

Planning Commission Staff Report

FINE TUNING AMENDMENT- H HISTORIC OVERLAY ORDINANCE

PLNPCM2011-00470

Hearing date: October 26, 2011



Planning Division
Department of Community
& Economic Development

Applicant

SLC Corp., Mayor Ralph Becker

Staff

Michaela Oktay 801/535-6003
michaela.oktay@slcgov.com

Current zone

N/A

Current master plan designation

City-wide

Council District

City-wide

Community Council

City-wide

Affected Ordinance Sections

- 21A.06 Decision Making Bodies
- 21A.34 H Historic Preservation Overlay
- 21A.50 Amendments

Notification

- Published in newspapers 9/27/11
- Posted to Planning Dept and Utah State Public Meeting websites 9/27/11

Attachments

- A. Open House & Public comment
- B. DRAFT Proposed Ordinance

Request

On August 17, 2011 Mayor Ralph Becker, represented by Wilf Sommerkorn, Planning Director, initiated a request to amend the Salt Lake City Zoning Ordinance in order to fine tune the zoning ordinance as it relates to the City Historic Preservation Program.

The proposal will:

1. Improve the clarity of the language relating to the Historic Preservation Overlay District;
2. Revise the number and representation requirements for the Historic Landmark Commission;
3. Increase the term limits for members on the Historic Landmark Commission;
4. Specify length of validity of Certificate of Appropriateness; and,
5. Streamline approval processes allowing the Historic Landmark Commission authority to grant modifications to bulk and lot regulations if it is found that the underlying zoning district requirements would not be compatible with the historic district.

The purpose is to provide further clarity and efficiency with only minor changes to the Historic Preservation Program.

On October 6, 2011 the Historic Landmark Commission held a public hearing to review this petition and proposal. They transmitted a favorable recommendation to the Planning Commission to adopt the proposed changes with one exception to strike a proposed change to allow Staff to administratively approve substantial alterations to a landmark site or a contributing structure if it is found that it will not have a negative impact on its contributing status. More details outlining the changes and related discussions with the Historic Landmark Commission are discussed under the *Proposed Code Changes & Analysis* section of this Staff Report.

Recommendation

PLNPCM2011-00470 – Fine Tuning – Historic Preservation Overlay Ordinance

Based on the findings in the staff report, it is the Planning Staff's opinion that the Planning Commission transmits a favorable recommendation to the City Council to adopt the proposed fine tuning amendments to the text of zoning ordinance as it relates to the City Historic Preservation Ordinance.

Background

Project Description

Salt Lake City intermittently processes “fine tuning” ordinance adjustments to provide code maintenance for the City’s ordinances. At times, code changes are processed due to land use policy changes adopted by the City or because State enabling regulations are changed. It is then beneficial for Salt Lake City to make minor code revisions that lead to a greater ease of use, understanding, and process as the Planning division endeavors to improve and update the Preservation Program.

Amendments to the Zoning Ordinance as it relates to the Preservation Program meet the following objectives:

- Improve the clarity of the Zoning Ordinance without changing the intent behind the specific regulation in question.
- Address ongoing problems with administration of existing ordinance language, and may result in a minor policy change of low significance.
- Revise term limits and member representation to ensure broad inclusive membership.
- Codify any additional regulations listed in the Historic Landmark Commission’s *Policy Document*.
- Have items reviewed by one appointed body allowing the Historic Landmark Commission to use their expertise in addressing requests to modify regulations to bulk and lot regulations in historic districts.
- Streamline approval processes for applicants so that they are not required to obtain approval from another board or commission.
- Clarify the length of time approved plans or a Certificate of Appropriateness is valid, to be consistent with other types of approvals.
- Clarify wording that may be open to interpretation.

Proposed Code Changes & Analysis

The Salt Lake City Planning Division is processing specific adjustments to the Zoning Ordinance. Those modifications include minor clarifications, changes of minor significance and several grammatical corrections. A majority of the proposed changes are discussed below in the order that they would appear in the ordinance.

21A.06 Decision Making Bodies

21A.06.050 Historic Landmark Commission

1. 21A.06.050 B.–General Purposes

The duties and responsibilities of the Historic Landmark Commission are proposed be modified. A primary change will be to delete the purpose statements of the commission. One reason is consistency with other boards and commissions; purpose statements are not listed for any other decision making body. Most importantly, it will eliminate any confusion that members of the commission are charged with advocating for a given project based on the purpose statements. It is Staff’s opinion that because the Historic Landmark Commission is a regulatory body there should be no confusion or perception of conflict that they may be acting as an advocacy body. In many cases the commission is acting as a quasi-judicial body and advocating for buildings or structures as a commission would be a conflict with their jurisdiction and authority. Members of the commission must apply the standards in Chapter 21A.34 when evaluating a project. It is Staff’s opinion that removal of the purpose statements would remove conflicting language with their purpose as a regulatory body. Staff notes that this would not prohibit members of the Historic Landmark Commission from advocating for preservation as a citizen at large, not representing a regulatory body, which would be appropriate. This change would better clarify the intent of this section but doesn’t substantially alter it.

The Historic Landmark Commission discussed this change during the public hearing and after significant discussion as to the regulatory role of the commission and potential conflicts with the language they generally agreed with the proposed changes.

2. 21A.06.050 C.–Jurisdiction and Authority

Surveys, petition initiation & certain recommendations: The primary change in this section is to renumber and to remove language stating that the Historic Landmark Commission shall conduct historic surveys and petition the city council to identify structures, areas, or landmark sites or overlay districts in the city. These responsibilities have shifted elsewhere and are not current duties of the commission; they are performed by staff and should be removed from this section. The Historic Landmark Commission discussed these items and agreed that the Preservation Plan would cover these shifting responsibilities.

