
MEMORANDUM

DATE: November 12, 2004

SUBJECT: Legislative Action – sponsored by Council Member Eric Jergensen
Request to review Salt Lake City's approach to historic preservation

AFFECTED COUNCIL DISTRICTS: Citywide

FROM: Janice Jardine, Land Use Policy Analyst

**ADMINISTRATIVE DEPT.
AND CONTACT PERSON:** Community Development Department, Planning Division
Louis Zunguze, Planning Director

- A. The Administration has provided a report that includes the following information:
 - 1. A response to each of the items from the Legislative Action.
 - 2. An implementation table with recommended action items.
 - 3. Appendices with additional supporting documentation.
- B. The Administration notes that identification of priorities will be determined after consultation with the City Council. Full public input, including consultation with property owners, businesses and community councils will be part of the adoption process for any ordinance or policy changes made as part of the implementation of the Planning Division's recommendations.
- C. Council staff has provided the implementation chart and a summary of key elements from the report in the attached documents. (See Attachments A and B)

POTENTIAL OPTIONS:

- A. Identify priority recommendations or implementation measures and potential timelines.
- B. Request additional written information.
- C. Refer to an additional Council work session.
- D. Other options identified by Council Members.
- E. Any combination of the above.

BUDGET RELATED FACTS:

Recommendations and implementation measures in the Implementation chart may have a budget impact such as increases in funding for:

- A. Updating the City's historic surveys.
- B. Development of a comprehensive preservation plan.
- C. Revising master plan policies and update existing design guidelines.
- D. Assistance to the Historic Landmark Commission and its representatives in implementing the Economic Hardship Section of the Zoning Ordinance.
- E. Training for Historic Landmark Commission members and staff.

MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR THE ADMINISTRATION:

- A. Council Members may wish to discuss with the Administration potential funding sources that have been identified for some of the recommendations and implementation items that may have a budget impact such as increases in funding for:
1. Updating the City's historic surveys.
 2. Development of a comprehensive preservation plan.
 3. Revising master plan policies and update existing design guidelines.
 4. Assistance to the Historic Landmark Commission and its representatives in implementing the Economic Hardship Section of the Zoning Ordinance.
 5. Training for Historic Landmark Commission members and staff.
- B. The transmittal notes that the Administration supports keeping the HLC a separate Commission and not a Committee advisory to the Planning Commission. The Administration recommends that appeals from the HLC be heard by the Planning Commission. This recommendation is based on the need to ensure that HLC decisions are reviewed in the broader interests of the City. The review standards would be broadened for both HLC and Planning Commission to incorporate a balance between historic preservation guidelines and the City's development and redevelopment goals. This recommendation is not included in the Implementation chart provided by the Administration. Council Members may wish to discuss with the Administration if it may be appropriate to include this as an Implementation item.
- C. Council Members may wish to discuss with the Administration the steps a property owner would take to access the tax credit program available for structures or districts listed on the National Historic Register.
- D. Council Members may wish to request that the Administration provide estimates for each of the implementation items that include potential costs, staffing, timeframes and other resources that may be necessary to accomplish each item.

KEY ELEMENTS:

- A. The Administration's transmittal notes that review of several key components of the Preservation Chapter from the Zoning Ordinance, master plans and other land-use actions indicate the following opportunities for regulatory improvements to create a more appropriate balance between historic preservation and economic development in the city.
1. Outdated historic resource surveys.
 2. Lack of compatibility between historic structures and underlying zoning.
 3. Problems with the demolition section of the Preservation Chapter of the Zoning Ordinance.
 4. Effective coordination of preservation development goals in master plans.
 5. Lack of a historic preservation plan.
- B. Council Member Jergensen's Legislative Action noted that the preservation of historic buildings, structures and landmarks within the City is of utmost importance in order to provide a historic legacy for future generations. To clarify the City's approach to historic preservation information was requested relating to the 5 areas summarized below.
1. A summary of the historic preservation approach presently taken by the Historic Landmark Commission including a review of policies, assumptions, objectives, and philosophies employed in the consideration of projects.
 2. An assessment of the decision to change the Commission from an advisory body to a decision-making body including pros and cons of both approaches.

3. A review of the scope of the Commission's of duties as defined by ordinance and duties that may be presently performed but are outside the ordinance.
 4. An evaluation of the extent to which current ordinances, policies and processes are conducive to creating an effective balance between preservation of historic areas and the natural evolution and maintenance of vibrant neighborhoods.
 5. The number of staff and level of expertise necessary to carry out the duties and responsibilities associated with the preservation districts.
- C. The Historic Landmark Commissioners provided a separate response to items in the Legislative Action. Key points are summarized below. Please refer to the attached Appendix 9 for details.
1. Response to Item #1 – Preservation approach including philosophies, objectives, assumptions, guidelines, decision-making, etc.:
 - a. Philosophy:
 - Preservation is not an academic exercise but a way to ensure that the tangible legacy of our past continues to enrich the context of our current lives and the lives of our children.
 - Preserving historic buildings and neighborhoods is ecologically responsible and economically advantageous.
 - Historic neighborhoods exactly match the criteria for livable communities identified by Envision Utah and use in planning new neighborhoods.
 - b. Objectives:
 - Ensure that historic neighborhoods and landmarks grow organically as the needs of residents change.
 - Accommodate growth needs without destroying the character of the neighborhood or the buildings in question.
 - Ensure that new buildings or altered buildings “fit into” the overall context of neighborhoods in regard to scale and detailing.
 - Promote development that includes rehabilitation and reuse of existing buildings.
 - c. Assumptions - HLC members assume that the City and residents support maintenance of historic districts and that decisions can be made to accommodate applicants without compromising quality of historic neighborhoods or violating the ordinance and design guidelines.
 - d. Policies and decisions are based on the *Historic Preservation Overlay District Chapter* in the Zoning Ordinance, *Design Guidelines for Residential Historic Districts in Salt Lake City*, and adopted HLC Rules of Procedure.
 2. Response to Item #2 – Pros and cons associated with HLC as an advisory body or decision-making body:
 - a. Advantages:
 - Decisions are made by a group of people with expertise in architecture, community development and historic preservation.
 - People making the decisions are the ones held responsible for those decisions.
 - b. Disadvantages:
 - Main disadvantage is the appeals process that removed the opportunity for communication between HLC and City Council providing HLC's viewpoint and Council feedback on policies and general direction of the City.
 - HLC decisions are not currently made in the presence of legal council.
 - HLC should have a way to appeal LUAB decisions.
 - City Council should take ultimate responsibility for the permission to demolish (buildings). Demolition should become a policy decision subject to open dialog

with the community at large, particularly since many demolitions are the consequence of City goals and zoning.

3. Response to Item #3 – Scope of Commission's duties and duties that may be performed "outside of scope" (design or redesign of projects):
 - a. The ordinance requires HLC to consider questions of scale and form, height and width, building size and mass, proportions of facades, roof shape, window location, style and size, and building materials.
 - b. The Commission advises applicants on areas where their proposals do not meet the guidelines and suggest solutions that the Commission would find acceptable. This information is provided to alleviate the applicant from having to guess what will be approved.
 - c. The final design is always up to the applicant and the applicant's architect.
 - d. The Architectural Subcommittee is one of the most valuable services performed for the community. The Subcommittee provides:
 - Opportunity to meet with architects on the Commission.
 - Solutions to discrepancies between guidelines and applicants proposals
 - Saves a substantial amount of time.
 - Provides a viable solution much more rapidly.
4. Response to Item #4 – Evaluation of current ordinances, policies and processes to balance preservation and the natural evolution of neighborhoods and recommended changes to more effectively create such a balance.
 - a. The Commission is committed to supporting change as neighborhoods evolve.
 - b. The Commission's "evolutionary" approach to change, that ensures changes do not disrupt the character of neighborhoods, is exactly what serves to keep historic districts "vibrant" and to maintain "broad demographic retention".
 - c. Rehabilitation of buildings can incorporate change in a less disruptive and less expensive manner than demolition.
 - d. Examples of adaptive reuse include Trolley Square, City & County building, Pierpont Ave., Gastronomy restaurants, etc.
 - e. The Design Guidelines are considered "covenants and restrictions" for Historic Districts.
 - f. Recommended changes needed in ordinances and policies:
 - Demolition and Economic Hardship – undertake a complete rethinking and restatement of the Demolition and Economic Hardship sections of the ordinance. (*Historic Preservation Overlay District*)
 - Establish a pool of people with experience in the economic hardship process who would be remunerated for their time, interest and expertise.
 - Undertake a reclassification of areas in the Central City Historic District where the historic fabric is severely compromised or non-existent and down-zoning of the areas that retain their viable historic fabric.
 - Provide a building inspector dedicated to monitoring implementation of projects for compliance with the terms of approval and
 - Provide changes to the ordinance that would formally establish the Architectural Subcommittee and subcommittee process.
 - Support the designation of additional Local Historic Districts.
 - Encourage additional landmark designations for individual buildings outside of the districts, most notably in the downtown area.
 - Consider changes in the building codes and zoning rules to promote and facilitate the conversion of existing office and retail buildings to other uses, such as condominiums.

IMPLEMENTATION

This implementation strategy summary chart outlines actions necessary to carry out the recommendations of this report. The identification of priorities will be determined after consultation with the City Council.

