

**PLANNING COMMISSION  
STAFF REPORT  
Legislative Item**



Planning Division  
Department of Community and  
Economic Development

**Demolition of Historic Buildings  
Zoning Text Amendment  
PLNPCM2009-00014  
August 28, 2013**

**Applicant:**

SLC Corp., Mayor Ralph Becker

**Staff:**

Janice Lew  
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**Current Zone:**

N/A

**Master Plan Designation:**

City-wide

**Council District:**

City-wide

**Community Council:**

City-wide

**Applicable Land Use Regulations:**

- 21A.06 Decision Making Bodies
- 21A.34.020 H Historic Preservation Overlay District

**Notification:**

- Published in newspapers March 23, 2013
- Notice mailed on August 14, 2013
- Agenda posted on the Planning Division and Utah Public Meeting Notice websites August 14, 2013

**Attachment**

- A. Draft Ordinance
- B. Public Comment
- C. Public Hearing Minutes

***Request***

Salt Lake City Mayor Ralph Becker is requesting that the City adopt new regulations that will clarify how proposed demolitions of landmark sites and contributing buildings will be evaluated and the process for approving or denying a demolition request. As a legislative request, the recommendation of the Planning Commission and Historic Landmark Commission will be forwarded to the City Council which has final decision making authority on Zoning Ordinance text amendments.

On August 1, 2013 the Historic Landmark Commission (HLC) held a public hearing to review this petition. The Commission transmitted a favorable recommendation to the Planning Commission and City Council to adopt the proposed changes. More details outlining the changes are discussed under the *Project Description* section of this staff report. In addition, the Commission expressed frustration about a condition commonly referred to as “demolition-by-neglect.” The Commission requested the City Council examine approaches that may be used to resolve maintenance problems and enforcement issues under the existing code in an effort to prevent needless demolition of historic property.

***Recommendation***

Based on the findings listed in this staff report, it is the Planning staff’s opinion that the proposed text amendments meets the applicable standards and therefore, recommends the Planning Commission transmit a favorable recommendation to the City Council relating to this request.

**Potential Motions**

**Consistent with Staff Recommendation:** Based upon the findings listed in the staff report, testimony and proposed text amendments presented, I move that the Planning Commission transmit a favorable recommendation to the City Council to adopt the proposed changes to the zoning ordinance as it relates to the demolition of all City designated landmark sites and contributing buildings within the *H Historic Preservation Overlay District*.

-or-

**Not Consistent with Staff Recommendation (modify):** Based on the testimony presented and the following findings, I move that the Planning Commission transmit a favorable recommendation to the City Council relating to the proposed text amendments to the ordinance provisions regulating the demolition of City designated landmark sites and contributing buildings in local historic districts with the following modifications: *(list the modifications and their section number for clarification)*.

-or-

**Not Consistent with Staff Recommendation (no amendments):** Based on the testimony presented and the following findings, I move the Planning Commission transmit a negative recommendation to the City Council relating to the proposed text amendments to the ordinance provisions regulating the demolition of City designated landmark sites and contributing buildings in local historic districts.

The Planning Commission shall make findings on the zoning text amendment standards as listed below:

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;
2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;
3. Whether a proposed text amendment is consistent with the purpose and provisions of any applicable overlay zoning districts which may impose additional standards; and
4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.

## **Background**

### **Project Description**

The Planning Division is processing changes to the demolition provisions of the *H Historic Preservation Overlay District*. The proposed alterations to the zoning ordinance are a response to a 1999 petition for amendments requested by the Planning Commission, a 2004 Legislative Action, the 2008 Citygate study of the planning processes, and the Community Preservation Plan. Issues identified during previous discussions regarding the demolition and economic hardship provisions of the ordinance are listed below:

- Some comments received during the development of the Community Preservation Plan suggested that the current demolition provisions of the ordinance (including the economic hardship process) are too complex.
- The standards for determination of economic hardship have not contributed to a clear and consistent process for landowners and applicants.
- The current provisions make it difficult to balance the goals of historic preservation with other goals of the City.
- The economic hardship review panel's makeup of three people is difficult to achieve. The three person panel is supposed to consist of a representative of the HLC, a representative of the applicant and a third party neutral expert. It is difficult to find a third party that meets the qualifications and is also willing to volunteer their time to review large amounts of complicated documentation.
- The three-person economic review panel is not a fair representation of either the applicant or the HLC, is a cumbersome process for everyone, and confusing to both the applicant and the public.

### **Summary of Proposed Ordinance Changes**

The Planning Division is proposing specific changes to the zoning ordinance. The proposed major changes are discussed below in the order that they would appear in the City code.

#### **Chapter 21A.34.020 – H Historic Preservation Overlay District**

##### **21A.34.020 B Definitions**

Provides a new definition for “Economic Hardship.” ( pg.11)

##### **21A.34.020 J Standards For Certificate Of Appropriateness For Demolition Of A Landmark Site**

Modifies standards. (pg. 13)

##### **21A.34.020K Standards For Certificate Of Appropriateness For Demolition Of A Contributing Principal Building Or Structure In A H Historic Preservation Overlay**

Modifies standards. ( pg.13)

### **21A.34.020N Economic Hardship Exemption**

Clarifies the economic hardship determination process. Allows the HLC final authority in determinations of economic hardship and eliminates the Economic Hardship Review Panel. Establishes criteria for income producing and non-income producing property. Allows the HLC and planning staff to solicit expert advice. Sets limitations on economic hardship determinations. (pg.15)

### **21A.34.020O Postdemolition Plan**

Only allows the issuance of a Certificate of Appropriateness (CoA) for demolition simultaneously with the appropriate approval and permits for the replacement building or structure. Eliminates a landscape plan as an appropriate replacement plan. Creates a preservation fund through additional fees for approved demolitions. ( pg. 20)

### **21A.34.020P Requirements For Certificate Of Appropriateness For Demolition**

Outlines documentation requirements if demolition is approved. ( pg. 21)

### **21A.34.020S Demolition by Neglect**

Provides a reference to the chapter of the code that addresses demolition by neglect ( pg. 23)

## **Historic Landmark Commission Issues**

The Commission devoted significant time discussing the merits of a provision for projects of special merit. This provision was intended to provide a mechanism for consideration of the level of importance of other adopted City policies in the demolition analysis. A project of special merit would have significant benefits to the overall community. The Commission came to the conclusion that the city's preservation regulations do not create any major impediments to development to justify including a special merit exception. Based on the Commission's discussions, Staff eliminated the proposed "special merit exception" for demolition of a "contributing" property from the draft ordinance.

## ***Public Notice, Meetings and Comments***

The following is a list of public meetings that have been held related to the proposed project:

- Open House held on May 16, 2013
- Historic Landmark Commission work sessions:
  - January 3, 2013
  - February 7, 2013
  - May 2, 2013
  - June 6, 2013
  - July 18, 2013

Notice of public hearings for the proposal includes:

April 4, 2013 (See Attachment C Public Hearing Minutes)

- Public hearing notice posted in newspaper on March 23, 2013
- Public hearing notice posted on City and State websites on March 22, 2013

- Public hearing notice emailed to the Planning Division listserv on March 22, 2013

August 1, 2013 (See Attachment C Public Hearing Minutes)

- Public hearing notice emailed to the Planning Division listserv on July 19, 2013
- Public hearing posted on City and State websites on July 19, 2013

### **City Department Comments**

Staff sent information regarding the proposed text changes to several City Departments including the Redevelopment Agency (RDA) and only received comments from Paul Nielson, Senior City Attorney. The Planning Division has not received comments that cannot reasonably be fulfilled or that warrant denial of the petition.