Special Exceptions: In a related text amendment pertaining to special exceptions, the transfer of the approval authority for certain special exceptions was granted to the historic landmark commission. The commission will soon have the authority to approve certain special exception for projects located within a historic preservation overlay zone. The specific items include: building wall height, accessory structure height, accessory structure square footage, fence height, overall building height and signs. This petition clarifies the type of special exceptions to include both building and accessory structure “wall height” and “overall height” which is the original intent and adds language to special exceptions so that any modification to bulk and lot regulations may be requested where the underlying zoning would hinder the compatibility of design in the historic district. Currently, applicants in a historic preservation overlay zone often need to obtain approvals from two separate bodies. This will streamline the approval process for applicants. The Historic Landmark Commission discussed these items and generally agreed with these proposed changes.

3. 21A.06.050 D.–Membership

Maximum number: This petition originally proposed lowering the maximum number of members on the commission from 15 to 9. The City has encountered problems filling vacancies on the commission and it is Staff’s opinion that a lower number would be more consistent with other boards and commissions. A more reasonable number of members would allow the body to function better and continue to allow for a variety of expertise on the commission. The Historic Landmark Commission requested that the maximum number of Commissioners be 11 members, which would increase the probability of always having a quorum. Staff agreed with this change as it is also consistent with the Planning Commission membership.

4. 21A.06.050 E.–Qualifications of Members

Currently the ordinance has strict qualifications for members of the commission. The City has had difficulty finding members with such qualifications and some agencies have expressed conflicts with formal representation on the commission. This subsection has been modified to add more flexibility in terms of qualifications, this does not change the intent of the ordinance as the preferred qualifications of members continues to be specified and has been expanded upon through this petition. It should be noted that required representatives for each local district has been deleted because as the number of these districts grow, or if smaller districts are designated in the future, it will continue to be difficult to find representation. As a note, it has been very difficult to find a representative to the small Exchange Place District. The proposed revisions are generally intended to clarify the intent of the ordinance and improve upon it.

The Historic Landmark Commission discussed that the Utah Heritage Foundation wanted to be listed although some agencies did not. They also discussed that it would be ideal to have representation from as many local districts as possible. Historically the Utah Heritage Foundation has recommended potential members to

the Mayor's office to be appointed to the commission. Staff acknowledges and greatly appreciates the coordinated efforts between agencies and would encourage future recommendations from the Utah Heritage Foundation or any other agency. However, it is Staff's opinion that their representation as a strict qualification for commission membership does not have to be formally codified. It is also Staff's opinion that it would always be ideal to have membership of citizens who live in local districts, and that the proposed changes would not discourage this membership, it actually encourages a looser and more inclusive list of qualifications. It also reads to provide a scope of qualifications as an "ideal" guide but leaves the qualifications open to any person who may have skills or experience to apply. The language increases the "ideal" number of architects to two rather than one. The reason is that it would be best to have an architect at every meeting. The Historic Landmark Commission generally agreed with these proposed changes.

5. 21A.06.050 H.–Record of Proceedings

Audio recordings: This petition deletes specific language of 60 days as the length of time audio tapes are kept. It is the policy of the Planning Department to keep audio recordings forever. The Open Meetings Act requires that we are congruent with the Utah State Government Records Access and Management Act (GRAMA). Staff proposes cleaning up the language referring only to GRAMA. The language should refer to Planning Division practices and requirements of law. This clarification will provide concise language to reduce any future conflict if state law is changed. There was some discussion and concern by the Historic Landmark Commission that GRAMA may reduce requirements in the future, and that the language should remain. It is Staff's opinion that the language should be congruent with current practice and state law as proposed.

6. 21A.06.050 K.–Conflicts of Interest

The subsection relating to conflicts of interest has been deleted because it is more suitable to be listed in the *Rules of Procedures* of the commission. The Historic Landmark Commission's adopted Rules of Procedures includes conflict of interest language. This change reduces redundancy and any possible conflicts between documents. This will better clarify the intent of this section but doesn't substantially alter it.

21A.34.020 H Historic Preservation Overlay District

1. 21A.34.020 A.– Purpose Statement

The purpose of the overlay district will include mention of social, economic and environmental sustainability. This will be consistent with City policies and goals for sustainability as it relates to land use.

2. 21A.34.020 B.– Definitions

There definitions added for "Historic Resource Survey" and "Design Guidelines" as these are terms which are useful to clarify as part of fine tuning. Clear definitions provide needed clarity to the overlay processes and administration of the regulations. It is Staff's opinion that the Design Guidelines should be defined and the manner in which they are used also be explicitly stated. This will better clarify the difference between the design guidelines and the standards found in the historic preservation ordinance.

3. 21A.34.020 F.– Procedure for Issuance of Certificate of Appropriateness

Administrative Decisions-Item of Discussion: The Historic Landmark Commission did not recommend this proposed change and recommended it be stricken from the proposed ordinance. It is not included in the current proposed ordinance (See *Attachment B*). This may be an item of discussion for the Planning Commission.

Administrative Decisions: The ordinance proposed to the Historic Landmark Commission originally proposed the addition of number 3 in 21A.34.020 F, see below, as work that could be administratively analyzed and approved if the project clearly met the standards of the ordinance.

- (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) Substantial alteration of or addition to a landmark site or contributing site/structure where it will not have a negative impact on its contributing status;
- (4) Partial demolition of either a landmark site or a contributing structure;
- (5) Demolition of an accessory structure;
- (6) Demolition of a noncontributing structure; and,
- (7) Installation of solar energy collection systems that are not readily visible from a public right of way, as described in and pursuant to subsection 21A.40 of this title.

Staff is sympathetic to the commission’s concerns but the original intent was to offer a “carrot” for projects that would clearly meet the standards of the ordinance, and could save an applicant up to a one month delay to gain approval and a Certificate of Appropriateness. It was Staff’s intent to include this type of work as there are instances when substantial alterations to a contributing structure clearly meet the standards of the ordinance but the current code requires a public hearing with the Historic Landmark Commission. An example of such a project would be a total porch restoration. An applicant could propose removing an unoriginal porch restoring it in the exact manner of the original. This would be a project that would be strongly encouraged but under current code, it could not be administratively approved.