Proposed Action	0-6 months Immediate Short Term Mid Term Long Term
<p>Update and formally adopt the city's historic surveys to establish contributing/non-contributing status of each property within the city's historic districts. This will allow current and future property owners to know in advance the historic resources the community intends to protect. Existing city historic districts should be surveyed first, followed by other areas of the city developed before c.1955. Priority should be given to the following districts that were surveyed prior to the adoption of current federal and state standards for historic resource surveys:</p> <ol style="list-style-type: none"> 1. South Temple Historic District 2. Avenues Historic District 3. Capitol Hill Historic District 	
<p>(See Response to Item #4, p.27)</p> <p>Develop and adopt a comprehensive preservation plan for Salt Lake City. The Plan should serve the following purposes:</p> <ul style="list-style-type: none"> • To state clearly the goals of historic preservation in the Salt Lake City; • To strengthen the political understanding and support for preservation policies; • To eliminate uncertainty or confusion about the purpose, meaning and content of the existing H-Historic Preservation Overlay District ordinance and the Design Guidelines for Residential Historic Districts in Salt Lake City; • To let current and future property owners know in advance how the community intends to grow and what the community intends to protect; • To ensure consistency, or eliminate inconsistency, between various City policies that affect the community's historic resources; • To comprehensively address issues relating to tourism, zoning, traffic patterns, development patterns and design that affect the City's historic resources; • To encourage economic development through the preservation of historic resources; • To prioritize additional survey efforts; • To prioritize designation of historic districts, both local and national; • To identify areas of historic districts that are threatened with redevelopment or blight; • To establish a work plan of goals and objectives to make the best use of HLC's limited resources. • To strengthen the legal basis of the H Historic Preservation Overlay District and help provide a legal defense against lawsuits alleging unfair treatment of property owners or arbitrary decisions by government; 	
<p>(See Response to Item #4, p.32-33)</p> <p>Examine zoning issues within the City's historic districts and landmark sites. Identify areas within the city's historic districts where the base zoning is incompatible with the reuse of the historic building and allows development that is substantially different than the historic character of a neighborhood. Resolve these conflicts, considering such solutions as rezoning the properties to a more compatible zoning or changing the district boundaries to exclude non-contributing or out-of-period structures.</p>	
<p>(See Response to Item #4, p.28-30)</p>	

Examine the boundaries of the existing SLC historic districts. Identify areas that no longer retain their historic integrity or have large concentrations of out-of-period buildings and consider removing them from the boundaries of the historic district.
(See Response to Item #4, p.30-31)
Rewrite the Ordinance so that the HLC Has More Flexibility in Reviewing Demolitions. Consider adoption of a "special merit" provision to allow demolition of contributing buildings in cases.
(See Response to Item #4, p.32-33)
Revise the Economic Hardship Section of the zoning ordinance to make the economic hardship panel more of a neutral and true "numbers crunching" exercise, and place the responsibility of the final determination of economic hardship with the Historic Landmark Commission, with appeals of the HLC's decision to the LCAB. Provide funding to assist the HLC and its representatives in determining the veracity of the numbers provided by applicants.
(See Response to Item #4, p.32-33)
Revisit master plan policies to eliminate conflicting expectations, to provide clear land use and historic preservation policies that are consistent, and create mechanisms to establish priorities in cases of disputes and conflicts.
(See Response to Item #4, p.33)
Revisit and update existing design guidelines, to address new materials and advances in technology since the guidelines were adopted, and incorporate any policy changes arising out of this legislative action.
Consider a Computability Review Process in Selected City Neighborhoods.
Amend HLC Policies to make Architectural Committee directly responsible to the Historic Landmark Commission.
(See Response to Item #4, p.26)
Provide training to HLC members and staff to ensure that standards of review for projects and the nature of suggestions are clearly communicated to citizens during the review process, in order to avoid the perception that HLC or staff is "redesigning" projects.
(See Response to Item #3, p.22)
Reduce Number of Commission Members and Provide for Balanced Membership.
(See Response to Item #4, p.26)
Provide funding to strengthen historic preservation. Considering providing funding for the following items: <ul style="list-style-type: none"> Assist the HLC, Economic Hardship Panel and City Staff to determine the validity of data in economic hardship cases. (See Response to Item #4, p.30-31) Planning Projects, including updating of surveys and preparing a preservation plan (See Response to Item #4, p.30-31)

REVIEW OF SALT LAKE CITY'S APPROACH TO HISTORIC PRESERVATION SUMMARY

KEY ELEMENTS**A. Overview of Historic Preservation****1. Development of historic preservation in the United States.**

- a. In 1966, the National Historic Preservation Act was passed establishing the National Register of Historic Places, State Historic Preservation Offices (SHPOs) and a review process to mitigate the effect of federal projects on historic sites.
- b. In 1931 Charleston, South Carolina, adopted the first historic preservation ordinance as part of its zoning code.
- c. During the 1960's, the acceleration of demolitions, the escalating national environmental movement and the establishment of the federal preservation framework inspired hundreds of communities to adopt historic preservation ordinances as part of their zoning code.
- d. Throughout the 1970's and 1980's preservationists devised and refined the tools needed to administer the regulations, such as the preparation of design guidelines and the implementation of economic incentives.
- e. According to the Utah State Historic Preservation Office, Utah has approximately 15 communities with preservation ordinances with design review provisions.
- f. Ogden, Park City and Provo have programs similar to Salt Lake City's that are administered with professional staff.

2. Development of historic preservation in Salt Lake City.

- a. Currently, the City has a total of 15 designated historic districts, 6 local/national and 9 national.
- b. In 1976, the City adopted a preservation ordinance, designated the South Temple Historic district and established the Historic Landmark Committee.
- c. In 1979, the first design guidelines were completed.
- d. In 1988, the R/UDAT project cited the preservation of historic buildings as an important component in the revitalization of downtown, and suggested that the City should have a stronger anti-demolition provision.
- e. In 1995, the Historic Preservation regulations including new, stricter anti-demolition regulations were adopted as part of the Zoning Ordinance Rewrite project and the HLC was changed from an advisory body to a decision-making body.
- f. In 1999, updated design guidelines for residential historic districts were adopted by the Council.
- g. Historic Preservation in the City is most significant and successful because it has been a grass-roots effort, carried forward by the commitment of individual property owners of mostly modest means and undertaken in incremental steps.

B. Response to Legislative Action item #1 - A summary of the historic preservation approach presently taken by the Historic Landmark Commission including a review of policies, assumptions, objectives, and philosophies employed in the consideration of projects.**1. Basic Philosophy of Historic Preservation**

- a. The objective of historic preservation is to save architecturally and historically significant places and buildings and put them to good use.
- b. Sound historic preservation practice requires identification of historic areas and features that characterize a particular historic resource, retention of areas/features once identified, repair of features if necessary, and replacement in kind if the feature cannot be repaired.

- c. The goal of preservation is to implement this practice, to make the resource viable for ongoing use, and to guide new development that allows historic and architectural qualities to be discerned.
 - d. This philosophy is the bedrock of the guidelines and standards used by the HLC to guide its decisions.
 - e. Because both the federal standards and those included in the Zoning Ordinance are general, they are further refined in *Design Guidelines for Residential Historic Districts in Salt Lake City* (1999).
2. **The Zoning Ordinance Historic Preservation regulations authorize and direct the performance of the following four regulatory functions:**
- a. Creation of historic districts.
 - b. Designation of landmark sites.
 - c. Designation of contributing and non-contributing buildings within a historic district.
 - d. Consideration of specific proposals for demolition, alteration, new construction within historic districts or at landmark sites.
3. **Designation of Landmark Sites and Districts**
- Local designations**
- a. Designation runs with the land, and owners incur additional regulations when undertaking exterior work.
 - b. Criteria for listing individual properties on the *Salt Lake City Register of Cultural Resources* is listed in the Zoning Ordinance and are based on those used for listing on the National Register of Historic Places.
 - c. Since 1995, three properties have been listed on the local register at the request of property owners seeking conditional uses for historic buildings.
 - d. Applications for designation of sites on the *Salt Lake City Register of Cultural Resources* and for locally-designated historic districts are considered a zoning map amendment and require adoption of an ordinance by the City Council.
 - e. Designation of a property on the *Salt Lake City Register of Cultural Resources* or designation of a local district places the property or the district under the purview of HLC and requires owners to adhere to the provisions of the *Historic Preservation Overlay District* in the Zoning Ordinance.
 - f. The Ordinance requires that when considering a new district, the HLC will evaluate each parcel of property within the proposed district through the use of a historic resource survey.
 - g. Historic resource surveys include:
 - Evaluation of each building or site in a proposed district,
 - Determination of the overall context establishing the significance of a district, and
 - A map.
 - h. Historic resource surveys are recognized as the starting point of a community's preservation activities, serve as the corner stone for preservation policy, and are a very critical component of a preservation program.
 - i. Surveys have been completed for South Temple, Exchange Place, Capitol Hill and Central City Historic Districts.
- National designations**
- j. The National Register is administered by the National Park Service and is the nation's inventory of historic places.
 - k. Nominations for listing historic properties (and districts) are submitted by the State Historic Preservation Office (SHPO). In Utah, SHPO is part of the Utah State Historical Society.
 - l. Applications for designation of sites or historic districts on the National Register require comments from HLC to the Utah State Historic Sites Board and from the Board to the National Park Service.
 - m. Because the National Register carries no regulatory burden for the property owner, no legislative action on the part of the corresponding municipality is necessary.

- n. Inclusion on the National Register is purely honorific and incurs no responsibility on the part of the owner to maintain a historic property.
- o. The designation criteria represent a nationally-recognized, consistent set of standards that can be applied to a variety of historic resource types.
- p. The criteria for listing on the National Register (both districts and sites) were incorporated into the current *H Historic Preservation Overlay District* in the Zoning Ordinance and included in the pre-1995 historic preservation chapter of the Ordinance.