### **Demolition Committee**

The Committee met on March 6, 2013 and again on March 13, 2013. Commissioners Funk and Harding attended both of the meetings. Commissioner James had no major concerns, but was unable to attend the meetings. The Committee provided a number of refinements to the proposed text. The committee also discussed the following topics:

- the salvage of materials,
- consistency in the use of terms,
- the amount of evidence necessary to make a determination of a regulatory taking,
- demolition by neglect, and
- the ability for the Commission to stop the review process for a special merit exception project.

### **Historic Landmark Commission Work Sessions**

On May 2, 2013 the Commission reviewed the merits of the special merit exception, and the June 6, 2013 meeting was devoted to a takings law discussion. The Commission reviewed the modifications to the ordinance again on July 18, 2013.

### **Public Comment**

Public comment regarding this petition is included as Attachment B of this staff report. Kirk Huffaker, Executive Director of the Utah Heritage Foundation, submitted an e-mail indicated his support for making changes to the existing demolition and economic hardship standards of the zoning ordinance and made several suggestions for further refinements. Cindy Cromer submitted research on historic preservation incentives. Jon Dewey provided his comments in an e-mail.

## ***Analysis and Findings***

### **Findings**

#### **21A. 50.050 Standards for general amendments**

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

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

**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 are intended to guide and set a framework for future land use and development. The zoning ordinance and other land use regulations are essential tools for implementing City policy. All citywide, community and small area master plans promote the importance of historic preservation. The proposed text amendments to the zoning ordinance will further the goals and objectives of these documents by clarifying the jurisdiction and authority of the Historic Landmark Commission, strengthening the role of the Commission and enabling the Commission to function more effectively. The City adopted Community Preservation Plan sets priorities for the historic preservation program so that they can be weighed and balanced against other goals and objectives of the City.

**Finding:** The proposed text amendments are a refinement of the existing demolition and economic hardship standards of the zoning ordinance. They support and are consistent with the purposes, goals, objectives and policies of the various adopted planning documents of the City.

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

**Analysis:** Historic preservation is an integral element of creating livable, vibrant and unique neighborhoods within the city. The zoning ordinance lists objectives that the city seeks to achieve regarding the *H Historic Preservation Overlay District*. These objectives include:

- Provide the means to protect and preserve areas of the city and individual structures and sites having historic, architectural or cultural significance;
- 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;
- Abate the destruction and demolition of historic structures;
- Implement adopted plans of the city related to historic preservation;
- Foster civic pride in the history of Salt Lake City;
- Protect and enhance the attraction of the city's historic landmarks and districts for tourists and visitors;
- Foster economic development consistent with historic preservation; and
- Encourage social, economic and environmental sustainability.

As such, the administration of the overlay district by the Historic Landmark Commission is intended to support the welfare, prosperity and education of the people of Salt Lake City.

**Finding:** The proposed text amendments further refine the demolition and economic hardship standards of the zoning ordinance by providing corrections, clarification and consistency. The proposed amendments would have a positive impact on the City's land use regulations 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 City has established and continually improves an array of tools and programs aimed at protecting the buildings and landscapes from its past. The purpose of the *H Historic Preservation Overlay District* is to provide the means to protect and preserve areas of the city and individual buildings, structures and sites having historical, architectural or cultural significance. The intent of the proposed amendments is not to create any inconsistency or conflict with applicable overlay zoning districts, but to improve the existing standards and provide consistency in the application of the regulations.

**Finding:** The proposed text amendments are consistent with the provisions of all applicable overlay zoning districts that may impose additional standards and supports the purposes and provisions 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 text amendments reflect current practices in urban planning and will clarify, update and enhance the City's planning practices as it relates to the Historic Preservation Program.

**Finding:** The proposed text amendments strive to implement current best practices of historic preservation. As such, they will have a positive effect on the City's review processes affecting historic properties governed by the *H Historic Preservation Overlay District*.





**Attachment A  
Draft Ordinance**



**ZONING ORDINANCE CHAPTER 21A.06      Decision Making Bodies and Officials**

**21A.06.050: HISTORIC LANDMARK COMMISSION**

B. Jurisdiction And Authority: The historic landmark commission shall:

3. Review and approve or deny applications for the demolition of [buildings](#), structures [or sites](#) in the H historic preservation overlay district pursuant to chapter 21A.34 of this title;

**ZONING ORDINANCE CHAPTER 21A.34.020 H Historic Preservation Overlay District**

B. Definitions

11. [Economic Hardship: Failure to issue a certificate of appropriateness for the demolition of a landmark site, or contributing principal building or structure would likely amount to a regulatory taking of the owner's property without just compensation \(See subsection N of this section\).](#)

F. Procedure For Issuance Of Certificate Of Appropriateness

2. Historic Landmark Commission: Certain types of construction, demolition and relocation shall only be allowed to be approved by the historic landmark commission subject to the following procedures:

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

- (1) Substantial alteration or addition to a landmark site or contributing structure/site;
- (2) New construction of principal building in H historic preservation overlay district;
- (3) Relocation of landmark site or contributing [building, structure or site](#);
- (4) Demolition of landmark site or contributing [building, structure or site](#);
- (5) Applications for administrative approval referred by the planning director; and
- (6) Installation of solar energy collection systems that may be readily visible from a public right of way, as described in and pursuant to chapter 21A.40 of this title.

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

- g. Review And Decision By The Historic Landmark Commission: The historic landmark commission shall ~~make a decision~~ consider an application for a certificate of appropriateness at a regularly scheduled meeting, within sixty (60) days following receipt of a completed application, except that ~~a review and decision on consideration of~~ an application for a certificate of appropriateness for demolition of a landmark site or contributing principal building or structure declaring an economic hardship shall be made ~~within one hundred twenty (120)~~ ninety (90) days following receipt of an ~~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~~N 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 principal building or structure may be deferred for up to one year pursuant to subsections ~~L~~K and ~~M~~L of this section.
  - (3) The decision of the historic landmark commission shall become effective at the time the decision is made. ~~Demolition permits for landmark sites or contributing structures shall not be issued until the appeal period has expired.~~ Appeals of a decision of the historic landmark commission on an application for a certificate of appropriateness for demolition of a landmark site or contributing principal building or structure shall stay consideration of a reuse plan for new construction until the appeals hearing officer makes a determination.
  - (4) Written notice of the decision of the historic landmark commission on the application, including a copy of the findings of fact, shall be made pursuant to the provisions of section 21A.10.030 of this title. ~~sent by first class mail to the applicant within ten (10) working days following the historic landmark commission's decision.~~
- h. Appeal Of Historic Landmark Commission Decision To Appeals Hearing Officer: The applicant, any owner of abutting property or of property located within the same H historic preservation overlay district, any recognized 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 appeals hearing officer within ten (10) calendar days following the date on which a record of decision is issued. The filing of the appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal, except that the filing of the appeal shall not stay the decision of the historic landmark commission if such decision defers

a demolition request for up to one year pursuant to the provisions of subsections ~~L~~K and ~~M~~L of this section.

J. Standards For Certificate Of Appropriateness For Demolition Of A 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~~ The physical integrity of the site as defined in subsection C10b of this section is no longer evident nor is it reasonable to accurately re-establish the historical appearance in form and detailing as an integral part of a rehabilitation project. The loss of the site's historic appearance is not due to the willful or negligent acts of the past or current owners that have caused the deterioration of the site or principal building or structure, as evidenced by the following:

a. Failure to perform normal maintenance and repairs;

b. Failure to diligently solicit and retain tenants; and/or

c. Failure to secure and board the building if vacant.