It is Staff’s opinion that in the interest of City policy for comprehensive review and timely approval of proposed work that clearly meets the standards of the ordinance, that those projects could be eligible for administrative approval. In the event that Staff’s analysis of a proposal found that there may be a negative impact on a structure’s contributing status, or that the proposal didn’t comply with the standards of the overlay, the project would be scheduled for a public hearing for Historic Landmark Commission review. The intent was to provide quicker approval time and review of projects which meet the standards and design guidelines. It would have improved the effectiveness of the process and preservation program by encouraging designs that meet the standards and design guidelines with the benefit of an administrative review.

4. 21A.34.020 G.-Standards for Certificate of Appropriateness for Alteration of a Landmark Site or a Contributing Structure

The proposal includes language to clarify which standards are used to evaluate a new accessory structure. It was not clear which standards were to be used, this change will clarify any questions about review.

5. 21A.34.020 R-Expiration of Approvals

Expiration timelines have been added for a Certificate of Appropriateness. In an effort to be consistent with other planning process approvals, the ordinance should provide an expiration timeline for historic overlay plan approvals. Other approvals by other boards and commissions have expiration timelines associated with their approvals, for example: Conditional uses. This language was missing from the overlay ordinance and is

needed and appropriate. It provides clear information and clarifies the process and the proper avenues to request an extension of the approval time.

Public Participation

Community and Recognized Organizations

An Open House was held on September 12, 2011. Notice of the Open House was sent to Community Council chairs, and other groups whose names are on the Planning Division's List serve. Notice was also posted on the City and State website.

At the Open House there were general comments received from multiple citizens expressing the need to keep our plan approvals as speedy as possible so that projects can come to fruition in a timely fashion. (Written comments are included in *Attachment A*.)

Public Comments

Staff has received written comments from the Utah Heritage Foundation (See *Attachment A*).

City Department Comments

Staff sent information regarding the proposed text changes to numerous City Departments and no comments were received.

STANDARDS FOR GENERAL AMENDMENTS

A decision to amend the text of the Zoning Ordinance 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. However, in making its decision concerning a proposed amendment, the City Council should consider the following factors:

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

1. 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;

Analysis: The community master plans and their land use policies generally outline neighborhood, community and regional uses of land and their characteristics. The purpose is to guide land use but not specifically address the level of detail as the zoning ordinance.

Finding: The proposed text amendments provide additional refinement of the zoning regulations of the City's code by providing clarification of existing regulations and enhancement of processes. The proposed amendments will help ensure compatibility and consistency with goals, objectives and policies of the adopted master plans of the City. Maintenance and updating of the code is often necessary to increase consistency with goals, objectives and policies of Salt Lake City. The proposed text changes are consistent with adopted policy documents.

2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;

Analysis: In Salt Lake City, the Zoning Ordinance has been the main tool used to implement the goals and objectives of the adopted land use planning documents. All of the proposed changes to the text, as outlined,

are intended to clarify or further advance the purposes, goals, objectives and policies of the adopted general plan of Salt Lake City. The proposed changes do not substantially alter the various purpose statements of zoning districts.

Finding: The proposed text amendments are consistent with current planning practices and further the specific purpose statements found throughout the Zoning Ordinance.

3. **Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and**

Analysis: The proposed text amendments fine tune the H Historic overlay district language. Therefore they will not interfere with the character of specific properties. The proposed amendments reflect code maintenance issues intended to improve effectiveness and processes.

Finding: The proposed fine tuning amendments are consistent with the provisions of all applicable overlay zoning districts that may impose additional standards and do not significantly modify any intent or purpose of the existing City code.

4. **The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.**

Analysis: The proposed fine tuning amendment reflects current practices in urban planning and will clarify, update and enhance City's planning practices as it relates to the historic preservation Program.

Finding: The proposed fine tuning text amendments are consistent with the purpose of the Zoning Ordinance and implement best current and professional practices of urban planning and design.

Attachment A
Open House & Public Comment

GENERAL

OPEN HOUSE
September 12, 2011
PLNPCM2011-00470

Fine Tuning- Historic Preservation Program

Please provide us with the following information, so that we may contact you for further comment (please print clearly, thank you):

Name Kelly

Address) 1766 Harvard Ave

84108
(include zip code)

Phone 801-287-8979

Written comments:

Please Stop The Demo's
in Yalecrest V'

Please approve things /work on
things quickly.

Fine Tuning- Historic Preservation Program

PlnPcm2011-00470

OPEN HOUSE - ATTENDANCE ROLL

September 12, 2011

PRINT NAME <u>DAVID GARCIA</u> ADDRESS <u>123 4TH AVE</u> ZIP CODE <u>84103</u>	PRINT NAME <u>Ruth Ann Trudell</u> ADDRESS <u>249 ^{Southern} 1100 2A 1100 East St</u> ZIP CODE <u>84102</u>
PRINT NAME <u>Anne Cannon</u> ADDRESS <u>1647 Kensington Ave</u> ZIP CODE <u>84105</u>	PRINT NAME <u>Cindy Cromer</u> ADDRESS <u>816 E 100 S</u> ZIP CODE <u>84102-4109</u>
PRINT NAME <u>Kirk Huffaker</u> ADDRESS <u>JAH HERITAGE FOUNDATION</u> ZIP CODE _____	PRINT NAME _____ ADDRESS _____ ZIP CODE _____
PRINT NAME <u>Emali Kearns</u> ADDRESS <u>40 Herbert Ave</u> ZIP CODE <u>84111</u>	PRINT NAME _____ ADDRESS _____ ZIP CODE _____
PRINT NAME <u>James Torgerson</u> ADDRESS <u>824 S. 700 East</u> ZIP CODE <u>84102</u> <i>Dr Torg @ Hartman.com</i>	PRINT NAME _____ ADDRESS _____ ZIP CODE _____
PRINT NAME <u>Kelly Marinian</u> ADDRESS <u>1766 Harvard Ave</u> ZIP CODE <u>84108</u>	PRINT NAME _____ ADDRESS _____ ZIP CODE _____

From: [Kirk Huffaker](#)
To: [Oktay, Michaela](#)
Subject: Comments on HLC fine tuning
Date: Tuesday, October 04, 2011 4:42:24 PM

Hi Michaela

Here are my comments regarding the proposal for fine tuning that we briefly discussed at the open house a few weeks ago.