4. Review of Alterations to a Landmark Site or Contributing Structure

- a. The HLC and Planning staff spends the majority of their time conducting design review for proposed alterations to buildings regulated by the Zoning Ordinance.
- b. The most common requests include additions, window replacement and the construction of accessory structures.
- c. The *Secretary of the Interior's Standards for Rehabilitation* are included in the City's Zoning Ordinance.
- d. The standards are general rehabilitation guidelines that serve as a starting point for more detailed standards. In order to give more direction to decision makers and the public, communities typically prepare a set of design guidelines to define preservation requirements in specific terms.
- e. In 1979, historic preservation design guidelines for the City were developed.
- f. In 1993, a consultant was hired to update the guidelines to address renovation efforts in greater detail for all districts.
- g. In 1999, the City Council adopted the design guidelines.
- h. The process of preparing the design guidelines required HLC to refine policies regarding specific renovation issues, including window replacement, additions, accessory structures, new construction, and the use of alternative materials, resulting in clear, flexible and consistent standards for these types of projects.
- i. The *Secretary of the Interior's Standards for Rehabilitation* are incorporated into the design guidelines.
- j. The design guidelines provide:
 - An expanded explanation, illustrations, photographs, and policy statements pertaining to individual building elements.
 - Descriptions of building styles and characteristics.
 - District goals.

5. Review of new primary structure construction in Historic Districts and Landmark sites

- a. The HLC reviews all new construction of primary structures in historic districts and replacements to Landmark Sites after demolition.
- b. Proposals for new construction are reviewed according to standards in the Zoning Ordinance.
- c. The standards require consideration of massing, scale, projections (such as porches), materials, wall openings, building orientation, pedestrian amenities and subdivision requirements to ensure visual compatibility with surrounding structures and the streetscape.
- d. The standards do not differ substantially from the pre-1995 Zoning Ordinance and are commonly found in most preservation ordinances.
- e. The design guidelines are also used along with the standards in the Zoning Ordinance.
- f. The underlying base zone determines the use of proposed new construction in historic districts and the "envelope" of height and setbacks that limit the size of a new structure.
- g. The City's historic districts are characterized by the variety of architectural styles that developed over the decades of their periods of significance.
- h. The richness of historic architecture has led the HLC to approve an assortment of new structures representing a variety of design perspectives.

- i. The flexibility of the HLC in review of new construction has left the HLC vulnerable to charges of subjectivity and a misunderstanding from the public about the role of HLC.
- j. The HLC places the highest priority on the requirement that new construction in historic districts must be "**visually compatible with the surrounding structures and the streetscape**".
- k. The philosophy of HLC, as it is for most preservation commissions, is not to slavishly imitate historic styles, but to ensure that new development reinforces, beyond the underlying zoning requirements, the character-defining features of the surrounding streetscape.

6. Demolition provision of the "H" Historic Preservation Overlay District

- a. Regulations against demolition are an important part of a preservation ordinance and are usually included in ordinances governing local historic districts, but vary in terms of strictness and methods.
- b. Cities generally adopt one of two approaches:
 - a time restraint, or
 - an economic provision.
- c. Cities adopt an economic hardship clause in order to avoid the claim of a "taking" and the related violation of the Fifth Amendment.
- d. Prior to 1995, the City had a weak demolition ordinance in that demolitions of any landmark site or contributing structure could only be delayed for five months.
- e. The 1988 R/UDAT study emphatically noted that the demolition ordinance should be strengthened.
- f. As part of the 1995 Zoning Rewrite, an economic hardship section was provided to address demolition.
- g. The economic hardship section was modeled after that of Atlanta, Georgia.
- h. The economic hardship provision is the section that has garnered the greatest concern within the Administration, among applicants and HLC members.
- i. The economic hardship process is difficult to administer for many reasons and criticism from both sides of the issue is warranted.
- j. Planning staff is of the strong view that the core of the problem lies not with the economic hardship provision itself, but with other aspects of the demolition ordinance and of the City's overall land use policies.
- k. Almost all of the demolitions in the historic districts since the 1995 Zoning Rewrite have occurred where the zoning was incompatible with the contributing structure.

7. Summary

- a. Two of the four major components of the "*H*" Historic Overlay District, 1) designation of historic districts and individual sites to the *Salt Lake City Register of Cultural Resources* and 2) review of alterations to contributing structures, incorporate the theories and tenets of the National Register of Historic Places, and the *Secretary of the Interior's Standards for Rehabilitation*, respectively.
- b. The elements considered for new construction are used by commissions everywhere, and are recommended in the "bible" of preservation law, *A Handbook on Historic Preservation Law*, published by the Conservation Foundation and the National Center for Preservation Law.
- c. The demolition section of the Ordinance was crafted after reviewing the ordinances from other cities that had a strong, anti-demolition stance.
- d. The failure by the City to review and adopt the historic resource surveys coupled by the lack of systematically updating these surveys has created two significant flaws.
 - First, the ability of the City to determine appropriate land use policies, particularly with regard to assigning appropriate zoning classifications to areas with high concentrations of historic structures/resources.
 - Second, it has created operational difficulties in establishing a balance between the City's preservation and development interests.
- e. The current implementation process of the City's demolition ordinance has also created tension between preservation and development interests in the City.

- f. Remedies to these noted problems are suggested in the discussion of Item #4 of the Report. (See E. below)

C. Response to Legislative Action item #2 - An assessment of the decision to change the Commission from an advisory body to a decision-making body including pros and cons of both approaches.

1. Introduction

- a. Prior to the 1995 city-wide Zoning Rewrite, the HLC functioned as a subcommittee of the Planning Commission.
- A member of the Planning Commission served on the subcommittee.
 - Decisions of the subcommittee were ratified by the Planning Commission.
 - Appeals of the subcommittee's decisions were made to the Planning Commission and then to the City Council.
- b. In 1995, with the adoption of the city-wide Zoning Rewrite, the subcommittee was accorded full Commission status with appeals going to the City Council.
- c. In 1996, appeals of HLC decisions were redirected to the Land Use Appeals Board.

2. Examination of 1995 decision

- a. In 1980, the City Attorney supplied a legal opinion to Planning staff regarding the legal authority to make the Historic Landmark subcommittee an independent decision making commission.
- b. The City Attorney gave the opinion that such a change was permissible under the enabling provision of Utah State law.
- c. Additional action to change the subcommittee to a commission was not pursued at that time.
- d. In 1991, as part of the Zoning Rewrite process, HLC members identified a list of issues that should be addressed in the new ordinance including changing the status of the subcommittee to a commission and reporting directly to the City Council.
- e. In a memo dated September 26, 1991, the zoning rewrite consultants noted that it would be **"premature to recommend a major structural change to the status of this committee without evidence of internal study and analysis of the merits of such a change."** The consultants also noted the issue of the HLC potentially basing its decisions on land use issues that, by State Statute, were to be decided by the Planning Commission.
- f. The October 16, 1991 minutes of Historic Landmark Committee noted:
- People are becoming very frustrated with the process and the length of time it takes.
 - The appeal process could be shortened if the Landmark Committee decisions could be appealed directly to the City Council rather than having to Appeal to the Planning Commission and then to the City Council.
- g. The November 6, 1991 HLC *"Zoning Rewrite Position Paper"* noted:
- The HLC is composed of architects, landscape architects and people who have expertise in historical preservation.
 - The Planning Commission is comprised primarily of individuals with expertise in land use and land use regulations.
 - It does not make sense to have a commission review the work of a committee when the committee has far greater expertise in historical preservation than the commission.
 - If an action of the HLC is to be reversed, it should be on a political basis, not on a preservation basis.
 - The body that reviews Landmark's decisions should be a political body; i.e. the City Council.
- h. Transmittal paperwork in December 1991 from the Planning Division to the City Council regarding the Zoning Rewrite project noted that the Planning Commission would direct the consultants to re-structure the HLC to be fully independent from the Planning Commission.

- i. At the December 5, 1991 City Council Work Session discussion regarding the Zoning Rewrite project, this decision was discussed and no objection was raised by the Council Members.
- j. On November 17, 1994 and February 16, 1995, the Planning Commission discussed this issue in depth, but no details are apparent from the minutes.
- k. The Planning Commission voted to recommend to the City Council approval of the zoning rewrite document which included changing the committee to a commission.
- l. There was little discussion at the City Council's public hearings of the Historic Overlay District Chapter and the new structure of the HLC, although several citizens spoke in favor of the proposed changes regarding the HLC.

3. Pros and Cons of 1995 decision

- a. The decision shortened the length of time required for decisions of the HLC to become final.
 - Before the 1995 zoning rewrite, the decision of the HLC were finalized only upon ratification of the Planning Commission at their next meeting.
 - To address this delay, the Planning Division instituted a system of "partial permits" that allowed a property owner to obtain a permit before final ratification by the Planning Commission.
 - This system left the City legally vulnerable, created a high degree of uncertainty for the applicant, and created difficulties when a decision of the HLC was appealed to either the Planning Commission or the City Council.
- b. Appeals of HLC and Planning Commission decisions are now reviewed by the Land Use Appeals Board. This change (implemented since the 1995 Zoning Rewrite) has relieved the City Council of hearing appeals and freed the Council's time for other business.
- c. The current system provides continuity, experience and expertise from a Commission focused on preservation issues.
- d. There currently exists a perception of lack of balance between the City's preservation and development interest. The perception is largely a result of the following factors:
 - Failure on the part of the City to adopt and diligently undertake periodic updates of historic resource surveys.
 - Failure to seriously consider and incorporate preservation issues in the City's land use policies.
 - Implementation flaws associated with the demolition section of the City's preservation ordinance. (Historic District Overlay Chapter of the Zoning Ordinance).
- e. It is Planning staff's view that to effectively address these issues requires strong leadership and participation by the HLC and will create an environment where balance is restored between preservation and development interests.

