

SALT LAKE CITY HISTORIC LANDMARK COMMISSION
Meeting Minutes
451 South State Street, Room 326
Salt Lake City, Utah 84111
June 28, 2018

A roll is kept of all who attended the Historic Landmark Commission Meeting. The meeting was called to order at [5:33:13 PM](#). Audio recordings of the Historic Landmark Commission meetings are retained in the Planning Office for an indefinite time.

Present for the Historic Landmark Commission meeting were: Chairperson Charles Shepherd and Vice Chairperson Kenton Peters, and Commissioners Thomas Brennan, Sheleigh Harding, Robert Hyde, Victoria Petro-Eschler, Rachel Quist, David Richardson and Esther Stowell. Commissioners Stanley Adams and Paul Svendsen were excused. Planning Staff Members present at the meeting were: Nick Norris, Planning Director; Sara Javoronok, Senior Planner; Amy Thompson, Principal Planner; Deborah Severson, Administrative Secretary; and Paul Nielson, Senior City Attorney.

FIELD TRIP NOTES:

- Bishop Place: Staff gave an overview of the issue and process.
- 701 N I Street: Staff gave an overview of the proposal.

[5:34:01 PM](#)

APPROVAL OF THE MINUTES FOR JUNE 7, 2018

MOTION

Commissioner Brennan moved to approve the minutes for the June 7, 2018 meeting. Commissioner Peters seconded the motion. Commissioners Brennan, Peters, Quist and Stowell voted “aye”. Commissioners Harding, Hyde, Petro-Eschler and Richardson abstained. The motion passed unanimously.

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REPORT OF THE CHAIR OR VICE CHAIR

Chairperson Shepherd nor Vice Chairperson Peters had anything to report.

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DIRECTOR’S REPORT

Mr. Norris announced that Michaela Oktay, Deputy Planning Director, gave birth to a baby girl on June 28.

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PUBLIC COMMENTS

Stephen Pace discussed his ongoing plans for rehabilitating 181 N B Street and 222 E Fourth Avenue known as the William F. Beer Estate. The project consists of four buildings; the mansion, harness shop, garage and carriage house which were constructed in the late 1800s. The mansion, harness shop and garage have been rehabilitated and the carriage house is in

the planning stage. Mr. Pace submitted documentation outlining issues relating to the rehabilitation of the carriage house which he would like to use as a single-family dwelling. He asked that he be granted the opportunity to further discuss the matter with the Commission at a future meeting.

Chairperson Shepard asked Staff to provide the Commission with a report, and schedule a work session, if appropriate, to further discuss the matter.

PUBLIC HEARINGS

[5:43:10 PM](#)

Nomination for National Register at 701 N I Street – Lowell and Emily Parrish House – The State Historic Preservation Office (SHPO) received a request to add the Lowell and Emily Parrish House to the National Register of Historic Places. SHPO will consider this request at their Board meeting on July 26, 2018, and requests review by Salt Lake City before that time as the Certified Local Government (CLG) in this matter. This item is being brought before the Historic Landmark Commission to provide input to SHPO. The property is currently zoned FR-3/12,000 Foothills Residential District and is located within Council District 3, represented by Chris Wharton (Staff contact: Sara Javoronok at 801-535-7625 or sara.javoronok@slcgov.com)

Sara Javoronok, Senior Planner, gave an overview of the proposal noting that the structure has been nominated for Criteria C for architecture as an early Wrightian Modern style. Ms. Javoronok added that Planning Staff recommended a positive recommendation to the State Historic Preservation Office (SHPO) and the National Park Service.

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The Commission had no further discussion, and no one was present to speak to the matter.

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MOTION

Commissioner Richardson moved for the Historic Landmark Commission to forward a positive recommendation to SHPO to nominate 701 N I Street to the National Register of Historic Places. Commissioner Quist seconded the motion. Commissioners Quist, Harding, Petro-Eschler, Richardson, Stowell, Peters, Brennan and Hyde voted “aye”. The motion passed unanimously.