21A.06.050

1) Section B7. Besides just commenting on the city's general plan, I believe this should be broadened to be all planning documents that may affect historic structures whether it be citywide, by neighborhood/community, or small area plans.

2) Section E. As I stated at the open house, we don't necessarily want to be circumvented out of the process of suggesting appointments to the HLC. Maybe the SHPO and AIA don't either. But I understand the need to make the process go smoother and faster. Therefore, I would suggest providing a 60 day window for these organizations to make their suggestions within to the Mayor's office or other city staff person (planning, etc.) for appointment.

In addition, should one of the expert categories be law? It would be nice to have a professional that practices the legal side of real estate/preservation have a spot on the HLC.

21A.34.020

3) Section A8. I appreciate the inclusion of this statement.

4) Section C2c. I agree that this statement should be eliminated in order to provide for a fuller evaluation of structures before they reach 50 years of age.

5) Section M. Please spell out "Utah Heritage Foundation" with describing the revolving fund loan program.

Where does training for the HLC fit in? It seems like there should be a provision for regular (quarterly?) training. Maybe even more now because the commission is getting smaller which means we are reliant on them all understanding and doing their job, and because they are mainly reviewing highly complex and issues that there is disagreement on.

Thanks for your consideration of these comments. Please contact me if you have any questions.

Kirk

Kirk Huffaker
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www.utahheritagefoundation.org
www.slmodern.org

Attachment B
DRAFT Proposed Ordinance

Proposed Changes
HLC Fine Tuning Amendment PLNPCM2011-00470

21A.06.050: HISTORIC LANDMARK COMMISSION:

A. Creation: The historic landmark commission is created pursuant to the enabling authority granted by the historic district act, section 11-18-1 et seq., of the Utah Code Annotated, 1953.

~~B. General Purposes: The purposes of the historic landmark commission are to:~~

- ~~1. Preserve buildings and related structures of historic and architectural significance as part of the city's most important cultural, educational and economic assets;~~
- ~~2. Encourage proper development and utilization of lands and areas adjacent to historical areas and to encourage complementary, contemporary design and construction;~~
- ~~3. Protect and enhance the attraction of the city's historic landmarks for tourists and visitors;~~
- ~~4. Safeguard the heritage of the city by providing for the protection of landmarks representing significant elements of its history;~~
- ~~5. Promote the private and public use of landmarks and the historical areas within the H historic preservation overlay district for the education, prosperity and general welfare of the people;~~
- ~~6. Increase public awareness of the value of historic, cultural and architectural preservation; and~~
- ~~7. Recommend design standards pertaining to the protection of H historic preservation overlay districts and landmark sites.~~

~~B~~C. Jurisdiction ~~a~~And Authority: ~~In addition to carrying out the general purposes set forth in subsection B of this section,~~ the historic landmark commission shall:

- ~~1. Conduct surveys of significant historic, architectural, and cultural landmarks and historic districts within the city;~~
- ~~2. Petition the city council to designate identified structures, areas or resources as landmark sites or H historic preservation overlay districts;~~
31. Review and approve or deny an application for a certificate of appropriateness pursuant to the provisions of chapter 21A.34 of this title;
42. ~~Develop and P~~participate in public education programs to increase public awareness of the value of historic, architectural and cultural preservation;
53. Review and approve or deny applications for the demolition of structures in the H historic preservation overlay district pursuant to chapter 21A.34 of this title;
64. Recommend to the planning commission the boundaries for the establishment of an H historic preservation overlay district and landmark sites;

75. Review and approve or deny certain special exceptions for properties located within an H historic preservation overlay district. The certain special exceptions are listed as follows:

- a. Building wall height;
- b. Accessory structure wall height;
- c. Accessory structure square footage;
- d. Fence height;
- e. Overall building and accessory structure height;
- f. Signs pursuant to 21A.46.070; and
- g. Any modification to bulk and lot regulations of the underlying zoning district where it is found that the underlying zoning would not be compatible with the historic district and/or landmark site.

~~86.~~ Make recommendations when requested by the planning commission, the ~~board of adjustment~~ hearing officer or the city council, as appropriate, on applications for zoning amendments and conditional uses ~~and special exceptions~~ involving H historic preservation overlay districts and landmark sites;

~~9. Make recommendations to the city council concerning the utilization of state, federal or private funds to promote the preservation of landmark sites and H historic preservation overlay districts within the city;~~

~~10. Make recommendations to the city council regarding the acquisition of landmark structures or structures eligible for landmark status where preservation is essential to the purposes of section 21A.34.020, "H Historic Preservation Overlay District", of this title, and where private preservation is infeasible;~~

~~11.7~~ Make recommendations to the planning commission in connection with the preparation of the general plan of the city; and

~~8.~~ Make recommendations to the city council on policies and ordinances that may encourage preservation of buildings and related structures of historical al and architectural significance.

~~DC.~~ Membership: The historic landmark commission shall consist of not less than ~~nine~~ seven (~~7~~ 9) nor more than ~~fifteen~~ nine (~~15~~ 9) voting members appointed by the mayor, with the advice and consent of the city council in a manner providing balanced geographic, professional, neighborhood and community interests representation. ~~The director of the planning division (or the planning director's designated representative) shall serve as an ex officio member without vote.~~ Voting members of the commission may serve a maximum of two (2) consecutive full terms of ~~three~~ four (~~3~~ 4) years each. ~~The terms shall be staggered such that three (3) members are appointed each year.~~ The mayor shall appoint a new commission member to fill any vacancy that might arise and such appointment shall not be included in the determination of any person's eligibility to serve two (2) consecutive full terms.