4. Summary

- a. Planning staff review of the records associated the 1995 Zoning Rewrite Project indicated that the decision to make the HLC a commission was made after extensive discussion and public hearings by the Zoning Review Committee, HLC, the Planning Commission and the City Council.
- b. The Planning Division is of the opinion that the decision also carried a connotative reason not reflected in the records.
- c. The elevation of the committee to the status of a full commission carried a message that historic preservation was an integral element of creating livable, vibrant, and unique neighborhoods within the city.
- d. The Planning Division does not recommend changing the HLC back to its former status as a committee of the Planning Commission. This would cause delays to applicants by extending the review period to allow for adoption of HLC decisions by the Planning Commission.
- e. It is the Planning Division's opinion that in light of the issues and recommendations noted in response to Item #4 (See E. below), there is good justification for the HLC to retain Commission status and there remains a desire and commitment by owners and residents to preserve and strengthen neighborhoods through historic preservation where appropriate.

D. Response to Legislative Action item #3 - A review of the scope of the Commission's duties as defined by ordinance and duties that may be presently performed but are outside the ordinance.

1. Scope of the Historic Landmark Commission duties

- a. The City Zoning Ordinance language shows that the HLC is expected to function both as a review body for applications within a historic district and as the primary advocate for historic preservation within the city system.
- b. Official duties of the HLC are outlined in the General Purposes and Jurisdiction and Authority sections of the Historic Preservation Overlay Chapter in the Zoning Ordinance. Key elements include:
 - Purpose:
 - Preserve buildings and related structures of historic and architectural significance.
 - Encourage proper development and utilization of lands and areas adjacent to historical areas.
 - Encourage complimentary, contemporary design and construction.
 - Protect and enhance the attraction of historic landmarks for tourists and visitors.
 - Safeguard the heritage of the city by providing for the protection of landmarks.
 - Promote the private and public use of landmarks and historical areas for education, prosperity and general welfare.
 - Increase public awareness of the value of historic, cultural and architectural preservation.
 - Jurisdiction and Authority:
 - Make recommendations to the City Council, Planning Commission and other Boards when requested regarding:
 - Designations of landmark sites or historic districts.
 - Policies and ordinances that may encourage preservation.
 - Preparation of the general plan, zoning amendments/rezonings, conditional uses, special exceptions.
 - Utilization of federal, state or private funds to promote preservation.
 - The acquisition of landmark structures where private preservation is infeasible.
 - Review and approve or deny applications for construction or demolition.
 - Develop and participate in public education programs.

2. Implication of the Scope of the Historic Landmark Commission Duties

- a. The dual role of the HLC has at times become problematic, because the HLC may be forced to take a position on a preservation issue that may be in the best interest of the City, but conflicts with the primary mission to preserve the built heritage of the City.
- b. This has occurred most notably on demolition cases within the Central City and Capitol Hill Historic Districts.
- c. In other cases, the Commission has been criticized for exceeding the perceived bounds of its authority as a design review body, or in making recommendations on planning issues, such as master plans, that do not involve design review of a specific project.

3. Summary

- a. The process of design review involves issues that extend beyond historic or architectural details of a building, such as use, density and building height.
- b. Criticism in regard to design review relates to the use of the Architectural Committee, primarily by staff, to aid in the review of projects without express referral from the Commission.
- c. The HLC and Planning staff have taken steps to propose amendments to the HLC *Rules of Procedures* to ensure clear separation of review authority between staff and the Commission and better delineation of the role of the Architectural Committee.
- d. HLC should carefully connect projects to standards in the Ordinance and design guidelines.

- e. Care and training should ensure that suggestions intended to assist an owner, contractor or architect in meeting the Ordinance are not perceived as an effort to "redesign the project".

E. Response to Legislative Action item #4 - An evaluation of the extent to which current ordinances, policies and processes are conducive to creating an effective balance between preservation of historic areas and the natural evolution and maintenance of vibrant neighborhoods.

1. Introduction

- a. Since the designation of historic districts and the inception of the HLC, preservationists have sought to guide development, not prevent it, and to preserve the character of old structures while adapting them for ongoing uses.
- b. The revitalization of the oldest historic districts illustrates the powerful tool that preservation can be in establishing desirable, vibrant neighborhoods.
- c. The effective use of historic preservation contributes to neighborhood livability and quality of life, promotes diversity in household types, and provides economic benefits.
- d. The Planning Division has determined that the policies and procedures concerned with ongoing, everyday administration of historic preservation are partially conducive to the balance of creating vibrant neighborhoods while upholding the City's development goals.
- e. In order to balance efficiency with the review requirements of the Zoning Ordinance, an administrative review process was established (codified in the 1995 Zoning Rewrite) that allows HLC staff to review routine work subject to the provisions of the Ordinance.
- f. By relying on the provisions of the Ordinance and the design guidelines, hundreds of requests for work in historic districts have been approved with minimal delay.
- g. Review of key components in the *Historic Preservation Overlay District*, master plans and other land-use action indicate opportunities for regulatory improvements to create a more appropriate balance between historic preservation and economic development. **These components include:**
 - Outdated historic resource surveys.
 - Lack of compatibility between historic structures and underlying zoning.
 - Problems with the demolition section of the Ordinance (Historic Preservation Chapter).
 - Effective coordination of preservation development goals in master plans.
 - Lack of a historic preservation plan.
- h. The result has been that historic preservation has not been accorded sufficient attention compared to other land use issues and conflicts have resulted.

2. Existing policies that balance preservation with the natural evolution of vibrant neighborhoods.

- a. Past efforts undertaken by Planning staff and HLC have clarified policies and processes, provided renovation assistance to the public, and ensured that exterior work on old buildings reinforces historic character while providing for continued uses.
- b. The success is most apparent in areas where land-use conflicts are not an issue such as:
 - Avenues
 - University
 - South Temple
 - most of Capitol Hill
 - Central City south of 400 South
- c. Examples of actions, tools and policies include:
 - 1. Outreach Activities
 - In 1994, the Planning Division recorded notices on property titles of all properties listed in historic districts to provide notice of the local historic district status of the property. This

notification has led property owners to contact the Planning Division and an opportunity to educate owners about potential tax credits and other benefits of historic ownership.

- In 2002, through the use of federal funds, a consultant designed a website for HLC. The website includes maps of districts, application forms, design guidelines, the preservation chapter from the Zoning Ordinance, agendas, minutes, funding sources and links to helpful websites. www.slcgov/ced/hlc
 - Grant funding from the National Trust for Historic Preservation/Utah Initiative Program paid for mailing a postcard informing all property owners of the website.
 - Writing letters of support for property owners
 - Speaking at local preservation conferences
 - Organizing an annual awards ceremony for successful renovation and new construction projects
 - Instigating nomination of large areas for National Register designation
2. Listing of large historic districts on the National Register of Historic Places.
- Since 2000, over 4,600 properties have been listed in National Register districts.
 - As previously noted, listing on the National Register does not impose any controls on a property and enables property owners to apply for state and federal tax credits.
 - The Utah State Historic Preservation Office (SHPO) has approved \$22,749,328 of rehabilitation state tax credit projects in Salt Lake City for a total of 644 housing units.
 - The average cost per project is \$46,439.
3. Administrative Review Process
- The City's historic districts encompass over 5,000 properties in 6 locally designated historic districts.
 - During the past 9 years, staff has issued between 175 and 350 Certificates of Appropriateness per year for minor alterations, including porch renovation, installation of new windows and doors, and construction of accessory structures.
 - Staff relies on the adopted design guidelines as the basis for making decisions.
 - Revising the system so that staff would no longer review projects would drastically lengthen the review process and hinder business development particularly for small, locally-owned businesses.
4. Achieving Balance in Typical Projects
- Construction of additions:
- Allowing property owners to construct additions ensures the continued use of historic buildings and strengthens the potential to accommodate changing household needs.
 - HLC must ensure that proposed additions do not detract from the historic character of the building or neighborhood
 - The design guidelines suggest numerous solutions such as locating additions behind buildings, minimizing or alleviating the effect on the streetscape and using dormers to achieve second or third story interior living space.
 - The size of additions is constrained not so much by the design guidelines and HLC review, but by the underlying zoning restrictions and historic land use patterns found in historic districts.
5. New Construction:
- HLC strives to allow new construction that relates to the fundamental characteristics of the district while conveying contemporary architectural trends.
 - Designs that slavishly imitate historic models or exceedingly contemporary new designs are discouraged.
 - HLC has approved new construction representing traditional and modernist approaches to new design.
 - By providing flexibility to applicants proposing a new structure, HLC has ensured that the dynamic quality of the districts will continue, that a range of tastes and budgets will be accommodated, and that the creativity of architects will not be obstructed.