~~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.~~

~~L~~K. Standards For Certificate Of Appropriateness For Demolition Of A Contributing Principal Building Or Structure In 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 For Approval Of A Certificate Of Appropriateness For Demolition:

a. The physical integrity of the site as defined in subsection ~~C2~~10b of this section is no longer evident nor it is reasonable to re-establish the historical appearance of the site as an integral part of a rehabilitation project;

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 concentration of historic resources used to define the boundaries of the district.

~~ed.~~ The demolition would not adversely affect~~the H historic preservation overlay district due to the surrounding nonecontributing structures~~the nature or concentration of historic

resources used to define or maintain the eligibility for designation as a historic district as defined in subsections C10 and 11 of this section.

- ~~d~~e. The base zoning of the site is incompatible with reuse of the building or structure;
- ~~e. The reuse plan is consistent with the standards outlined in subsection H of this section.~~
- f. The site has not suffered from willful neglect by past or current owners of the property, as evidenced by the following:
  - (1) Willful or negligent acts that have caused the deterioration of the structure,
  - (2) Failure to perform normal maintenance and repairs,
  - (3) Failure to diligently solicit and retain tenants, and/or
  - (4) Failure to secure and board the structure if vacant.

~~g. The denial of a certificate of appropriateness of demolition would cause an economic hardship as defined and determined pursuant to the provisions of subsection K of this section.~~

2. Historic Landmark Commission Determination of Compliance With Standards Of Approval: The historic landmark commission shall make a decision upon compliance with the requisite number of standards in subsection ~~L~~K1 of this section as set forth below.

- a. Approval Of Certificate Of Appropriateness For Demolition: Upon making findings that at least ~~six (6)~~ five (5) 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)~~ four (4) 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~~L of this section.

~~M~~L. 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 principal building or structure. The ~~one-year~~ deferral 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, including without limitation, posting a sign on the property indicating that the property is available and providing notice to local realtors and preservation organizations. Prior to making an offer to sell or lease, an owner shall first file a statement with the planning director, identifying the property, the offering price or rent and the date the offer to sell or lease shall begin. Documentation of the reasonableness of the price sought by the applicant shall be provided and may include:
  - a. A market analysis of at least three (3) comparables prepared by a licensed real estate broker or agent.
  - b. Assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor.
  - c. An appraisal, no older than six months, conducted by a MAI certified appraiser licensed within the State of Utah.
2. ~~Filing an application for~~ Filing and providing proof of a denial or approval of an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Foundation revolving fund loans, redevelopment agency loans, ~~etc.;~~ and other currently available economic incentives;
- 3 Filing an application for alternative uses if available or feasible, such as conditional uses, special exceptions, ~~etc.;~~ and other currently available incentives; and
4. Obtaining two (2) written statements from licensed building contractors or architects with experience in historic rehabilitation detailing the ~~actual~~ estimated costs to rehabilitate the property to meet the minimum applicable City adopted construction codes.

~~N.M.~~ Final Decision For Certificate of Appropriateness For Demolition Following One Year Deferral Period: Upon the completion of the one year period and if the applicant provides all evidence, in accordance with subsection L above, of a continuing bona fide, reasonable and unsuccessful effort to find a way to retain and preserve the building or structure ~~preservation effort,~~ then the historic landmark commission shall ~~make a final decision approve 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 application for the reuse plan for new construction pursuant to subsection F2, H or P of this section.~~

~~K.N.~~ ~~Definition And Determination Of~~ Economic Hardship Exception: 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. Upon denial of a certificate of appropriateness for demolition of a landmark site, or contributing principal building or structure, the owner and/or owner's representative will have thirty (30) calendar days from the end of the appeal period as described in section 21A.06.04 of this title, to submit an

application for a certificate of economic hardship. The owner and/or owner's representative shall attend a pre-application conference with representatives of the planning division for the purpose of discussing the review process, outlining the application requirements and providing information on incentives that may be available to the applicant.

1. Application For Determination Of Economic Hardship: An application for a determination of economic hardship shall be made on a form ~~prepared~~ provided by the planning director and shall be submitted to the planning division. As outlined in subsection N2 below, the application ~~must~~ should include photographs, information pertaining to the historical significance of the landmark site or contributing principal building or structure, and all information necessary to make findings on the standards set forth in subsection N3b of this section.
2. ~~Standards~~ Evidence For Determination Of Economic Hardship: ~~The historic landmark commission shall apply the following standards and make findings concerning economic hardship.~~ The burden of proof is on the owner or owner's representative to provide sufficient evidence to demonstrate that the application of the standards and regulations of this section deprives the applicant of all economically viable use of the subject property either in its current form or if rehabilitated. Any finding in support of economic hardship shall be based solely on the hardship of the property, not conditions personal to the landowner. Simply showing some effect on value or purchasing the property for substantially more than market value at the time of purchase and considering its historic designation shall not be considered sufficient information to make this determination. Such material may include, but is not limited to:
  - a. ~~The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition,~~ Knowledge of the condition of the property at time of purchase and the applicant's plans for the property at time of purchase;
  - b. The current level of economic return on the property as considered in relation to the following:
    - (1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between 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) An appraisal, no older than six months at the time of application for determination of economic hardship conducted by a MAI certified appraiser licensed within the State of Utah. Also ~~All~~ appraisals obtained within the previous 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, taking into consideration the regulations of the H historic preservation overlay district, and the inherent assumptions that a principal structure or building might not be allowed to be demolished. Assembled lots shall be considered individually and not as a whole; ~~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 ~~For income producing properties, 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, as determined by ~~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 rental 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) Report from a licensed engineer or architect with experience in rehabilitation of older buildings and structures as to the structural soundness of any structures on the property ~~and their suitability for rehabilitation,~~
  - (2) An ~~Estimate~~ of the cost of the proposed construction or alteration, including the cost of demolition or and 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~~ potential cost savings for reuse of materials,

- (3) ~~The E~~Estimated market values 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 two of the following~~ as to the economic feasibility of rehabilitation or reuse of the existing structure ~~or building~~ on the property: an architect, developer, real estate consultant, appraiser, or any other professional experienced in rehabilitation of older structures and buildings and licensed within the State of Utah.
- e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
  - f. Description of past and current use.
  - g. An itemized report that identifies what is deficient if the building does not meet minimum City building code standards, and that includes City code violations.
  - h. Consideration of conditional use options, variances or financial incentives to alleviate hardship.
  - i. The City and the applicant may submit additional evidence relevant to the issue and determination of economic hardship for the review and consideration of the historic landmark commission.
3. Procedure For Determination Of Economic Hardship: ~~The historic landmark commission shall establish a three (3) person economic review panel. This panel shall be comprised of three (3) real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the historic landmark commission, one person selected by the applicant, and one person selected by the first two (2) appointees. If the first two (2) appointees cannot agree on a third person within thirty (30) days of the date of the initial public hearing, the third appointee shall be selected by the mayor within five (5) days after the expiration of the thirty (30) day period.~~ The Planning Director may appoint an expert or expert team to evaluate the application and provide advice and/or testimony concerning the value of the property and whether or not the denial of demolition could result in a regulatory taking of the property. The expert(s) should have considerable experience in at least two of the following: appraising historic properties, real estate development, economics, accounting, finance or law. The historic landmark commission may also at its sole discretion solicit expert testimony.
- a. Review Of Evidence: The historic landmark commission shall consider an application for determination of economic hardship within 90 days from receipt of an application. ~~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 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.~~

~~e. Historic Landmark Commission Determination Of Economic Hardship: At the next regular historic landmark commission meeting following receipt of the report of the economic review panel, the historic landmark commission shall reconvene its public hearing to take final action on the application.~~

b. ~~(4)~~Finding Of Economic Hardship: If after reviewing all of the evidence, the historic landmark commission finds that the applicant has presented sufficient information supporting a determination of economic hardship if the application for a certificate of appropriateness for demolition is denied, ~~application of the standards set forth in subsection K2 of this section results in economic hardship~~, then the historic landmark commission shall approve a certificate of economic hardship demolition. The Historic Landmark Commission shall make findings concerning economic hardship for each separate property proposed for demolition. In order to show that all beneficial use and/or reasonable economic return cannot be obtained, the applicant must show that:

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

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

(b) bona fide efforts during the previous year to sell or lease the site, or building or structure at a reasonable price have been unsuccessful.