~~E.D~~ Qualifications ~~o~~ f Members: Each voting member shall be a resident of the city interested in preservation and knowledgeable about the heritage of the city. Members shall be selected so as to ideally provide, ~~at a minimum,~~ representation from the following groups of experts and interested parties whenever a qualified candidate exists: :

1. At least One two licensed architects, and ~~representing the Utah Society, American Institute of Architects;~~

~~2. One member representing the Utah State Historical Society;~~

~~3. One member representing the Utah Heritage Foundation;~~

~~4. Six (6) citizens at large; Citizens at large possessing preservation-related experience in archeology, architecture, architectural history, construction, history, folk-studies, law, public history, real estate, real estate appraisal, or urban planning.~~

~~5. Each historic district in the city shall be represented on the historic landmark commission by a member either residing in or owning property in that district.~~

~~F.E.~~ Officers: The historic landmark commission shall annually elect a chair and a vice chair who shall serve for a term of one year each. The chair or vice chair may be elected to serve consecutive terms in the same office. The secretary of the historic landmark commission shall be designated by the planning director.

~~F.G.~~ Meetings: The historic landmark commission shall meet at least once per month or as needed.

~~H.G.~~ Record of Proceedings: The proceedings of each meeting and public hearing shall be recorded on audio equipment. Records of confidential executive sessions shall be kept in compliance with the Utah State Government Records Access and Management Act (GRAMA). ~~The audio recording of each meeting shall be kept for a minimum of sixty (60) days. Upon the written request of any interested person, such audio recording shall be kept for a reasonable period of time beyond the sixty (60) day period, as determined by the historic landmark commission. Copies of the tapes of such proceedings may be provided, if requested, at the expense of the requesting party.~~ The historic landmark commission shall keep written minutes of its proceedings and records of all of its examinations and official actions.

~~H.H.~~ Quorum and Vote: No business shall be conducted at a meeting of the historic landmark commission without a quorum. A majority of the voting members of the historic landmark commission constitutes a quorum. All actions of the historic landmark commission shall be represented by a vote of the membership. A simple majority of the voting members present at a meeting at which a quorum is present shall be required for any action taken. The decision of the historic landmark commission shall become effective upon the posting of the record of decision.

~~H.J.~~ Public Hearings: The historic landmark commission shall schedule and give public notice of all public hearings pursuant to the provisions of chapter 21A.10 of this title.

~~K.~~ ~~Conflicts Of Interest: No member of the historic landmark commission shall participate in the hearing or disposition of any matter in which that member has a conflict of interest prohibited by title 2, chapter 2.44 of this code. The historic landmark commission may, by majority vote of the members present, allow a member, otherwise required to leave due to a conflict, to be present if required by special or unusual circumstances.~~

~~L.J.~~ Removal of a Member: Any member of the historic landmark commission may be removed by the mayor for violation of this title or any policies and procedures adopted by the historic landmark commission following receipt by the mayor of a written complaint filed against the member. ~~If requested by the member, the mayor shall provide the member with a public hearing conducted by a hearing officer appointed by the mayor.~~

~~M.K.~~ Policies ~~a~~And Procedures: The historic landmark commission shall adopt policies and procedures for the conduct of its meetings, the processing of applications and for any other purposes considered necessary for its proper functioning. (~~Ord. 69-09 § 3, 2009; Ord. 26-95 § 2(3-5), 1995~~)

21A.34.020: H HISTORIC PRESERVATION OVERLAY DISTRICT:

A. Purpose Statement: In order to contribute to the welfare, prosperity and education of the people of Salt Lake City, the purpose of the H historic preservation overlay district is to:

1. Provide the means to protect and preserve areas of the city and individual structures and sites having historic, architectural or cultural significance;
2. Encourage new development, redevelopment and the subdivision of lots in historic districts that is compatible with the character of existing development of historic districts or individual landmarks;
3. Abate the destruction and demolition of historic structures;
4. Implement adopted plans of the city related to historic preservation;
5. Foster civic pride in the history of Salt Lake City;
6. Protect and enhance the attraction of the city's historic landmarks and districts for tourists and visitors; ~~and~~
7. Foster economic development consistent with historic preservation; ~~and,-~~
8. Encourage social, economic and environmental sustainability.

B. Definitions:

1. H Historic Preservation Overlay District: A geographically or thematically definable area which contains buildings, structures, sites, objects, landscape features, archeological sites and works of art, or a combination thereof, that contributes to the historic preservation goals of Salt Lake City.
2. Contributing Structure: A contributing structure is a structure or site within an H historic preservation overlay district that meets the criteria outlined in subsection C2 of this section and is of moderate importance to the city, state, region or nation because it imparts artistic, historic or cultural values. A contributing structure has its major character defining features intact and although minor alterations may have occurred they are generally reversible. Historic materials may have been covered but evidence indicates they are intact.
3. Noncontributing Structure: A noncontributing structure is a structure within an H historic preservation overlay district that does not meet the criteria listed in subsection C2 of this section. The major character defining features have been so altered as to make the original and/or historic form, materials and details indistinguishable and alterations are irreversible. Noncontributing structures may also include those which are less than fifty (50) years old.

4. Landmark Site: A landmark site is any site included on the Salt Lake City register of cultural resources that meets the criteria outlined in subsection C2 of this section. Such sites are of exceptional importance to the city, state, region or nation and impart high artistic, historic or cultural values. A landmark site clearly conveys a sense of time and place and enables the public to interpret the historic character of the site.

5. New Construction: The building of a new principal ~~structure on a lot or property~~ building within an H historic preservation overlay district or on a landmark site.

6. Demolition: Any act or process which destroys a structure, object or property within an H historic preservation overlay district or a landmark site. (See subsection B7 of this section.)

7. Demolition, Partial: Partial demolition includes any act which destroys a portion of a structure consisting of not more than twenty five percent (25%) of the floor area of the structure, and where the portion of the structure to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the historic period on any exterior elevation exceeding twenty five percent (25%) when the demolition is part of an act of restoring original historic elements of a structure and/or restoring a structure to its historical mass and size.

