. Nick Norris, Planning Director, reviewed the actions the City Council had regarding the TSA Zoning district and other small zoning district rezones the Planning Commission had forwarded.

[5:32:34 PM](#)

Bishop Place Planned Development Approval Time Extension Request – Don Armstrong, owner of the proposed development property, is requesting a third time extension for the previously approved Bishop Place Planned Development. The project was originally approved on June 25, 2014. A yearlong extension was granted on June 8th, 2016. The developer has submitted a request to the Historic Landmark Commission to demolish the existing structures in the development; however, they would like to be able to pursue the Planned Development if they are not able to demolish the structures. The location of the project is approximately 432 N 300 West. The subject property is within Council District 3, represented by Stan Penfold. (Staff contact: Daniel Echeverria at (801) 535-7165 or daniel.echeverria@slcgov.com.) Case numbers PLNSUB2014-00019 & PLNSUB2014-00020

Mr. Daniel Echeverria, Senior Planner, reviewed the Bishop Place Time extension request and the current status of the proposal. He stated Staff recommended that the Planning Commission approve the time extension as proposed.

The Commission and Staff discussed the following:

- The process and why the Applicant was asking for an extension when they were requesting demolition.
- When the application for demolition would be presented to the Historic Landmark Commission.

Mr. Bruce Baird reviewed the issues with the demolition ordinance and the proposal. He explained nothing had changed in the subject proposal.

MOTION [5:35:59 PM](#)

Commissioner Drown stated regarding PLNSUB2014-00019 & PLNSUB2014-00020, she moved to Grant a year-long time extension for the Planned Development to expire on June 27, 2018. Commissioner Bachman seconded the motion. Commissioners Hoskins, Bachman, Drown, Urquhart, Scheer, Clark and Paredes voted “aye”. The motion passed unanimously.