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

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

(b) bona fide efforts during the previous year to sell or lease the site, building or structure at a reasonable price have been unsuccessful.

c. Certificate Of Economic Hardship: The certificate of economic hardship shall be valid for a period of one (1) year unless a certificate of appropriateness for demolition is issued within that time. The planning director may approve extensions of this one (1) year period, not to exceed a total period of two (2) years from the original approval of the certificate of economic hardship, provided that a written request by the applicant is received prior to the expiration date of the certificate of economic hardship that shows circumstances beyond the control of the applicant. If a certificate of economic hardship expires, a new certificate must first be obtained before a certificate of appropriateness for demolition may be issued.

~~(2d.)~~ Denial Of A Certificate Of Economic Hardship: If the historic landmark commission finds that the applicant has failed to prove an economic hardship, the application of the standards set forth in subsection K2 of this section does not result in economic hardship then the application for a certificate of economic hardship shall be denied.

(1) No further Certificate of Economic Hardship applications may be considered for the subject property of the denied certificate of economic hardship for three (3) years from the date of the final decision. The historic landmark commission may waive this restriction if the historic landmark commission finds there are changed circumstances sufficient to warrant a new hearing other than the re-sale of the property or those caused by the negligence or intentional acts of the owner.

(2) Any owner adversely affected by a final decision of the historic landmark commission on an application for a certificate of economic hardship may appeal the decision to the appeals hearing officer in accordance with the provisions of chapter 21A.16 of this title. The filing of an appeal shall stay the decision of the historic landmark commission pending the outcome of the appeal.

~~(3) Consistency With The Economic Review Panel Report: The historic landmark commission decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the historic landmark commission, the historic landmark commission finds by a vote of three fourths ( $\frac{3}{4}$ ) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.~~

**O. Postdemolition Plan:** No certificate of appropriateness for demolition shall be issued unless the landmark site or contributing principal building or structure to be demolished is to be replaced with a new principal building or structure that meets the following criteria:

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

2. The certificate of appropriateness for demolition is issued simultaneously with the appropriate approvals and permits for the replacement building or structure; and
3. Once the replacement plans are approved a fee as shown on the Salt Lake City consolidated fee schedule shall be assessed for the demolition based on the approved replacement plan square footage. The fee must be paid in full prior to issuance of any permits and shall be deposited into an account as directed by the City Council for the benefit and rehabilitation of local historic resources. Fees shall be as follows and are in addition to any fees charged by the City:
  - a. 0 – 2,500 square feet = \$5,000.00
  - b. 2,501 – 10,000 square feet = \$10,000.00
  - c. 10,001 – 25,000 square feet = \$20,000.00
  - d. 25,001 – 50,000 square feet = \$30, 000.00
  - e. Over 50,000 square feet = \$40,000.00

**OP. Recordation Requirements For Certificate Of Appropriateness For Demolition:** Upon approval of a certificate of appropriateness for demolition of a landmark site or a contributing principal structure or building, applicant shall submit ~~archival quality photographs, plans or elevation drawings, as available, necessary to record the structures(s) being demolished~~ all of the following information to the planning director before the certificate of appropriateness for demolition is issued.

1. Issued approvals and permits for the new construction.
2. Financial proof as demonstrated to the planning director of the owner’s ability to complete any replacement project on the property, which may include but not be limited to a valid and binding commitment or commitments from financial institutions sufficient for the replacement structure or building or other financial resources that are sufficient (together with any valid and binding commitments for financing) and available for such purpose.
3. Documentation of the landmark site or contributing structure or building in a historic district as specified by the planning division. Documentation may include any or all of the following, after a site inspection, if necessary, of the subject property:
  - a. Drawings. A full set of measured drawings that includes the following:
    - (1) 1/16" = 1'0" site plan showing the location of the building and its access;
    - (2) 1/8" = 1'0" scale, dimensioned and labeled floor plans;

- (3) 1/8" = 1'0" scale, dimensioned and labeled building elevations and sections (two perpendiculars) with reference to building materials;
- (4) Landscape plan, including walkways, retaining walls, fountains and pools, trees and plantings, statues, and other decorative elements, such as light posts, railings, etc.
- (5) Ceiling plans with architectural features such as skylights and plaster work;
- (6) Interior plans with architectural features;
- (7) Building sections; and/or
- (8) Specific architectural, structural, mechanical and electrical details;

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

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

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

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

**~~PQ. Review Of Postdemolition Plan For New Construction Or Landscape Plan And Bond Requirements For Approved Certificate of Appropriateness For Demolition:~~**

**Revocation Of The Designation Of A Landmark Site:** ~~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 of the landscape plan approved by the historic landmark commission. The design standards and guidelines for the landscape plan are provided in section 21A.48.050 of this title. If a landmark site is approved for demolition, the property shall not be removed from the Salt Lake City Register of Cultural Resources until the building, structure or site has been demolished (See subsection D of this section).~~

- ~~1. The bond shall be issued in a form approved by the city attorney. The bond 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.~~

**QR. Exceptions Of Certificate Of Appropriateness For Demolition Of Hazardous**

**Structures:** A hazardous structure shall be exempt from the provisions governing demolition if the ~~chief~~ 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: Ord. 69-09 §§ 6,7, 2009: §§ 4, 5 1996: Ord. 70-96 § 1, 1996: Ord. 88-95 § 1 (Exh. A), 1995: Ord. 26-95 § 2(17-1), 1995

**S. Demolition by Neglect:** It shall be the responsibility of the owner to stabilize, repair and maintain the property so as not to create a structurally unsound, substandard, hazardous, or dangerous building or structure as set forth in title 18 of this code.





**Attachment B**  
**Public Comment**



**From:** Kirk Huffaker [Kirk@utahheritagefoundation.org]  
**Sent:** Friday, March 01, 2013 4:34 PM  
**To:** Lew, Janice  
**Subject:** Comments regarding the demolition provisions of the H historic preservation overlay district

**Categories:** Other

Janice,

First off, thanks for your good work on this. It's been needed for quite a long time and needed someone that would give it the thorough analysis it deserved to make it useful for its preservation purpose.

The following are my comments, submitted on behalf of Utah Heritage Foundation.

1) I believe that it is appropriate that the COA for demolition be issued simultaneously with approval and permits for the replacement structure. This will raise the risk level that is required of the developer to that of the community risk to allow demolition of contributing or designated structures.