3. Proposed changes to Historic Landmark Commission Administration.

- a. Planning staff recommends that the current system of administering the *Historic Preservation Overlay District* remain the same in most respects.
- b. Minor changes identified by Planning staff include:
 - Retain and Codify Architectural Committee.
 - Staff recommends retaining the Architectural Subcommittee review process, but the role of the committee should be clarified in the Zoning Ordinance.
 - The Committee should be used to provide technical or design assistance on projects that are referred to the Committee only by the Commission.
 - Committee meetings provide a working forum to discuss solutions that would not be possible (to discuss) within the formal public hearing format of the HLC.
 - Reduce the number of Commission members and provide for balanced membership.
 - Currently, the Zoning Ordinance allows a minimum of 9 but not more than 15 members on the Commission. Membership may vary from between 9 and 15.
 - A quorum consists of a majority of the voting members.
 - Currently there are 9 members on the Commission.
 - Planning staff considers 15 members to be too large to conduct business and make decisions effectively.
 - Planning staff recommends reducing the maximum number to 11 members by reducing the number of at-large positions from 6 to 2.
 - Planning staff recognizes the need for a balanced commission with a wide variety of backgrounds.
 - The inclusion of a number of architects on the Commission has also given the HLC a more practical bent than is found on preservation commissions in other parts of the country.

4. Existing policies that prevent the balance of preservation with the natural evolution of vibrant neighborhoods. The following land use and preservation policies are identified as the root of conflicts between preservationists and the development community including the RDA.

- a. Out dated historic resource surveys and associated conflicts.
- b. Lack of compatibility between underlying zoning and historic resources.
- c. Issues with the demolition section of the Historic Preservation Overlay District.
- d. Conflicting goals within master plans.
- e. The need for a comprehensive Historic Preservation Planning process.

5. Summary

- a. Historic preservation in Salt Lake City has played an important role in neighborhood revitalization and economic development during the last thirty years, but has not been used to its full potential due to the lack of coordination of land-use policies with preservation resulting in conflicts that frustrates both the preservation and development communities.
- b. Recommendations include:
 - Updating and formal adoption of historic resource surveys to resolve disparities between land-use policies and preservation.
 - Re-assessing the boundaries of the historic districts and evaluating the underlying base zoning.
 - Revisions to the demolition section of the "H" *Historic Preservation Overlay District*.
 - Re-assessing the approach of master plans from community-based to community-wide.
 - Preparation of a comprehensive historic preservation plan.
 - Codification of the architectural subcommittee in the Ordinance.
 - Reducing of the number of Commission Members from fifteen to eleven.

- c. Administration of the "H" *Historic Preservation Overlay District* is efficient and only minor changes need to be made in this regard.
- d. Most requests to alter the exterior of buildings within a historic district or a Landmark Site are accommodated with little delay.
- e. Numerous additions are approved that allow households to expand or accommodate changing needs.
- f. Review of new construction can be challenging because of the rich diversity of architectural styles within the historic districts.
- g. HLC and staff rely on policies in the design guidelines and standards specified in the ordinance to make decisions regarding alterations, additions and new construction.

F. Response to Legislative Action item #5 - The number of staff and level of expertise necessary to carry out the duties and responsibilities associated with the preservation districts.

1. Introduction

- a. The Planning Division oversees development activities in the Historic Preservation Overlay districts.
- b. Three Planning staff members are charged with primary responsibilities associated with historic districts. 1 – Planning Programs Supervisor and 2 – Associate Planners with other Planning Division assignments.
- c. Research included a survey of 10 cities throughout the country with programs and ordinances similar to Salt Lake City and a comparison of City staffing levels to the average of the survey cities.
- d. A table of staff levels from the survey cities and a description of staff qualifications commonly sought in preservation planning jobs is included in Appendix 8
- e. Resumes of current HLC staff are included in Appendix 7.

2. Duties of the Historic Landmark Commission staff

- a. Provide staff support to the Historic Landmark Commission.
 - The Commission meets at least once a month.
 - Regular meetings are held on the first and third Wednesday, April through October and the first Wednesday of the month, November through March.
 - Issues presented by staff are accompanied by an oral presentation and a written staff report detailing the overview, proposal, analysis and staff recommendations that include findings of fact and conditions of approval.
 - Staff is also responsible for:
 - Commissioner training in a variety of formats.
 - Conducting educational sessions.
 - Arranging workshops with consultants.
 - Arranging travel to national conferences.
- b. Review of applications for alterations, new construction and demolition.
 - HLC and staff share the task of reviewing applications for alterations to landmark sites and buildings within historic districts.
 - All applications for new construction and demolition of primary structures and relocation are reviewed by the HLC.
 - Staff review:
 - Minor alterations, additions or partial demolition of a contributing site.
 - Substantial alterations to a non-contributing site.
 - Demolition of an accessory structure or non-contributing structure.
 - Average annual design review work load includes:
 - Certificates of Appropriateness – 235
 - Cases reviewed by the full Commission – 24
 - Number of Commission meetings – 18

- Cases reviewed by Architectural Subcommittee – 52
 - Number of Subcommittee meetings – 18
- c. Prepare documentation for proposed ordinance changes relating to preservation.
- d. Update policies and procedures:
 - Policies are periodically revised to reflect concerns with the administration of the historic districts or specific issues.
 - Rules of Procedure define responsibilities of staff and HLC members.
- e. Provide historic preservation policy guidance to other Planning Division sections.
 - Staff makes recommendations and/or process applications for zoning amendments, conditional uses, special exceptions and master plans involving historic districts and landmark sites.
- f. Represent the HLC in a variety of forums.
 - Promote preservation through representation at Community Council meetings and other Boards or Committees.
 - Assist efforts of other preservation organizations such as SHPO and the Utah Heritage Foundation by participating in special events and regular education programs.
- g. Management of the Certified Local Government Program.
 - The Certified Local Government program was established as an amendment in 1980 to the National Historic Preservation Act as a way of including local governments, state preservation offices and the National Park Service as “partners in preservation”.
 - Certification includes passing an approved historic preservation ordinance and appointing a historic preservation commission.
 - Salt Lake City has been a Certified Local Government since August 19, 1985.
 - The program provides grant assistance to local governments for documenting and promoting preservation of historic sites.
 - Local governments are required to match the grant amount on a 50/50 basis with local funds, donations or services.
 - Preservation staff manages the required financial and administrative records.
 - Examples of projects include:
 - Conducting historic resource surveys
 - Preparing historic structure reports
 - Funding for HLC members and staff to attend the National Alliance for Preservation Commissions conferences.
 - Hiring consultants for services such as designing the HLC website or conducting workshop with HLC and staff.
- h. Designation of properties to the Federal and Local Registers
 - Although the preservation staff is able to prepare National Register nominations, they do not have the time to prepare them in-house.
 - Most research and documentation work is conducted by professional consultants.
 - Preservation staff oversees the consultant activities.
- i. Administer Grants
 - HLC has pursued financial assistance from outside sources for long-range preservation activities or one-time studies to protect specific buildings.
 - Most recently, a grant from the Preservation Services Fund of the National Trust of Historic Preservation was used to conduct a public relations campaign that consisted of two informational mailings:
 - Provided information regarding the special federal and state tax incentives available to owners of historic property within the City’s newly created historic districts listed on the National Register of Historic Places.
 - Announced completion of the expansion of the Historic Landmark Commission web page.
 - Survey work has been funded through Certified Local Grant CLG money.

- Community Development Block Grant money has funded the hiring of consultants to prepare National Register Historic District nominations.

3. Level of staffing for the Historic Landmark Commission

- a. Planning staff surveyed ten cities across the country that they considered administer preservation programs similar to Salt Lake City
- b. Survey cities included:
 - Albuquerque, NM
 - Boise City, ID
 - Fort Collins, CO
 - Memphis, TN
 - Raleigh, NC
 - Phoenix, AZ
 - San Antonio, TX
 - Seattle, WA
 - Spokane, WA
- c. A chart outlining the statistics and information gleaned from the survey is included in Appendix 8.
- d. Two basic questions were considered:
 1. How many buildings or sites per preservation planner are in historic districts or are designated landmarks? The rationale behind this question is that a higher number of buildings or sites per planner results in a greater number of project reviews and applications, and because the review of projects comprises the bulk of the HLC staff time, this information would be a valuable indicator to compare HLC staff workload with other cities.
 2. What is the number of project reviews per planner? This is a good indicator of the staff workload compared to other cities.

4. Survey Findings

- a. Statistics indicate that Salt Lake City has substantially fewer planners devoted to historic preservation than the survey cities.
- b. The average number of properties designated either as individual sites or in local historic districts of the survey cities are 1,215 **PER PLANNER?**. In Salt Lake City, the number of properties designated either as individual sites or in local historic districts are 2,142 per planner. Thus, 76 percent more buildings or sites are designated individually or in historic districts per planner in Salt Lake City than the average of the cities in the staff survey.
- c. The average number of projects reviewed annually, both at the staff level and those presented to a full historic preservation commission, in the survey cities was 74 projects per planner annually. In Salt Lake City, the HLC staff reviews 106 projects per year (averaged over eight years), or 43 percent more projects per planner.
- d. Salt Lake City has more buildings designated under its preservation ordinance per planner than other cities with similar programs.
- e. The Planning Division would like to revisit the question of staffing levels, after the recommendations regarding updating historic resource surveys and coordinating land-use policies addressed in Item #4 are resolved.

5. Typical preservation staff qualifications

- a. Research regarding qualifications for current job opportunities in the preservation field, indicates that minimum requirements for a typical preservation planning position include a bachelor's degree in Historic Preservation or Preservation Planning, Architectural History or Urban Studies, History, or Urban Planning. Preference is often given to applicants with a master's degree or education and experience satisfying the federal professional qualifications.
- b. Resumes of the current preservation planning staff are included in Appendix 7.