8. Historic Resource Survey: A Historic Resource Survey is a systematic resource for identifying and evaluating the quantity and quality of historic resources for land-use planning purposes following the guidelines and forms of the Utah State Historic Preservation Office.

i. Reconnaissance Level Surveys (RLS) is the most basic approach for systematically documenting and evaluating historic buildings in Utah communities and involves only a visual evaluation of properties

ii. Intensive Level Surveys (ILS) include in-depth research involving research on the property and its owners, documentation of the property's physical appearance and completion of the Utah State Historic Offices' Historic Site Form.

9. Design Guidelines: The design guidelines provide guidance in determining the suitability and architectural compatibility of proposed maintenance, repair, alteration or new construction while at the same time, allowing for reasonable changes that meet current needs of properties located within the Historic Preservation Overlay district. For architects, designers, contractors and property owners, they provide guidance in planning and designing future projects. For City staff and the Historic Landmark Commission, they provide guidance for the interpretation of the Zoning Ordinance standards. Design Guidelines are officially adopted by City Council.

C. Establishment ~~o~~f Overlay District:

1. Procedure ~~f~~For the eEstablishment ~~o~~f aAn H Historic Preservation Overlay District ~~o~~r Landmark Site: An H historic preservation overlay district or landmark site shall be established pursuant to the procedures for amending the zoning map of this title in chapter 21A.50 of this title. An application for a map amendment to establish an H historic preservation overlay district or landmark site shall be prepared by the historic landmark commission and submitted to the planning commission. Any individual or organization can request that the historic landmark commission consider preparing an application of a landmark site or H historic preservation overlay district. The application shall contain information and recommendations concerning the areas, buildings and premises for areas included in the amendment application.

2. Criteria ~~f~~For Selection ~~o~~Of ~~a~~An H Historic Preservation Overlay District ~~o~~Or Landmark Site: The historic landmark commission shall evaluate each parcel of property within a proposed H historic preservation overlay district or the parcel of property associated with a landmark site. Individual parcels within a proposed district, the district as a whole, and landmark sites shall be evaluated according to the following:

a. Significance in local, regional, state or national history, architecture, engineering or culture, associated with at least one of the following:

- (1) Events that have made significant contribution to the broad patterns of history, or
- (2) Lives of persons significant in the history of the city, region, state, or nation, or
- (3) The distinctive characteristics of a type, period or method of construction; or the work of a notable architect or master craftsman, or
- (4) Information important in the understanding of the prehistory or history of Salt Lake City; and

b. Physical integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the national park service for the National Register of Historic Places; and

c. The age of the site. Sites must be at least fifty (50) years old, or have achieved significance within the past fifty (50) years if the properties are of exceptional importance.

3. Boundaries ~~o~~Of ~~a~~A ~~p~~Proposed ~~H~~Historic Preservation Overlay District: When applying the evaluation criteria in subsection C2 of this section, the historic landmark commission shall recommend boundaries of a proposed H historic preservation overlay district to ensure that the boundaries:

- a. Contain documented historic or architectural resources;
- b. Coincide with documented historic boundaries such as early roadways, canals, subdivision plats or property lines;
- c. Coincide with logical physical or manmade features and reflect recognized neighborhood boundaries; and
- d. Contain non-historic resources or vacant land only where necessary to create appropriate boundaries to meet the criteria of subsection C2 of this section.

4. Boundaries ~~o~~Of ~~A~~a ~~p~~Proposed Landmark Site: When applying the evaluation criteria in subsection C2 of this section, the historic landmark commission shall draw the boundaries of a landmark site to ensure that historical associations, and/or those which best enhance the integrity of the site comprise the boundaries.

D. The ~~a~~Adjustment ~~o~~Of ~~b~~Boundaries ~~o~~Of ~~a~~An H Historic Preservation Overlay District ~~a~~And ~~The~~ ~~the~~ Revocation ~~o~~Of ~~t~~The ~~d~~Designation ~~o~~Of Landmark Site:

1. Procedure: The procedure for the adjustment of boundaries of an H historic preservation overlay district and the revocation of the designation of a landmark site shall be the same as that outlined in subsection C1 of this section.

2. Criteria ~~f~~For ~~a~~Adjusting ~~t~~The ~~b~~Boundaries ~~o~~Of ~~a~~An H Historic Preservation Overlay District: Criteria for adjusting the boundaries of an H historic preservation overlay district are as follows:

- a. The properties have ceased to meet the criteria for inclusion within an H historic preservation overlay district because the qualities which caused them to be originally included have been lost or destroyed, or such qualities were lost subsequent to the historic landmark commission recommendation and adoption of the district;
- b. Additional information indicates that the properties do not comply with the criteria for selection of the H historic preservation overlay district as outlined in subsection C2 of this section; or
- c. Additional information indicates that the inclusion of additional properties would better convey the historical and architectural integrity of the H historic preservation overlay district, provided they meet the standards outlined in subsection C2 of this section.

3. Criteria ~~f~~For ~~t~~The ~~r~~Revocation ~~o~~Of ~~t~~The ~~d~~Designation ~~o~~Of ~~a~~A Landmark Site: ~~Criteria for the revocation of the designation of a landmark site~~ are as follows:

- a. The property has ceased to meet the criteria for designation as a landmark site because the qualities that caused it to be originally designated have been lost or destroyed or the structure has been demolished;~~or-~~
- b. Additional information indicates that the landmark site does not comply with the criteria for selection of a landmark site as outlined in subsection C2 of this section;~~or-~~
- c. Additional information indicates that the landmark site is not of exceptional importance to the city, state, region or nation.

E. Certificate ~~o~~Of Appropriateness ~~r~~Required: After the establishment of an H historic preservation overlay district, or the designation of a landmark site, no alteration in the exterior appearance of a structure, site, object or work of art affecting the landmark site or a property within the H historic preservation overlay district shall be made or permitted to be made unless or until the application for a certificate of appropriateness has been submitted to, and approved by, the historic landmark commission, or administratively by the ~~P~~lanning ~~D~~irector, as applicable, pursuant to subsection F of this section. Certificates of appropriateness shall be required for:

1. Any construction needing a building permit;
2. Removal and replacement or alteration of architectural detailing, such as porch columns, railing, window moldings, cornices and siding;
3. Relocation of a structure or object on the same site or to another site;
4. Construction of additions or decks;
5. Alteration or construction of accessory structures, such as garages, etc.;

6. Alterations to windows and doors, including replacement or changes in fenestration patterns;
7. Construction or alteration of porches;
8. Masonry work including, but not limited to, tuckpointing, sandblasting and chemical cleaning;
9. The construction or alterations of site features including, but not limited to, fencing, walls, paving and grading;
10. Installation or alteration of any exterior sign;
11. Any demolition;
12. New construction; and
13. Installation of an awning over a window or door.