2) Paragraph L.1 – Bona Fide Preservation Effort

Under the marketing section, the paragraph should include efforts that have been undertaken in the past when this has been required, including:

- a large commercial-type sign signifying that the property is available, and
- sending notice to local and interested commercial realtors and preservation organizations.

3) Paragraph N.2.d.(4) – Evidence for Determination of Economic Hardship

This paragraph should clearly state if this testimony is solicited and arranged by either the Historic Landmarks Commission or the applicant.

4) Paragraph O – Special Merit Exception

While I appreciate that this section is attempting to define the process and evaluation criteria for a Special Merit Exception, this entire new idea provides enough open-ended factors that it can allow a political process to influence decisions, effectively granting a project a political “out.” I believe it is unfortunate that the entire review of a Special Merit Exception rests with the Planning Commission. It is strongly encouraged that the Historic Landmarks Commission be the first step in this review process, include a public hearing, and that the HLC be granted the ability to vote “no” and stop the process or continue the process by forwarding a positive recommendation to the Planning Commission. In addition, the factors listed in Paragraph O.8.a are subjective as to their interpretation (i.e. exceptional design, significant public and civic benefits, promotion of the purposes of the city). Lastly, the

Historic Landmarks Commission and the Planning Commission don't always meet eye-to-eye on direction for the city's development which could present a conflict in this process.

#### 5) Paragraph Q – Requirements for Certificate of Appropriateness for Demolition

We encourage that this paragraph also include the requirement to submit a noise and air pollution management plan for the Historic Landmark Commission's consideration. Though omitted here from the list, these two items have become sources of contention between neighbors in historic neighborhoods during renovations and the city should begin to require contractors and/or designers to factor this into their planning.

Please let me know if you have any questions about my comments.

Kirk

Kirk Huffaker  
Executive Director  
Utah Heritage Foundation  
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## **Incentives for Historic Preservation 3/30/10**

Submitted to the Salt Lake City Council by Cindy Cromer (3cinslc@live.com)

Estimated costs are those associated with staff time as well as direct costs for grants, loans, and waivers. Current City staff members could develop all of the tools/changes listed without the services of outside consultants.

### **Low/No Cost to City**

- expedited review process for applications in historic districts or individual Register sites to offset additional processes required**
- waiver of permit fees**
- density bonuses in single family and multiple-family zoning districts**
- relaxed requirements for off-street parking**
- access to a Planned Development process to deal with noncomplying setbacks and height**
- applying incentives to buildings designated as "contributory" only, or recognizing more than one level of historic resources**
- using open space zoning to protect historic resources**
- allowing a wider range of commercial uses in multiple-family districts**
- allowing a district with only one building**
- allow residential uses in an industrial zone**

### **Mid-price Development Costs**

- Conservation Districts (also more expensive to administer)**
- Transfer of Development Rights (TDRs)**
- development of an overlay to protect the transitional areas around historic districts**
- easements on City and RDA properties with funding for administration of the easement**

### **More Expensive to Develop**

- ad valorem tax relief (applied to the value of improvements)**
- reduction in property taxes with transfer to future owners**
- use of an Historic Building Code**
- waiver of sales tax on construction materials**
- grants**
- low interest loan program associated with housing and/or small businesses**
- support from the RDA with low/no interest loans in RDA areas**

Next steps: Some of these incentives such as density bonuses and exceptions for setback requirements are available in other communities and have been for years. It would be worthwhile to get outcome data on their effectiveness in promoting historic preservation in those communities.

(Also presented at the UHF Annual Conference, April 29, 2010)

## Summary of Portland Historic Resources Zoning Regulations

nonresidential; if part of the structure was in residential use, the proposal must include at least as many dwelling units as were part of the last allowed use or uses. Because nonresidential uses are sharply restricted in residential zones, historic buildings that do not lend themselves to renovation and reuse as dwellings, such as churches, meeting halls, and commercial storefront buildings, can suffer from disinvestment or demolition. This incentive encourages renovation and reuse by providing a more flexible range of allowed land uses that substantially increase the development options and income potential for these resources. See the previous incentive for a description of the required Historic Preservation Incentive Review.

- **Commercial allowances in Employment and Industrial zones.** Historic landmarks in Employment and Industrial zones have increased by-right and conditional use allowances for Office and Retail Sales and Services. The increased allowances recognize that some historic industrial buildings cannot economically accommodate modern industrial activities due to design inefficiencies or structural deficiencies and therefore are often underutilized, neglected and sometimes demolished. The incentive encourages their reuse by providing more development flexibility and higher income potential for historic landmarks in areas where non-industrial uses are otherwise tightly restricted. See Chapter 33.140, Employment and Industrial Zones in the Zoning Code.
- **Commercial allowances in the Central City IG1 Zone.** In the IG1 zone in the Central City Plan District, historic landmarks have increased by-right and conditional use allowances for Office and Retail Sales and Services. The conditional use approval criteria for larger office uses limit negative impacts on the transportation system and nearby industrial uses. The increased allowances encourage preservation and reuse of historic landmarks by providing additional development flexibility and higher income potential in an area where non-industrial uses are otherwise tightly restricted.
- **Incentives in the Guild's Lake Industrial Sanctuary District.** Historic landmarks in the IH zone in the Guild's Lake Industrial Sanctuary Plan District have increased allowances for Office and Retail Sales and Services. The increased allowances encourage preservation and reuse of historic landmarks by providing additional development flexibility and higher income potential in an area where non-industrial uses are otherwise tightly restricted. For additional information about this incentive, see Chapter 33.531 in the Zoning Code.

### V. Demolition or Relocation of Historic Resources

Historic resource demolition regulations provide for a deliberative process prior to the permanent loss of a piece of the city's built heritage. Depending on the type of resource, one of two different processes, Demolition Delay Review or Demolition Review (or no review) is required when the City receives a request to demolish a designated historic resource. Relocation requests are also subject to these reviews. The table below summarizes their applicability.

Resource Type	Demolition Review	Demolition Delay Review	No Review
Historic Landmark, National Register Contrib. in Historic District			
Historic Landmark, Local Conservation Landmark Contrib. in Conservation District Ranked in HRI			
Noncontrib. in Historic District Noncontrib. in Conservation District Unranked in HRI			

- **Demolition Delay Review**  
Applicable to locally designated resources, this nondiscretionary administrative process requires a 120-day delay period to allow time for consideration of alternatives to demolition, such as restoration, relocation, or

Incentives for Historic Preservation  
Meeting with Planners, 1/11

Issue of public process: sustainability ordinances, esp. accessory dwelling units

Tools: Incentives for Historic Preservation

See Portland's Incentives for Historic Preservation (transmitted electronically)  
Suggestions would apply initially to ALL City Register Sites and Districts. National Register Sites and Districts could become eligible on a phased basis if there was public support and if funding for Planning and Permitting staff became available. Of course, the phasing in of additional eligible properties assumes that the process is running smoothly.

Allow historic properties to use a **PUD PROCESS REGARDLESS OF ACREAGE**, similar to the TC zone now. It is absurd to tell the owner of an historic building, constructed before Salt Lake even had a zoning ordinance, to obtain a variance. The irregular setbacks of the historic structures are defining characteristics of the streetscape. They are in my view, part of what we should be preserving.