6. Summary

- a. HLC staff spends most its time reviewing projects for alterations, new construction or demolition as part of the administration of "*H*" *Historic Preservation Overlay District* Chapter of the Zoning Ordinance.
- b. Most of the projects are reviewed at the staff level; those that are presented to the full HLC require the preparation of a staff report.
- c. Other staff duties include serving on City or community committees when preservation issues exist, administering grants, and working on other planning projects, such as master plans or conditional uses, that involve historic preservation.
- d. Salt Lake City has fewer planners assigned to preservation and HLC than ten other cities that have comparable ordinances and preservation programs.
- e. Qualifications of HLC staff are consistent with established professional standards.
- f. HLC staff has many years of experience in various aspects of historic preservation and their qualifications, both in terms of education and experience, are more than adequate to effectively administer the program.



Salt Lake City
Historic Landmarks Commission

**Response to the Legislative Action request
from the Salt Lake City Council regarding
Historic Preservation in Salt Lake City**

August 2003

Contents

Response to item one	3
Our Philosophy	3
Our Objective	3
Our Assumptions	3
Our policies	4
How we make decisions	5
Response to item two	6
Advantages	6
Disadvantages	6
Response to item three	7
Response to item four	8
Changes needed	8
Demolition and economic hardship	8
Economic Hardship process	9
Zoning mismatch	9
Enforcement	9
Architectural Subcommittee	10
Additional Local Historic Districts	10
Additional Landmark designations	10
Revision of Design Guidelines	10
Current activities of the Commission	11
Design Guidelines	11
Merit Awards Program	11
Education of the public	11
Education of the Commissioners	11
Response to item five	13
Attachment A: Comments from individual members	14
Peter Ashdown, Exchange Place Historic District	14
Dave Fitzsimmons, AIA, member at large	14
Vicki Mickelsen, University Historic District	15
Oktai Parvaz AIA, Member at large	16
Attachment B: Excerpt of "The need for aged buildings"	20
Attachment C: List of HLC Merit Awards Program winners	21
2001 Merit Awards Winners	21
2000 Merit Awards Winners	22
1998 Merit Awards Winners	22
1997 Merit Awards Winners	22
1995 Merit Awards Winners	23

Response to item one

1. A written summary of the historic preservation approach presently taken by the Historic Landmarks Commission (HLC), including a review of the policies, assumptions, objectives and philosophies employed in the consideration of projects brought before the HLC. Please include guidelines, in addition to those listed in City ordinance, which provide the basis for such consideration, for example, federal guidelines, professional best practices, etc..

Our Philosophy

Unlike many large cities where the areas around the downtown have decayed into slums, Salt Lake is fortunate to have a downtown surrounded by attractive, livable neighborhoods characterized by a wealth of buildings representing all periods of the city's history, as well as a number of designated landmarks representing the City's cultural, social, and architectural history. Keeping these neighborhoods alive by protecting their integrity is important not only for aesthetic and historical reasons but also for the economic viability of the City. Maintaining the historic character of the neighborhoods is an excellent way to ensure that people continue to live, work, play, and worship in them, rather than fleeing to the suburbs.

Those of us who have lived in historic districts for many years have seen our neighborhoods, which before designation were on the brink of being marginalized and overrun with careless, "anything goes" development, become stabilized, revitalized, and some of the most sought-after locations in town. For us, preservation is not an academic exercise but a way to ensure that the tangible legacy of our past continues to enrich the context of our current lives and the lives of our children.

And besides, old buildings are fun. They are livable and adaptable. They are well built. They are architecturally interesting, with wonderful detailing. Preserving them is ecologically responsible and economically advantageous. They exist in neighborhoods that are walkable and interesting, with a mixture of housing types, businesses, parks, churches, schools, and good public transportation. In fact, historic neighborhoods exactly match the criteria for livable communities identified by Envision Utah and used in planning new neighborhoods.

Our Objective

Our objective is to make sure that the historic neighborhoods and landmarks grow organically as the needs of the residents change; that they grow in a way that accommodates those needs without destroying the character of the neighborhood or the buildings in question; and that new buildings or altered buildings "fit into" the overall context of the neighborhoods. This does not mean new construction has to look "old" but that the scale and detailing are compatible with the fabric of the surrounding buildings and of the altered building itself. We want the community to understand that "growth" is not the same as "raze and build," that development includes the rehabilitation and reuse of existing buildings.

Our Assumptions

We assume that the City and its residents support the maintenance of historical districts in SLC. This assumption is borne out by the desirability of these neighborhoods witnessed by realtors as well as by the large number of requests from other neighborhoods for historic designation.

As decision makers, we assume that decisions can be made that accommodate the desires of most petitioners without compromising the quality of the historic neighborhoods or violating the ordinance and the design guidelines.

Our policies

As Historic Landmark Commissioners, we serve as representatives of the City and therefore we are guided by the City ordinance regarding Historic Preservation, as set forth in clause B of section 21A.06.050 of the Salt Lake City Zoning Ordinance, General Purposes, which states that "The purposes of the historic landmark commission are to:

- A. Preserve buildings and related structures of historic and architectural significance as part of the city's most important cultural, educational and economic assets;
- B. Encourage proper development and utilization of lands and areas adjacent to historical areas and to encourage complimentary, contemporary design and construction;
- C. Protect and enhance the attraction of the city's historic landmarks for tourists and visitors;
- D. Safeguard the heritage of the city by providing for the protection of landmarks representing significant elements of its history;
- E. 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;
- F. Increase public awareness of the value of historic, cultural and architectural preservation; and
- G. Recommend design standards pertaining to the protection of H historic preservation overlay districts and landmark sites."

Our responsibilities are those outlined in clause C: Jurisdiction and Authority, which states that "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;
3. Review and approve or deny an application for a certificate of appropriateness pursuant to the provisions of Part III, Chapter 21A.34, H Historic Preservation Overlay District;
4. Develop and participate in public education programs to increase public awareness of the value of historic, architectural and cultural preservation;
5. Review and approve or deny applications for the demolition of structures in the H historic preservation overlay district pursuant to Part III, Chapter 21A.34;
6. Recommend to the planning commission the boundaries for the establishment of an H historic preservation overlay district and landmark sites;
7. Make recommendations when requested by the planning commission, the board of adjustment or the city council, as appropriate, on applications for zoning amendments, conditional uses and special exceptions involving H historic preservation overlay districts and landmark sites;
8. 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;
9. 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 Part III, Chapter 21A.34, Section 21A.34.010, H historic preservation overlay district, and where private preservation is infeasible;
10. Make recommendations to the planning commission in connection with the preparation of the general plan of the city; and
11. Make recommendations to the city council on policies and ordinances that may encourage preservation of buildings and related structures of historic and architectural significance."

When conducting our business, we follow the remaining clauses in section 21A.06.050 and the *Design Guidelines for Residential Historic District in Salt Lake City*, as well as City Rules of Procedure (1994) guidelines for conducting public meetings.

How we make decisions

When making our decisions, we are guided by section 21A.34.020 H Historic Preservation Overlay District in the zoning ordinance, which lays out the criteria for granting certificates of appropriateness for alterations of historic structures, new structures, relation of landmark structures, and demolition of historic structures. We are also guided, more often than we would like, by the clauses pertaining to Economic Hardship.

In addition to the ordinance, we follow the *Design Guidelines for Residential Historic Districts in Salt Lake City*, which was created by authority of item number 7 under clause B in section 21A.06.050: "Recommend design standards pertaining to the protection of H historic preservation overlay districts and landmark sites." These design guidelines incorporate the *US Secretary of the Interior Standards for Rehabilitation* established by the National Park Service, along with other national best practices. However, they are tailored to fit the history and architectural heritage of Salt Lake City, and indeed, of each individual Historic District.

Each case heard by the Commission is carefully prepared by the Landmark Planning staff, who are very knowledgeable and thorough in their research. Before every meeting we receive the applicant's proposal and the staff findings, which are always based on, and include, the clauses of the ordinance and the Design Guidelines that pertain to the request under consideration. Before each meeting, there is a field trip to visit the sites of the projects to be reviewed. Commissioners who can't go on the field trip try to visit the sites independently.

In the HLC meeting, the responsible staff member presents the findings orally and answers any questions. We then hear from the applicant and discuss with him or her any alterations that we feel would make the project more in tune with the Design Guidelines. We hear from other members of the public. In executive session, we discuss the case before the applicant and public. There are no closed-door discussions. When making a motion, we reference the findings and the ordinance clause on which they are based.

As with any decision making body, much of what we do is interpreting the guidelines in those areas where interpretation is required. We see ourselves as arbiters between the ordinance, the applicant, and the neighborhood residents, seeking to find a solution that will satisfy both our guidelines and the applicant's needs and wishes. Although this is not always possible, we do have a very good track record.

Response to item two

2. An assessment of the City's 1995 decision to change the HLC from an advisory body to a decision-making body, including a review of the pros and cons associated with both approaches.

The current commissioners have all been appointed since the 1995 decision. However, we are aware of both the advantages and disadvantages of the current approach.

Advantages

The advantage of having the HLC be a decision-making body is better service to the community. The decisions are made by a group of people with expertise in architecture, community development, and historic preservation, and an intense interest, not to say passion, in the making the best decision for the applicant and the City. It is also of benefit to the community that the people making the decisions are the ones held responsible for those decisions.

Disadvantages

The main disadvantage is the appeals process. After the ordinance changes in 1995, both the HLC and the Planning Commission took their appeals to the City Council. This provided a dialogue between HLC members and the City Council. City Council members could assess HLC activities and decisions. HLC members and staff could present their viewpoint. HLC members received feedback on policies and the general direction of the City. We no longer have this avenue of communication.