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Bishop Place Economic Hardship Applications - Nine Properties Located at approximately 432 N 300 West - Property Owner Don Armstrong, represented by Bruce Baird, is requesting the Historic Landmark Commission find in favor of his claim that application of the standards and regulations of the H Historic Preservation Overlay zoning district (section 21A.34.020) would deprive the applicant of all reasonable economic use or return on the subject properties based on the standards in section 21A.34.020.K of the zoning ordinance. This request is in response to the Historic Landmark Commissions denial of the applicants request to demolish the subject properties which are all identified as contributing structures to the Capitol Hill Local

Historic District. As part of this process, a three-person Economic Hardship Review Panel was established and public meetings were held on April 11, 2018 and May 15, 2015. The properties are located within Council District 3, represented by Chris Warton. (Staff contact: Amy Thompson 801-535-7281 or amy.thompson@slcgov.com) Case Numbers:

- PLNHLC2017-00017 – 241 W Bishop Place**
- PLNHLC2017-00016 – 245 W Bishop Place**
- PLNHLC2017-00020 – 248 W Bishop Place**
- PLNHLC2017-00019 – 249 W Bishop Place**
- PLNHLC2017-00024 – 258 W Bishop Place**
- PLNHLC2017-00025 – 259 W Bishop Place**
- PLNHLC2017-00026 – 262 W Bishop Place**
- PLNHLC2017-00029 – 265/67 W Bishop Place**
- PLNHLC2017-00030 – 432 N 300 West**

Commissioner Harding disclosed that she personally and professionally knows Lewis Francis who was one of the members on the Economic Hardship Review Panel for the Bishop Place matter. Commissioner Richardson also disclosed that he socially knows Mr. Francis. Paul Nielson advised the Commissioners that there would be no conflict of interest unless financial issues were involved. He also recommended that a Commissioner may recuse himself/herself if they believe they could not make an unbiased decision because of their relationship with Mr. Francis. No Commissioner felt the need to recuse.

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Amy Thompson, Principal Planner, gave an overview of the process and the status of the request. The Economic Hardship Review Panel held a public meeting on April 11, 2018 which resulted in a request by the Panel for additional information specifically related to tax credits. A second meeting was held on May 15, 2018 at which time the Panel made findings and conclusions which were forwarded to the Historic Landmark Commission for review.

Ms. Thompson explained that the Review Panel found economic hardship with six properties (241, 245 249, 258, 259 and 262 W Bishop Place) and no economic hardship with three properties (248 and 265/67 W Bishop Place and 432 N 300 West).

Ms. Thompson further explained that the Historic Landmark Commission decision must be consistent with the findings and conclusions of the Economic Hardship Review Panel unless the Commission finds by a three-quarter quorum that the Review Panel either acted arbitrarily or based their report on erroneous findings of fact.

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Paul Nielson, Senior City Attorney, advised the Commission:

- The demolition process has been recently amended, but the Bishop matter should be reviewed under the former ordinance.
- The Commission’s role is to review the findings and conclusions of the Economic Hardship

Review Panel, and the Commission must find by a vote of three-fourths majority of a quorum present that the Panel acted in an arbitrary manner or that its report was based on an erroneous finding of a material fact to reject the Panel's findings.

- After reviewing the evidence and the Commission finds that the application resulted in an economic hardship, the Commission shall issue a Certificate of Appropriateness for demolition.
- The purpose of the economic hardship is to determine if the City could potentially cause a regulatory taking by prohibiting the property owner from using their property with economic expectation.
- Included in the packet presented to the Commission was a memo to the Panel from the City Attorney citing Supreme Court case law; and if the Commission determines it necessary, a closed meeting may be requested relating to depending litigation regarding potential takings claims.

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Don Armstrong, Property Owner (REIS); Bruce Baird, Counsel for the Property Owner; and Adam Breen, Breen Homes; were present.

Mr. Baird discussed the following:

- Six buildings are beyond repair and are about to collapse (241, 245 249, 258, 259 and 262 W Bishop Place), and abundant evidence was presented to the Economic Hardship Review Panel that met all City standards supporting demolition.
- Questioned Mr. Francis' qualifications and biasness as a Panel Member.
- The code being unintelligible, and the fact that any ambiguity in zoning law mandates decisions favoring property owners.
- The need for fixing the zoning law relating to demolition.
- The lack of evidence (none) contrary to economic hardship for 248 and 265/67 W Bishop Place and 432 N 300 West.
- The Panel misapplying facts to the standards; such as, applying available tax credits to meet Standard 5.
- Reviewed the letter from Robert Conder (Structural Engineer) noting that repairs to 248 and 265/67 W Bishop Place and 432 N 300 West would be so extensive that little if any of the original structure would be left remaining, and the expected costs of repairs would be three to four times more than new construction.
- Requested the Commission to uphold the Panel's decision for 241, 245 249, 258, 259 and

262 W Bishop Place supporting demolition which was supported by substantial evidence, and reverse the Panel's decision for 248 and 265/67 W Bishop Place and 432 N 300 West which had no evidence contrary to substantial evidence of economic hardship submitted by the property owner.