Restrict **ACCESSORY DWELLING UNITS** initially to historic properties (either as stand alone Register sites or in City Register Districts) located in multiple family zoning districts. Focus on RMF-30 and RMF-35 zones especially in the Capitol Hill, Avenues, and Central City Districts. Rationale: These zones are established for multiple unit occupancy. The current residents and property owners EXPECT tenants as neighbors. The Landmarks Commission is currently doing an excellent job of implementing the design guidelines and ordinances that are available. The regulatory process for infill in historic districts is working far better than the compatible infill ordinances for single family zoning districts. Structures in historic districts have higher maintenance costs and would benefit from the additional income that accessory dwelling units could provide. The majority of the City's surviving carriage houses are concentrated in the historic districts and on stand alone Register sites

Provide **DENSITY BONUSES** for property owners who are reinvesting in historic Districts and stand alone historic sites. (This would be one way the City could create incentives for protecting excellent historic buildings that would qualify for stand alone status but are not surrounded by the critical mass of surviving historic buildings to be in a District).

**TRANSFER OF DEVELOPMENT RIGHTS:** We need to have this tool, mostly for use in emergencies where a building is threatened with demolition. I have thought a great deal about the logistics as they would apply in Salt Lake and reviewed the comprehensive survey that Kirk Huffaker did. I do not see TDR's as the most useful tool in terms of number of applications, but they are a critical tool to have in the portfolio because of their applicability when property owners are claiming economic hardship. I came to the conclusion that density bonuses are easier to administered, more likely to be used, and will result in more direct investment into buildings in need of investment. IF TDR's are developed for Salt Lake's residential areas, they need to include a provision that the building providing the development rights will receive reinvestment in addition to the building receiving the rights. In other words, no fair allowing a delapidated building to become more delapidated.

The City could offer short-term **WAIVERS FOR INCREASED PROPERTY TAXES** for property taxes which increase following reinvestment in historic structures. Other communities do this for property taxes. I visited an adaptive reuse of a mill in Covington, Ga., where the local municipality rolled back the increase in property tax for 5-years and the developer could transfer that benefit to the purchasers of the condos after using it during the marketing phase. (The marketing phase was so short that this was not much of a benefit to the developer except that it probably contributed significantly to the rapid sale of the units.)

**ACCELERATED PROCESSING OF APPLICATIONS:** In 2005, I had \$60,000 which I could invest in a building in the Central City Historic District tax free, as long as I did so within 180 days. It seemed do-able. The building needed everything but the most urgent needs were on the exterior.

The City's regulation was so burdensome that I was only able to spend \$20,000 within the 180 days AND I found myself doing projects that were NOT urgent because I could proceed with them without the City's permission. Time is money. That is especially true in the Central City Historic District where so many of the properties are multiple units, commercial, and institutional. Typically, no one is getting the benefit of using them while waiting for the City to say "yes."

I have been particularly annoyed by the City's decision to allow LEED projects to go to the front of the line, meaning that my preservation project has to wait in line longer. Why is a project seeking LEED certification "better" for the City than a preservation effort that reuses an existing structure and complies with the Department of Interior Standards for doing so as well as all of the City's ordinances and guidelines? At no cost, the City could allow preservation projects to receive accelerated processing. Certainly, that incentive would be consistent with the established public policy of preserving the structure/district. In all likelihood, it would be consistent with the very real need to concentrate development in the City's core instead of allowing it to sprawl away from Downtown. I will spare you the reference to "The greenest building is the .....

#### Summary of Incentives for Historic Preservation

##### **Salt Lake City draft Preservation Plan**

-mentioned in the Plan but NOT in the section on incentives: conditional use process for offices, B & B's, etc. in Register sites. Note that the current conditional use process does **not** allow greater density in a residential zone.

-not mentioned in the Plan and under development: an incentive to expedite the review process for projects which reuse historic structures near the North Temple TRAX line

-listed in the Plan but not discussed (p. 49, 52)

Expedited review process for applications

RDA-sponsored incentives

Incentives through the City's Housing programs

Density bonuses

Tax waivers or deferrals

Waiver or postponement of permit fees

Relief from zoning or code requirements

-discussed in the Plan

Conservation District overlay (pp. 49-50)

Transfer of Development Rights or TDRs (p. 51)

State and Federal tax incentives (p. 52 and Appendix C)

Low-interest Loans (p. 52 and Appendix C)

##### **Portland, Oregon**

Not all incentives are available to every historic resource.

-Transfer of density and floor area ratio (TDRs)

-Density bonus for landmarks in single-family zones

-Density bonus for landmarks in multiple dwelling zones

-Daycare allowed in residential zones without a conditional use

-Shorter process for conditional use applications

-Exemption from minimum density requirements

-wider range of non-residential uses through an Historic Preservation Incentive Review (esp. for churches, meeting halls, and commercial storefronts)

-increased rights and conditional uses for landmarks in Employment and Industrial zones

-increased rights and conditional uses for landmarks in the Central City District (office and retail)

-increased opportunities for office and retail sales in the Guild's Lake Industrial Sanctuary District

##### **Citizen's Proposal for Salt Lake City**

-Access to a Planned Development process regardless of acreage (similar to current TC zone)



- Density bonus through accessory dwelling units beyond the permitted density (with HLC review)
- Transfer of Development Rights, TDR's
- Waivers for increased property taxes
- Accelerated processing of applications (similar to current LEED projects)

### **Los Angeles Conservancy, California**

- property tax relief (Mills Act), also used in Pasadena and San Diego
- use of the California Historical Building Code (1976) to provide flexibility
- City of Los Angeles Adaptive Reuse Provisions which streamline the permitting process for conversion of underutilized commercial buildings by waiving requirements regarding residential density, height, parking, floor area, ADA (private residences only), and setbacks

### **Los Angeles, California**

- property tax relief (Mills Act, 1996 in L.A.)
- use of the California Historical Building Code available for any historic building eligible for designation
- limited commercial uses in residential zones
- relaxed requirements for off-street parking
- references to incentives in other cities: waiver of permit fees (Chicago); waiver of sales tax on construction materials (Boulder, CO); grants (Boulder, CO & Elgin, ILL); revolving fund programs (Sacramento, CA); Exterior Rehabilitation/Conservation Easement Purchase Program (Phoenix AZ) funded by capital improvement bonds

### **Monterey, California**

- two zones, H-1 and H-2, with H-1 being for the most significant buildings
- density bonus considered in single family historic zone
- office uses considered in the multi-family historic zone, and retail commercial uses considered in the commercial office historic zone
- use of the State Historic Building Code instead of standard Building Code
- availability of City grants for designated buildings in addition to State and Federal grants
- reduction in property taxes
- permit fees (listed but not otherwise described)

### **Bridgeport, Connecticut**

- use of an historic overlay to identify properties near, but not within, a district

### **Greenwich, Connecticut**

- use of an historic overlay on individual properties to promote adaptive reuse

### **Ridgefield, Connecticut**

- flexibility in building and lot requirements
- adaptive reuse of buildings in certain areas
- tax relief proposed as an option (not otherwise explained)
- listing on the State Register in addition to National and Local Historic designations

### **Stamford, Connecticut**

- Eligibility for historic status may be determined independently from the National Register or the State Register using the standards for the State Register.
- "bonus uses" not otherwise allowed in the zoning district including industrial zoning
- waiver for parking requirements under specific conditions
- waivers for yard, height, lot coverage, dwelling unit density or floor area ratio depending on zone
- residential uses allowed in industrial zoning

### **Miami, Florida**

- transfer of development rights (TDRs)
- ad valorem tax relief (2007): applied to the value of improvements to historic properties and affects

taxes levied by the City

- waiver for up to 20% of the code requirements for setbacks, lot size, green space, and loading
- waiver for up to 100% of the off-street parking requirement
- waiver for continued use of historic signs
- exemption for use: B & B's allowed in residential zones (transects)

**Monroe County, Indiana**

- historic district may contain a single building

**Berks County, Pennsylvania**

- authority to protect historic buildings outside of a formal district (Article VII-A of the MPC, 2000)
- broader range of uses allowed than permitted by zoning

**Chester County, Pennsylvania**

- uses for historic structures not limited to those allowed in the zone
- allowing an additional dwelling unit (via density bonus or not counting the historic resource)
- allowing historic resources in the open space zoning
- making the preservation of historic resources a priority in determining the location of open space
- modification of area and bulk regulations through conditional use to promote preservation
- two classifications of historic resources (Class I and II); both eligible for incentives

**South Carolina Department of Archives and History**

- local preservation overlay zoning protects the value of the properties

**Piedmont Environmental Council, Virginia**

- Virginia's Main Street Program, initiated by the National Trust for Historic Preservation

Hi Janice,

I am scheduled to work on the 18th and cannot attend the open house but want to submit these comments regarding demolitions of historic structures and of structures in historic overlay areas.