Since the establishment of the Land Use Appeals board in 1996, when our decisions are appealed by applicants, the appeal is heard by that body. Section F.2.h.iv of Section 21A.34.010 states that "The Land Use Appeals Board shall uphold the decision of the Historic Landmark Commission unless the Land Use Appeals Board determines that a prejudicial procedural error occurred or that the decision of the Historic Landmark Commission was not supported by the findings of fact based upon the applicable standards of approval."

While we are very attentive to conducting meetings and framing motions within the guidelines of the ordinance, HLC decisions are not made in the presence of a legal council and currently none of the HLC Commissioners are legal experts. To overturn an HLC decision, an applicant frequently uses a legal expert to scrutinize the minutes of an HLC denial and then crafts an appeal for LUAB. It is sometimes possible for the applicant or attorney to find an apparent procedural error or claim that the decision was not supported by findings of fact.

In most cases, this system works well. However, when the issue is the demolition of a building or buildings, and the decision is overturned on purely procedural grounds, the HLC should have a way to appeal the LUAB decision. Currently our only avenue of appeal is District Court and the City Attorney has to defend the LUAB decision. This scenario would impose an undue hardship on the Commissioners and, therefore, is not a viable means of appeal.

We feel that the City Council is the body that should take ultimate responsibility for the permission to demolish, especially in those cases where the demolition is very high-profile, like the Promised Valley Playhouse, or very disruptive to the identity of a neighborhood, like the destruction of the block between 500 and 600 East and 300 and 400 South. In other words, it should become a policy decision, subject to open dialog with the community at large, particularly since many requested demolitions are the consequence of City goals and zoning, like the Transit-Oriented District, that can be detrimental to the maintenance of historic neighborhoods.

Response to item three

3. A review of the scope of the Commission's duties, as defined by ordinance, compared with duties that may be presently performed but are outside the ordinance and the efficacy of such "outside of scope" duties. (For example, the Council Office has received an inquiry about whether it is the role of the Commission to design or redesign projects that are before them for consideration.)

Much of what the Commission does is related to design issues. By ordinance, we must consider questions of scale and form, height and width, size and mass of a building, proportions of principal facades, roof shape, window location, style and size, building materials. Plans of the buildings are also reviewed because they shape the main features of the building elevations.

However, the Commission does not "design" or "redesign" projects. We advise the applicants on areas where their proposals do not meet our guidelines and we suggest solutions that we would find acceptable, so that they know what we will approve rather than having to guess. This saves everyone—applicants, staff, and commissioners—a tremendous amount of time. However, the final design is always up to the applicant and the applicant's architect.

One of the most valuable services we perform for the community is the Architectural Subcommittee. The ASC gives applicants a chance to meet with architects from the Commission, at no cost, to explore solutions to the discrepancies between guidelines and their proposals. Many cases are handled by the ASC rather than coming to the full Commission, which again saves everyone a substantial amount of time and provides the applicant with a viable solution much more rapidly.

Almost all applicants feel that they end up with a better design and, in many cases, a design that is less expensive and easier to implement than the original. We have even had applicants do a complete about-face, like the Madeleine Choir School who decided after meeting with the Architectural Subcommittee that the proposed design was so far from what they really envisioned that they completely revised their site plan and found a way to incorporate almost all of the historic fabric of the campus into their educational needs.

Response to item four

4. An overall evaluation of the extent to which the current ordinances, policies and processes are conducive to creating an effective balance between preservation of historic areas and the natural evolution and maintenance of vibrant neighborhoods as envisioned by the City's development goals. For instance, how does the Commission ensure that historic neighborhoods are provided sufficient flexibility to assure broad demographic retention and the provision of vital neighborhood services? If so, what changes to the ordinance are necessary to more effectively allow the Commission to create such a balance?

In *The Death and Life of Great American Cities*, Jane Jacobs writes that "Cities need old buildings so badly it is probably impossible for vigorous streets and districts to grow without them. By old buildings I mean not museum-piece old buildings, not old buildings in an excellent and expensive state of rehabilitation—although these make fine ingredients—but also a good lot of plain, ordinary, low-value old buildings, including some rundown old buildings." She sees old buildings as a key ingredient in the economic and cultural well-being of a neighborhood and city. For her discussion of the relationship of old buildings to economic and cultural well-being, see attachment B.

As stated in the Philosophy and Objectives sections, the Commission is committed to supporting the needs for change as the neighborhoods evolve. Preservation and change need not be in conflict. Rehabilitating existing buildings for new uses can be an excellent way of incorporating change into a neighborhood—one that is less disruptive and less expensive than tearing them down. Examples of successful adaptive reuse in SLC are plentiful, both in and out of Historic Districts, beginning with Trolley Square, the City and County building, Pierpont Avenue, and the Gastronomy restaurants, and extending to the recent projects such as the rehabilitation of the Union Pacific Depot as a centerpiece of the Gateway development.

When demolition is unavoidable, well-designed new buildings can fit into and enhance the neighborhood.

When new neighborhoods are planned, they include "Covenants and Restrictions" designed to preserve the architecture, livability, and property values of the community. Our Design Guidelines are the Covenants and Restrictions for the Historic Districts and serve the same purpose, with two important distinctions: they are much less restrictive and they are implemented through the public process.

We believe that our "evolutionary" approach to change, which ensures that changes do not disrupt the character of the neighborhoods, is exactly what serves to keep our historic districts "vibrant" and to maintain "broad demographic retention."

Changes needed

That said, there are some areas in which we see the need for change, both in the ordinances and City policies and in the way the Commission complies with the charges it is given by the ordinances.

Demolition and economic hardship

The most important need for change is the clauses of the Historic Overlay ordinance dealing with demolition and with economic hardship. As written, the ordinance was intended to help homeowners whose property, for reasons beyond their control, had become economically untenable. It was not designed to handle what we are facing more and more frequently—developers who buy up property at inflated prices, let it deteriorate, and then claim economic hardship, a hardship that they created for themselves.

It is not good for the aesthetic appearance, safety, or economic well-being of a neighborhood when buildings are abandoned, boarded up, and left to deteriorate in order to declare economic hardship. All too often, when economic hardship has been proven, these same buildings are destroyed and left as empty lots—the McHenry house and Bill and Nada's café are two examples, but there are many others. Under the current ordinance, there is no way to prevent buildings from being destroyed if the developer has enough time, money, and patience to complete the economic hardship process.

When a building is gone, it is gone. If it is maintained and in use, then a change in the developer's economic situation at least leaves us with a building that someone else can use, not a lot full of weeds.

- ☐ We urge the City to undertake a complete rethinking and restatement of the Demolition and Economic Hardship sections of the ordinance.

Economic Hardship process

The Economic Hardship process itself is problematic.

1. The representative for the applicant is either a paid professional or has a direct interest in the case. The other two members are volunteers. Formulating economic hardship requires extensive experience of economically sound preservation projects and of the City ordinance and procedures. However, the HLC must choose as our representative whatever person we know of who is available and willing to invest the time, not from a pool of experts experienced in the economic hardship process. The representative of a developer does his or her homework before sitting in the panel and is fully vested in the task ahead. How much can one expect from a voluntary panelist that does not have any financial interest in what he or she does, has no contact with the commission he or she represents, and does not have the opportunity to learn from one case and apply that knowledge to the next case?
 2. The members of the Commission do not have the professional expertise to evaluate the findings of the Economic Hardship Panel. We have undertaken some training in the area, but it is very daunting to be presented with a 50- to 100-page report and evaluate it on the basis of what we know, even after training.
- ☐ We suggest that the City establish a pool of people with experience in the economic hardship process who would be remunerated for their time, interest, and expertise.

Zoning mismatch

One problem underlying the abuses of the demolition ordinance is the mismatch between the market value of a piece of property and its location in an Historic District. Often this discrepancy is caused by actions of the City itself. In the case of the Central City Historic District, the City placed a higher land use or density on the original low-density historic neighborhood and then created an Historic District to protect the low-density buildings. This creates a mismatch between land values, which are typically higher in a high-density commercial/residential area, and the intrinsic value of the historic buildings, which has led to the abuses mentioned above. The Central City Historic District contains many valuable historic buildings and streetscapes, but it is bisected by the future TOD zone along 400 South, where almost all historic buildings are long gone.

- ☐ We are encouraged that the Planning Department is undertaking a reclassification of those areas in the Central City Historic District where the historic fabric is severely compromised or non-existent and down-zoning of the areas that retain their viable historic fabric.

Enforcement

Landmark Commission decisions are made with a lot of thought and expertise and usually result in a good, viable plan for the applicant. However, there is currently not a satisfactory way to monitor whether or not the applicants actually carry out the plans in the way that was approved. In fact, we know of several instances in which the applicant blithely ignored the agreed-upon design, which was detrimental to the neighborhood and enraged the neighbors.

- ☐ We request that the City provide a building inspector dedicated to monitoring the implementation of the projects for compliance with the terms of their Certificate of Appropriateness and that projects not

be approved until there is such compliance. This would provide consistent enforcement that is fair to all applicants.

Architectural Subcommittee

- ☐ We request that the Architectural Subcommittee be provided for in the ordinance itself, in addition to being provided for in the Design Guidelines.

Additional Local Historic Districts

There are a number of neighborhoods that are designated as National Historic Districts that also want the protection afforded by the City designation. There are other neighborhoods with neither designation who have expressed a strong desire to benefit from historic designation.