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The Commission and Applicants discussed the following:

- The reason for applying under the former ordinance rather than the amended ordinance. Mr. Nielson explained that the Applicant had a vested right to apply under the former ordinance.
- The change in events from the time the subject properties were purchased and the agreement with RDA for renovation - Estimates at the time of purchase was based on preliminary plans, and subsequent structural engineer reports stated that renovation was prohibited.

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PUBLIC COMMENT

David Sheer voiced his support for the Economic Hardship Review Panel findings and conclusions for 248 and 265/67 W Bishop Place and 432 N 300 West. Mr. Sheer added that the property owner should have taken better care in estimating renovation costs before purchasing the properties.

Cindy Cromer voiced concern about the process, and advised the Commission to carefully review the evidence due to the number of contributing structures involved. Ms. Cromer noted the Markea demolition, and stated that she believed the property owner would not lose money renovating all the structures particularly with the inclusion of development on four vacant lots.

Griffin Jenkins voiced his concerns about losing older low-density neighborhoods in the City. Mr. Jenkins stated that he believed the demolition of six structures would be a serious loss to the neighborhood and is totally unwarranted. He explained that the structures were re-habitable when Mr. Armstrong purchased them, but the structures have since reached the state of beyond repair.

David Amott, representing Preservation Utah, explained that Preservation Utah was not entirely satisfied with the results from the Economic Hardship Review Panel; however, adoption of their findings and conclusions would save a small piece of Bishop Place. Mr. Amott voiced concerns about setting a negative precedent when developers purchase historic properties and allow them to decay beyond repair. He also noted that tax credits would be very helpful in rehabilitating the properties.

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Mr. Baird responded to public comment explaining most comments were irrelevant, and no additional evidence has been presented contrary to economic hardship.

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The Commission and Applicants discussed the following:

- Intentional neglect after the properties were purchased. Mr. Baird explained that intentional neglect is untrue and is not a factor in terms of hardship. The buildings are to the point where they cannot be rehabilitated. Rehabilitation would leave very little or no historic elements. The homes were originally brown clapboard construction, and the gingerbread element was added later.
- Mr. Breen's experience with historical remodels and restorations. Mr. Breen seeks advice from real estate experts relating to value.
- Reviewed restoration costs and estimated values for 248 and 265/67 W Bishop Place and 432 N 300 West. Mr. Baird noted that the numbers were presented to the Review Panel and were not rebutted. It was noted that the Applicants obtained restoration costs including tax credits and appraisals for all properties (Exhibit U).
- The process in obtaining restoration costs and estimated values. The numbers were generated early 2018, and material costs have since risen.
- The grade of finished materials used in historic restorations. Mr. Breen explained that wall plaster rather than dry wall and granite countertops would be used in historic restorations to meet the level that prospective buyers look for in purchasing historic properties. Higher end products would be used to achieve a higher price for less square footage.
- Comparisons of rental values and returns in the area. Mr. Baird noted that some rental comparisons presented by the Commission have high end amenities (gym, pool, underground parking, etc.) and modern construction.
- High and low costs for rehabilitation and museum quality restorations. The Commission suggested that the properties would be rehabilitated rather than restored. Mr. Breen estimated about \$40 to \$45 a square foot for low costs such as paint and carpet, and about \$500 a square foot for full historic rehabilitations and restorations some including additions, but none including disassembling and foundations.
- Standards and Evidence – The Applicants believe the standards are unintelligible. Evidence from the structural engineer show that the structures cannot be economically rehabilitated and this evidence remains undisputed.

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The Commission discussed the following:

- Chairperson Shepherd reviewed the process to support or reject the findings and conclusions of the Review Panel. Mr. Nielson further explained that the Commission must state their analyses and findings should they depart from the findings and conclusions of the Review Panel.