Chapter 21A.06-Decision making bodies:

This sounds as if The Planning Commission is being given absolute authority to issue a permit for demolitions and states this provides a balance of historic preservation. I disagree, if I understand correctly. It says HLC can give a recommendation but the planning commission makes the decision, that isn't a balance as far as I'm concerned. Both are appointed commissions and both should have equal authority, not Planning over HLC, especially when dealing with preservation. I know from past experience that recommendations are just that, and the body who has the power makes the calls. At the very least there should be an equal balance of power in this type of decision.

I am very uncomfortable with the whole 'special merit' exceptions and leeway that appears to be allowed to the Planning Commission in making decisions in the demolition of irreplaceable historic and contributing status structures. As proposed, "A special merit exception shall be considered necessary in the public interest if it exhibits exceptional qualities and provides significant benefits to the overall community." What troubles me here is who is to decide that the overall community benefits more from one persons (or the 'city's') vision vs. what has existed there for decades, the contributing structure could provide significant benefits to a certain group or community.

I'm also curious as to what economic incentives the city has, or has given to keep and maintain historic and contributing status structures. I have not heard of this and think it sounds great. What monies are available to help preserve structures and districts?

On this particular subject, I noticed that HLC tabled a decision at their previous meeting. I believe that's only appropriate seeing as the open house hasn't even occurred yet. Shouldn't there be an open house for info and gathering feedback before any hearing is scheduled? That seem to be a reasonable and logical progression.

Thanks,  
Jon Dewey

SLC



**Attachment C**  
**Public Hearing Minutes**



**SALT LAKE CITY  
HISTORIC LANDMARK COMMISSION**

**Minutes of the Meeting  
Room 326, 451 South State Street  
April 4, 2013**

A roll is being kept of all who attended the Historic Landmark Commission Meeting. The meeting was called to order at [5:45:04 PM](#) . Audio recordings of the Historic Landmark Commission meetings are retained in the Planning Office for an indefinite period of time.

Present for the Historic Landmark Commission meeting were: Chairperson Sheleigh Harding, Vice Chair Polly, Hart, Earle Bevins III, Arla Funk, Robert McClintic, and Thomas Brennan. Commissioners Charles Shepherd, Stephen James and Heather Thuet were excused

Planning Staff members present at the meeting were: Cheri Coffey, Assistant Planning Director; Joel Paterson, Planning Manager; Lex Traugher, Senior Planner; Michelle Moeller, Senior Secretary and Paul Nielson, City Attorney.

**Demolition of Historic Buildings - Salt Lake City Mayor Ralph Becker is requesting**

**that the City adopt new regulations that will clarify how proposed demolitions of landmark sites and contributing buildings will be evaluated and the process for approving or denying a demolition request. This proposal will generally affect section 21A.34.020 of the Zoning Ordinance. Related provisions of Title 21A-Zoning may also be amended as part of this petition. If adopted, the proposed changes would apply to all City designated Landmark Sites and contributing buildings in local historic districts. (Staff contact: Janice Lew at 801-535-7625 or [janice.lew@slc.gov](mailto:janice.lew@slc.gov)). Case number: PLNPCM2009-00014**

Ms. Janice Lew, Senior Planner, reviewed the petition as presented in the Staff Report (located in the Case File). She stated Staff recommends a favorable recommendation be forwarded to the City Council.

The Commission and Staff discussed the use and purpose of the Preservation Fund, legality of the language at the top of page 17 regarding the “takings issue” and at what point an applicant would restart a petition if the Certificate of Economic Hardship fully expired.

The Commissioners discussed the Special Merit Exemption and suggested it be eliminated completely as it was a loophole in the process. Commissioner Funk stated Mr. Huffaker had suggested, in a letter, giving the Historic Landmarks Committee the ability to say no and to stop the process.

**PUBLIC HEARING [6:56:52](#)**

**[PM](#)**

Chairperson Harding opened the Public Hearing. Seeing there was only one person to speak on the issue and the complexity of the subject Chairperson Harding gave Ms. Cromer an extended time to speak.

Ms. Cindy Cromer made the following comments:

- Never seen an economic hardship process (under the existing regulations) that she felt was fair to preservation.
- Many buildings have been lost and almost all of them have been in the Central Historic District.
- Need to work at this from both ends, from requirement process and incentives.
- She discussed the obstacles such as allowing more density in historic buildings.
  - Asked the Commission to wait until after the Open House, scheduled later in April, to consider possible comments.
- The definitions of taking and reasonable return need to be clarified and refined.
- Delegating to the Planning Commission was not in the best interest of Historic Preservation.
- Historic Landmark Commission should make the final decisions when Historic Preservation was concerned.
- Special Merit exemption will cause more problems than needed.
  - Allowing a three year extension on demolition was not fair to neighboring properties.
  - Preservation Fund was housing mitigation which had not received money in the last ten years and would not work.
- Clarify the obstacles and define them more clearly.
- Offer more economic incentives such as density and development

transfers. Chairperson Harding closed the Public Hearing.

**COMMISSION DISCUSSION [7:06:53](#)**

**[PM](#)**

Chairperson Harding stated it may be best to wait until after the Open House to make any final decisions on the petition.



The Commission discussed eliminating the Special Merit Exception and who had the final say as to if it could be eliminated.

The Commission and Staff discussed why there needed to be a penalty for people that deliberately let their property deteriorate and become unusable. They discussed the lack of enforcement to make individuals keep up their properties and stated there should be a significant penalty to someone that deliberately lets their property go.

Mr. Joel Paterson, Planning Manager, stated the ordinance currently has language that allows the Building Official to approve demolition without going through the economic hardship process or the demolition process if there is an imminent public hazard. He stated the new demolition ordinance, recently adopted by the City Council, contains demolition by neglect provisions that require property owners to maintain properties to a certain minimum standard. Mr. Paterson said the Commission was correct that it came down to enforcement and how successful the City was in pursuing enforcement actions.

Ms. Coffey stated the Building Official's use of that power was extremely rare.

The Commissioners discussed the current ordinance and that it was meant to address buildings that were in danger of collapsing because of damage from a fire or other reasons. They discussed that the Preservation Fund and how it should be directed to help preserve properties. The Commission discussed incentives for people that own historic properties and how to entice people to improve those properties.

The Commission asked if there was an ordinance or provision that addressed this issue in other City policies.

Mr. Nielson stated there was language in the enforcement provisions that addressed allowing a property to advance to a state of disrepair. He stated even if there were penalties for letting your property deteriorate that did not mean that the City would collect the fees.