F. Procedure ~~f~~For Issuance ~~o~~Of Certificate ~~o~~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~~Allowed Which May ~~b~~Be ~~a~~Approved ~~b~~By ~~a~~Administrative ~~d~~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; ~~and~~
- (5) Demolition of a noncontributing structure; and;
- (6) Installation of solar energy collection systems that are not readily visible from a public right of way, as described in and pursuant to subsection 21A.40.190B of this title.

b. Submission ~~o~~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 ~~section~~Chapter 21A.10.010 of this title, and shall forward the application for review and decision.

c. Materials ~~s~~Submitted ~~w~~With ~~A~~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. Notice ~~f~~For Application ~~f~~For Demolition ~~o~~Of ~~a~~A Noncontributing Structure: An application for demolition of a noncontributing structure shall require notice for determination of noncontributing sites pursuant to ~~subsection~~Chapter-21A.10. 020F of this title.

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

f. Review ~~a~~And Decision ~~b~~By ~~t~~The Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve, deny 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.

g. Referral ~~o~~Of Application ~~b~~By Planning Director ~~t~~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.

h. Appeal ~~o~~Of Administrative Decision ~~t~~To Historic Landmark Commission: The applicant, if aggrieved by the administrative decision, may appeal the decision to the historic landmark commission within ten (10) calendar days following the date on which a record of decision is issued. Once an appeal of an administrative decision has been filed, the procedure shall be as outlined in subsection F2 of this section.

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 ~~To Be r~~Reviewed ~~b~~By ~~t~~The ~~h~~Historic ~~L~~Landmark ~~c~~Commission:

(1) Substantial alteration or addition to a landmark site or contributing site;

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

(3) Relocation of landmark site or contributing site;

(4) Demolition of landmark site or contributing site;

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

~~(6) Appeal of administrative decisions by the applicant;~~

~~(7)~~ Installation of solar energy collection systems that may be readily visible from a public right of way, as described in and pursuant to ~~subsection~~Chapter 21A.40.190B of this title; and,

(7) Any project where an authorized Special Exception has been requested as part of a request for a Certificate of Appropriateness pursuant to 21A.06-

b. Submission ~~o~~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. Materials ~~s~~Submitted ~~w~~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.

d. Notice: Applications for a certificate of appropriateness shall require notice pursuant to ~~subsection~~ [Chapter 21A.10.020E](#) of this title.

e. Public Hearing: Applications for a certificate of appropriateness shall require a public hearing pursuant to ~~section~~ [Chapter 21A.10.030](#) of this title.

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

g. Review ~~a~~And Decision ~~b~~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 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.

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

h. Appeal ~~o~~Of Historic Landmark Commission Decision ~~t~~To Land Use Appeals Board: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized or registered organization pursuant to [title 2, chapter 2.62](#) of this code, the Utah State Historical Society or the Utah Heritage Foundation, aggrieved by the historic landmark commission's decision, may object to the decision by filing a written appeal with the land use appeals board 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.

i. Review ~~b~~By City Attorney: Following the filing of an appeal to the land use appeals board 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.

j. Appeal ~~o~~Of Land Use Appeals Board Decision ~~t~~To District Court: Any party aggrieved by the decision of the land use appeals board may appeal that decision to the district court within thirty (30) days following the decision of the land use appeals board. The filing of an appeal of the land use appeals board decision shall stay the decision of the land use appeals board pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the land use appeals board if such decision defers a demolition request for up to one year pursuant to the provisions of subsections L and M of this section.

G. Standards ~~f~~For Certificate ~~o~~Of Appropriateness ~~f~~For Alteration ~~o~~Of A Landmark Site ~~o~~Or Contributing Structure including new construction of an accessory structure: In considering an application for a certificate of appropriateness for alteration of a landmark site or contributing structure, the historic landmark commission, or the planning director, for administrative decisions, shall find that the project substantially complies with all of the following general standards that pertain to the application and that the decision is in the best interest of the city:

1. A property shall be used for its historic purpose or be used for a purpose that requires minimal change to the defining characteristics of the building and its site and environment;
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided;
3. All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create a false sense of history or architecture are not allowed;
4. Alterations or additions that have acquired historic significance in their own right shall be retained and preserved;
5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;
6. Deteriorated architectural features shall be repaired rather than replaced wherever feasible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects;

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;

8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archaeological material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment;

9. Additions or alterations to structures and objects shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. The new work shall be differentiated from the old and shall be compatible in massing, size, scale and architectural features to protect the historic integrity of the property and its environment;

10. Certain building materials are prohibited including the following:

a. ~~Aluminum, asbestos, or vinyl or aluminum~~ cladding when applied directly to an original or historic material, ~~and~~

~~b. Any other imitation siding material designed to look like wood siding but fabricated from an imitation material or materials;~~

11. Any new sign and any change in the appearance of any existing sign located on a landmark site or within the H historic preservation overlay district, which is visible from any public way or open space shall be consistent with the historic character of the landmark site or H historic preservation overlay district and shall comply with the standards outlined in chapter 21A.46 of this title;

~~12. Additional design standards adopted by the historic landmark commission and city council.~~

H. Standards ~~f~~For Certificate ~~o~~Of Appropriateness ~~i~~Involving ~~n~~New Construction ~~o~~Or Alteration ~~o~~Of ~~a~~A Noncontributing Structure: In considering an application for a certificate of appropriateness involving new construction, or alterations of noncontributing structures, the historic landmark commission, or planning director when the application involves the alteration of a noncontributing structure, shall determine whether the project substantially complies with all of the following standards that pertain to the application, is visually compatible with surrounding structures and streetscape ~~as illustrated in any design standards adopted by the historic landmark commission and city council~~ and is in the best interest of the city:

1. Scale ~~a~~And Form:

a. Height ~~a~~And Width: The proposed height and width shall be visually compatible with surrounding structures and streetscape;

b. Proportion ~~o~~Of Principal Facades: The relationship of the width to the height of the principal elevations shall be in scale with surrounding structures and streetscape;

c. Roof Shape: The roof shape of a structure shall be visually compatible with the surrounding structures and streetscape; and

d. Scale of A Structure: The size and mass of the structures shall be visually compatible with the size and mass of surrounding structure and streetscape.