- Rental Survey and Rental Returns – Mr. Nielson advised the Commission that the survey obtained by Chairperson Shepherd would make him a witness by introducing evidence that would be outside the record. No further discussion was held specific to the rental survey.
- Pros and cons for rehabilitation, and other rehabilitation cases.

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BREAK

The Commission requested a break for legal counsel on clarity relating to relevant issues of discussion and the scope of consideration for this case. The Applicants had no objections.

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The meeting resumed and the Commission discussed the following:

- The process for voting either on all properties or individually.
- Validity of unilateral cost estimates and efforts applied to make rehabilitations successful. The Commission noted that the RDA concept and economic process to purchase and redevelop the subject properties through renovation showed profitability. Subsequently, the seemingly successful concept fell apart and became an economic hardship.
- Discussed the findings from the Economic Hardship Review Panel. The Commission noted that the findings are detailed for 248 and 265/67 W Bishop Place and 432 N 300 West; however, the same level of detail was lacking for 241, 245 249, 258, 259 and 262 W Bishop Place.

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MOTION

Regarding 248 W Bishop Place (PLNHLC2017-00020), 265/67 W Bishop Place (PLNHLC2017-00029) and 432 N 300 West (PLNHLC2017-00030), Commissioner Richardson moved that the Commission support the findings and conclusions of the Economic Hardship Review Panel based on the summary of the economic hardship report. Commissioner Peters seconded the motion. Commissioners Quist, Harding, Petro-Eschler, Richardson, Stowell, Peters and Brennan voted “aye”. Commissioner Hyde voted “no”. The motion passed with a three-fourths majority vote.

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The Commission and Staff further discussed the findings for 241, 245 249, 258, 259 and 262 W Bishop Place. The Commission noted that the summary report for those properties only addressed demolition.

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MOTION

Regarding 241 W Bishop Place (PLNHLC2017-00017), 245 W Bishop Place (PLNHLC2017-00016), 249 W Bishop Place (PLNHLC2017-00019), 258 W Bishop Place (PLNHLC2017-

00024), 259 W Bishop Place (PLNHLC2017-00025) and 262 W Bishop Place (PLNHLC2017-00026); Commissioner Peters moved that the Commission support the findings and conclusions of the Economic Hardship Review Panel based on the summary of the economic hardship report. Commissioner Hyde seconded the motion. Commissioners Hyde, Brennan, Peters, Stowell, voted “aye”. Commissioner Richardson, Petro-Eschler, Harding and Quist voted “no”. Chairperson Shepherd voted “no” and broke the tie. The motion failed to reach a three-fourths majority vote.

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Mr. Nielson explained that the ordinance mandates the Historic Landmark Commission to be consistent with the Economic Hardship Review Panel unless three-fourths of the Commission (seven Commissioners in this case) vote to oppose the findings and conclusions of the Review Panel; not achieving a three-fourths vote to oppose, effectively supports the findings and conclusions of the Review Panel.

The Commission reviewed the ordinance, and debated the need for a contrary motion.

The Commission further reviewed rehabilitation costs presented by the Applicants, and considered analyzing the numbers and voting up or down one building at a time or grouping them in smaller groups.

Mr. Nielson advised the Commission that they must find and state in their contrary motion that the Review Panel acted in an arbitrary manner or that its report was based on an erroneous finding of a material fact.

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MOTION

Regarding 241 W Bishop Place (PLNHLC2017-00017), 245 W Bishop Place (PLNHLC2017-00016), 249 W Bishop Place (PLNHLC2017-00019), 258 W Bishop Place (PLNHLC2017-00024), 259 W Bishop Place (PLNHLC2017-00025) and 262 W Bishop Place (PLNHLC2017-00026); Commissioner Harding moved to not follow the Economic Hardship Review Panel recommendations because their findings are completely inadequate which means they are arbitrary and capricious; the Panel acted in an arbitrary and capricious manner and therefore they inappropriately found economic hardship. Commissioner Petro-Eschler seconded the motion. Commissioners Quist, Harding, Petro-Eschler, Richardson, Stowell and Brennan voted “aye”. Commissioners Peters and Hyde voted “no”. The motion failed to reach a three-fourths majority vote. *

**Because the motion did not reach a three-fourths majority vote, the Historic Landmark Commission effectively accepted the findings and conclusions of the Economic Hardship Review Panel and found an economic hardship with the six properties referenced in the motion.*

There being no further business, the meeting adjourned at [7:57:30 PM](#).