Ms. Coffey stated there was a Boarded Building Ordinance authorizing the City to fine owners of boarded properties and maybe the fees could be increased substantially if the boarded building was a contributing structure in a Historical District. She stated it was a different ordinance but it could be reviewed along with incentives.

The Commission and Staff discussed if it was reasonable to penalize people and what could be done to help properties owners to prevent them from letting their properties deteriorate. They stated the incentives would be what helped people transition these properties and move in the direction the Commission was looking for. It was suggested that a vacancy tax or additional fee for vacant buildings might be possibilities.

The Commission discussed noise and air pollution management in relation to demolition. The Commission discussed whether or not the Planning Commission should have final say in special merit exceptions for the demolition of historic buildings, how the Planning Commission reviewed additions to Historic Districts and how Special Merit Exceptions would be handled with the proposed ordinance.

Staff stated the Historic Landmark Commission's recommendation of the proposed ordinance amendments regarding demolition and economic hardship would be forwarded to the Planning Commission and City Council. The City Council has final decision-making authority for Zoning Ordinance text amendments.

The Commission discussed the pros and cons of the Special Merit Exception and possible changes to the proposed process. The Commission discussed tabling the issue to allow for comments at the Open House and allowing Staff to make the suggested changes. They suggested putting in references to other documents that address the questionable issues such as the Special Merit Exception.

**MOTION** [7:40:42 PM](#)

**Commissioner Funk stated in the case of PLNPCM2009-00014 she moved to table the issue to a future meeting allowing Staff to further review the document, taking all comments into consideration. Commissioner Hart seconded the motion. The motion passed unanimously.**

# Draft

**SALT LAKE CITY  
HISTORIC LANDMARK COMMISSION  
Minutes of the Meeting  
Room 326, 451 South State Street  
August 1, 2013**

A roll is being kept of all who attended the Historic Landmark Commission Meeting. The meeting was called to order at [5:42:38 PM](#). Audio recordings of the Historic Landmark Commission meetings are retained in the Planning Office for an indefinite period of time.

Present for the Historic Landmark Commission meeting were: Chairperson Sheleigh Harding; Vice Chairperson Polly Hart, Earle Bevins III, Arla Funk and Robert McClintic. Commissioners Thomas Brennan, Heather Thuet and Charles Shepherd were excused.

Planning Staff members present at the meeting were: Cheri Coffey, Assistant Planning Director; Joel Paterson, Planning Manager; Janice Lew, Senior Planner; Elizabeth Buehler, Principal Planner; Katia Pace, Principal Planner; Michelle Moeller, Senior Secretary and Paul Neilson, City Attorney.

## **FIELD TRIP NOTES:**

A field trip was held prior to the work session. Planning Commissioners present were: Earle Bevins, Arla Funk and Robert McClintic. Staff members in attendance were Joel Paterson, Janice Lew, Katia Pace and Elizabeth Buehler.

**Demolition of Historic Buildings Ordinance Revisions - Salt Lake City Mayor Ralph Becker is requesting that the City adopt new regulations that will clarify how proposed demolitions of landmark sites and contributing buildings in local historic districts will be evaluated and the process for approving or denying a demolition request. This proposal will generally affect section 21A.34.020 of the Zoning Ordinance. Related provisions of Title 21A-Zoning may also be amended as part of this petition. If adopted, the proposed changes would apply to all City designated Landmark Sites and contributing buildings in local historic districts. (Staff contact: Janice Lew at 801-535-7625 or [janice.lew@slcgov.com](mailto:janice.lew@slcgov.com)). File number: PLNPCM2009-00014.**

Ms. Janice Lew, Senior Planner reviewed the petition as presented in the Staff Report (located in the Case File). She stated Staff was recommending the Historic Landmark Commission forward a favorable recommendation to the Planning Commission.

The Commission and Staff discussed when expert testimony could be requested, how it would be determined if an expert was needed and how it would be addressed when needed. They discussed the issue of demolition by neglect, what the process was and how issues such as these were addressed. The Commission and Staff discussed the enforcement that makes sure these properties are not willfully neglected just to allow someone to tear the structures down. The Commissioners and Staff discussed the consequences for someone that let their property deteriorate willfully, if the City could take over properties that are willfully neglected or enforce fines on the owners. They discussed how the City addressed willful neglect and the consequences that resulted for those that did not follow the ordinance. They discussed takings and how to best enforce that buildings are not allowed to be willfully neglected.

#### **PUBLIC HEARING [7:50:10 PM](#)**

Chairperson Harding opened the Public Hearing.

The following persons spoke to the proposal: Ms. Cindy Cromer, Mr. Tom Mutter and Ms. Kelly Marinar.

The following comments were made:

- Current ordinance was an improvement
- The historic fabric of Central City needs to be protected
- Nothing is done unless the buildings are boarded
- Would support a cooling off period to be able to discuss the options for the building before demolition
- Need to address how fire damage can be used to justify the demolition of buildings
- Developers need to be made to keep the buildings up and not willfully let them deteriorate
- Make the developer do something with the property so it does not remain vacant

Chairperson Harding closed the Public Hearing.

#### **DISCUSSION [7:57:01 PM](#)**

The Commission and Staff discussed the problems with takings and how troubling things could become. They discussed why it was ok to enforce weeds and garbage verses home repairs. The Commissioners discussed the loop hole to boarding property and if the Commission could do something about the problem. They asked if language could be added to encourage Enforcement to move ahead and address issues that are undermining the Commissions purpose.

Mr. Neilson stated the Commission could send a recommendation however; the City Council would need something specific and would have to follow the same regulations as the Historic Landmark Commission.

Ms. Coffey stated Staff they could look into the issues to see what the regulations with vacant or boarded properties are and how they are addressed by the City.

The Commission and Staff stated these issues are the hardest to address due to the fact that it is private property.

Ms. Cindy Cromer discussed the issue of when a building was allowed to be boarded and how that was regulated. She stated she was unable to find the law or ordinance regarding the trigger for boarding. Ms. Cromer stated the City was not monitoring buildings that are not boarded and there is nothing written that regulates when a building can be boarded up. Ms. Cromer stated fining people was not the answer because they did not care.

The Commission discussed if it was possible to say that a vacant building, that has been broken into within six months must be there after boarded to secure it.

Staff stated there are boarding ordinances and boarding does not solve the problem of break-ins. Staff stated tracking the property was a better answer and possibly more enforcement could be implemented.

The Commission stated if boarding triggered enforcement then that was a positive.

Staff stated boarding was not the solution as it still didn't make the property owner improve the property.

Chairperson Harding stated demolition by neglect was a different part of the code and was added to the proposed ordinance as a reference. She stated it was not the main part of the proposed ordinance.

Staff stated they agreed and boarding provisions are not appropriate in the Historic Landmark section of the ordinance as they are dealt with in other parts of the City Code.

**MOTION [8:11:23 PM](#)**

**Commissioner Funk stated in regards to PLNPCM2009-00014, based on the findings listed in the Staff Report, testimony and proposed text amendments presented, she moved that the Historic Landmark Commission transmit a favorable recommendation to the Planning Commission to forward a positive recommendation to the City Council to adopt the proposed changes to the zoning ordinance as it related to the demolition of all City designated landmark sites and contributing buildings within the H Historic Preservation Overlay District. In addition the Historic Landmark Commission would like the Planning Commission and City Council to look at adopting an ordinance with regard to finding an enforcement tool for demolition by neglect referring to section S of the proposed ordinance. Commissioner Hart seconded the motion. The motion passed unanimously.**