2. Composition of Principal Facades:

a. Proportion of Openings: The relationship of the width to the height of windows and doors of the structure shall be visually compatible with surrounding structures and streetscape;

b. Rhythm of Solids to Voids in Facades: The relationship of solids to voids in the facade of the structure shall be visually compatible with surrounding structures and streetscape;

c. Rhythm of Entrance Porch and other Projections: The relationship of entrances and other projections to sidewalks shall be visually compatible with surrounding structures and streetscape; and

d. Relationship of Materials: The relationship of the color and texture of materials (other than paint color) of the facade shall be visually compatible with the predominant materials used in surrounding structures and streetscape.

3. Relationship to Street:

a. Walls of Continuity: Facades and site structures, such as walls, fences and landscape masses, shall, when it is characteristic of the area, form continuity along a street to ensure visual compatibility with the structures, public ways and places to which such elements are visually related;

b. Rhythm of Spacing and Structures on Streets: The relationship of a structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the structures, objects, public ways and places to which it is visually related;

c. Directional Expression of Principal Elevation: A structure shall be visually compatible with the structures, public ways and places to which it is visually related in its orientation toward the street; and

d. Streetscape; Pedestrian Improvements: Streetscape and pedestrian improvements and any change in its appearance shall be compatible to the historic character of the landmark site or H historic preservation overlay district.

4. Subdivision Of Lots: The planning director shall review subdivision plats proposed for property within an H historic preservation overlay district or of a landmark site and may require changes to ensure the proposed subdivision will be compatible with the historic character of the district and/or site(s).

I. Standards for Certificate of Appropriateness for Relocation of Landmark Site or Contributing Structure: In considering an application for a certificate of appropriateness for relocation of a landmark site or a contributing structure, the historic landmark commission shall find that the project substantially complies with the following standards:

1. The proposed relocation will abate demolition of the structure;

2. The proposed relocation will not diminish the overall physical integrity of the district or diminish the historical associations used to define the boundaries of the district;
3. The proposed relocation will not diminish the historical or architectural significance of the structure;
4. The proposed relocation will not have a detrimental effect on the structural soundness of the building or structure;
5. A professional building mover will move the building and protect it while being stored; and
6. A financial guarantee to ensure the rehabilitation of the structure once the relocation has occurred is provided to the city. The financial guarantee shall be in a form approved by the city attorney, in an amount determined by the planning director sufficient to cover the estimated cost to rehabilitate the structure as approved by the historic landmark commission and restore the grade and landscape the property from which the structure was removed in the event the land is to be left vacant once the relocation of the structure occurs.

J. Standards ~~f~~For Certificate ~~o~~Of Appropriateness ~~f~~For Demolition ~~o~~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 of this section; or
2. The demolition is required to rectify a condition of economic hardship, as defined and determined pursuant to the provisions of subsection K of this section.

K. Definition ~~a~~And Determination ~~o~~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 ~~f~~For Determination ~~o~~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 ~~f~~For Determination ~~o~~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 ~~f~~For Determination ~~o~~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 ~~o~~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., ~~"General Application And Public Hearing Procedures", subsection 21A.10.020E and section 21A.10.030 of this title.~~

b. Report ~~o~~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 ~~o~~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 ~~o~~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 ~~o~~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 ~~w~~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. Standards ~~f~~For Certificate ~~o~~Of Appropriateness ~~f~~For Demolition ~~o~~Of A Contributing Structure ~~i~~n ~~A~~n ~~a~~ H Historic Preservation Overlay District: In considering an application for a certificate of appropriateness for demolition of a contributing structure, the historic landmark commission shall determine whether the project substantially complies with the following standards:

1. Standards ~~f~~For Approval ~~o~~Of ~~a~~A Certificate ~~o~~Of Appropriateness ~~f~~For Demolition:

- a. The physical integrity of the site as defined in subsection C2b 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 ~~wilful~~willful neglect, as evidenced by the following:
 - (1) ~~Wilful~~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; 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 ~~o~~Of Compliance ~~w~~With Standards ~~o~~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.

a. Approval ~~o~~Of Certificate ~~o~~Of Appropriateness ~~f~~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.

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~~ [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.](#)

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 ~~section~~ [Chapter 21A.48.050](#) 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 zoning administrator~~ 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. Exceptions ~~o~~Of Certificate ~~o~~Of Appropriateness ~~f~~For Demolition ~~o~~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. (~~Ord. 20-11, 2011: Ord. 69-09 §§ 6, 7, 2009: Ord. 77-03 §§ 6, 7, 2003: Ord. 35-99 §§ 42-44, 1999: Ord. 83-96 §§ 4, 5, 1996: Ord. 70-96 § 1, 1996: Ord. 88-95 § 1 (Exh. A), 1995: Ord. 26-95 § 2(17-1), 1995)~~)

R. 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 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.

Chapter 21A.50 AMENDMENTS

21A.50.030: INITIATION:

Amendments to the text of this title or to the zoning map may be initiated by filing an application for an amendment addressed to the planning commission. Applications for amendments may be initiated by the mayor, a city council member, a planning commissioner, or the owner of the property included in the application, or the property owner's authorized agent. Applications related to H historic preservation overlay districts or landmark sites shall be initiated as provided in ~~subsection Chapter 21A.34.020C1~~ of this title. (~~Ord. 26-95 § 2(25-2), 1995)~~)