New Historic Districts would be viable if they are already listed on the National Register, the majority of the residents support them, design guidelines are prepared, and the underlying zoning policies and City policies support the district. We realize that this would require additional staffing, and additional time from the Commission, but we feel that, judging from the successful experience with existing districts, the benefits to the City from preserving and enhancing its core neighborhoods would far outweigh the cost.

- ☐ We encourage the City to support the designation of additional Local Historic Districts.

Additional Landmark designations

We also encourage additional Landmark designations for individual buildings outside of the districts, most notably in the downtown area. Events in recent years have shown how vulnerable these buildings are to "landbanking," insensitive alteration, or outright destruction. One key to having a successful downtown is the preservation of its architectural character. As has been demonstrated across the country by the National Trust Main Street program and other initiatives, people are more interested in, comfortable with, and willing to visit a preserved and rehabilitated downtown than they are a downtown filled with uninteresting or threateningly large new buildings and vacant lots.

- ☐ We suggest that the City look at changes in the building codes and zoning rules in order to promote and facilitate the conversion of existing office and retail buildings to other uses, such as condominiums. An increased residential component in the downtown area would give it more round-the-clock activity and interest.

Revision of Design Guidelines

We are considering a revision of the Design Guidelines to update them in several areas, such as the guidelines dealing with materials. The quality of new materials and their acceptability for use on historic buildings have increased in recent years and we feel that some alteration to the guidelines is in order.

We would also like to add guidelines for small scale commercial development in Historic Districts, similar to those prepared for the RDA's Capitol Hill property and standards for new development in Historic Districts.

Current activities of the Commission

Design Guidelines

- ☐ Reevaluation of the standards for signage in Historic Districts are well underway.
- ☐ HLC has prepared a set of guidelines for Archival Quality Recordation for Demolition of Historic Landmarks.

Merit Awards Program

Every year the planners and commissioners look at the applications we have considered during the year and vote to choose the top nine projects that best exemplify innovative and successful preservation projects. The winners are acknowledged in a public ceremony and presented with plaques. A list of recent awards appears in attachment C.

Education of the public

The Commission and the Landmarks staff have taken steps in the past year to educate the public on the value of preservation, the City ordinance, and the procedures for working with the Landmarks staff and the HLC.

- ☐ The most useful effort is the establishment of the Historic Landmarks website at <http://www.slcgov.com/CED/hlc/> which contains all the information the public needs in order to understand the ordinance, the Design Guidelines, the procedure for obtaining building permits and a Certificate of Appropriateness. It also provides access to our meeting minutes, information on financial assistance, tips on finding contractors, and many other useful and wondrous things. The launch of the website was publicized in the UHF newsletter, in postcards to the Historic District residents, and in an announcement in the City water bill.
- ☐ The Merit Award and the annual report are publicized with a flyer that goes to district residents.
- ☐ In the past, we attended the Avenues street fair with great success and want to participate in similar events in other districts or potential districts.
- ☐ We are planning to establish an Educational Subcommittee to find other ways to publicize who we are and what we can and cannot do. We want to have greater visibility in the community and to engage in more dialogue not only with property owners but also with other City entities. We consider your request for this response as a welcome step in establishing that dialogue.

Education of the Commissioners

We are also engaged in providing workshops and discussions to train the Commissioners about the ordinance, meeting procedures, legal aspects of decisions, and preservation practices across the country.

- ☐ Several members of the Commission participated in a training on conducting public meetings presented by Gene Carr from the University of Utah.
- ☐ The entire Commission received training from City Attorney Lynn Pace on the legal aspects of the Historic Landmark Commission, specifically making motions, making findings of fact, and commenting on the applications that are presented to the HLC.
- ☐ Several commissioners attended a workshop presented by SHPO for the Certified Local Government entities in the state, which presented information in a variety of areas and gave us a chance to compare notes with other Commissions.

- ❑ The Chair and Vice-Chair, along with the Landmarks staff, attended the semi-annual conference of the National Alliance of Preservation Commissions, where they were able to learn about issues and solutions throughout the country, as well as meet other Commissioners and exchange ideas and stories.
- ❑ Mr. Nore Winter of Winter & Associates, Boulder Colorado, conducted a training session for the Commission on Preservation policies, procedures, guidelines, and problems. He also conducted a similar workshop for City employees.

The Educational Subcommittee will also be charged with identifying other areas where the Commissioners would like training and finding ways to provide it.

Response to item five

5. How many Planning staff members are needed to carry out the duties and responsibilities associated with the preservation districts, and what level of expertise is necessary?

We want to make very clear that the dedication and competence of the Landmarks planners are absolutely essential to the working of the Commission and the success of preservation in SLC. They provide us with the information, guidance, context, and expertise we need in order to ensure that our decisions consistently and thoughtfully carry out the intent of the ordinance.

The Planning staff has provided you with the data regarding their workload and accomplishments. Based on what we have learned at Preservation conferences about preservation in other cities, we know that our staff is amazingly prolific—which means they are also overworked. We see a real need to increase the staffing to a size where workloads are manageable and additional Local Historic Districts can be created and serviced.

Attachment A: Comments from individual members

Peter Ashdown, Exchange Place Historic District

"Great cities" are made great by their architecture and history. A sterile environment of offices and parking lots does not contribute to the cultural environment of a city. It is a rarity that a new structure in Salt Lake City inspires like the library does. More often we are treated to boiler-plate designs of the most boring sort. Losing buildings that were designed by renowned architects or hand-crafted by Salt Lake's ancestry punches a hole in the heritage of this city that is not easily repaired. I joined the HLC out of despair for the number of demolitions I witnessed happening. For the good we have done, it has been difficult to see the continued demolitions due to "economic hardship" and lack of reach of the HLC.

Dave Fitzsimmons, AIA, member at large

It's easier for me to visualize than to verbalize the importance of historic presentation. I only have to do a mental visual survey, imagining a walk or slow drive through a Levittown development, and then contrast it to a stroll through the historic districts of Salt Lake City. One community was built to the scale and needs of the automobile, air conditioning, and television. The old way was designed to be a more human set of sensibilities. Discourse with neighbors and connection to the community went from the porch indoors to the TV room.

One need only visit the historic districts of this nation's cities to understand their importance to the fabric of the communities that have elected to recognize and preserve their history and heritage. These districts are uniformly the most pleasant parts of town to visit and stroll in because they were designed to appeal to a more human scale and refer us to a time when investment in craftsmanship was the norm and such investment was affordable; and to a time when travel was slower and much life was lived on the porch and public sidewalks, and with a view of the neighborhood and a connection to community.

Historic preservation benefits the community with:

- ☐ Obvious popularity: these neighborhoods continue to be highly desirable.
- ☐ Increased property values:
 - ☐ Residents are willing to go the extra mile to preserve the special character of their homes and businesses.
 - ☐ Decline is checked and replaced by renewed investment.
 - ☐ This happens because these neighborhoods are more attractive than other similar neighborhoods where "anything goes."
- ☐ The prestige of hosting such highly visitable places, which translates into a city's ability to attract desirable events, businesses, immigration, and capital.
- ☐ Preservation of housing stock close to the town center can conserve valuable resources:
 - ☐ It is "green" because the resources and energy used to build has a longer life when preserved in these districts.
 - ☐ Pressure on roads and transportation resources, and the energy they consume, is reduced.
 - ☐ People invest less of their lives commuting and more in their homes and community—a better investment of time, the ultimate resource.
- ☐ Preservation of investment in infrastructure means less new development cost at the fringes of the city.
- ☐ Delivery of fire, police, and other civil services is in more compact districts and is already in place.
- ☐ Citizens in these districts take a more active roll in their communities and city affairs.

Vicki Mickelsen, University Historic District

When we hear the word “historic,” most of us think of the major events we learned about in high school: wars and peace treaties, king and presidents, revolutions in government and revolutions in technology. When we think of historic buildings, we imagine palaces and cathedrals, or the birthplaces of famous people. But history is much more than extraordinary events and places. In fact, these events grew out of, and were shaped by, the daily life of ordinary people—the way they lived, worked, played, worshiped, and raised their children. The community created by these ordinary people is the legacy they leave to their descendants.

The context in which their lives were carried out—the houses, churches, public building, schools, parks, and office buildings—is a very tangible part of that legacy. When this concrete heritage is preserved, when the descendants live and work in buildings that were built by previous generations, adapting them rather than destroying them, the spirit of the past is incorporated into the present, and the present is enriched. The historic districts created in Salt Lake City, and in many other cities across the country, are a response to the desire to preserve the architectural legacy of the community.

The preservation of the built legacy also ensures the continuation of the neighborhoods that originated it. It promotes the livability of the neighborhoods, their diversity, their interest to residents and tourists, and their property values. Ultimately, the preservation of historic neighborhoods contributes to the well-being of the entire city, for historic, cultural, environmental, and economic reasons. They are a win-win proposition for all of us.

Oktai Parvaz AIA, Member at large

July 8, 2003
Salt Lake City Historic Landmark Commission (HLC)
451 S. State St. Room 406
Salt Lake City, UT 84111

Re: Administration review of Salt Lake City's approach to historic preservation

Dear Commission,

In the June 4, 2003 meeting of HLC, Mr. Louis Zanguze, Salt Lake City Planning Director, distributed copies of a memorandum by City Council member Mr. Eric Jergensen dated May 23, 2003. The memorandum addresses a Legislative action and asks the City Administration to review Salt Lake City's approach to historic preservation. This review includes the performance of HLC. The content of this memorandum was discussed. It was argued that it would be helpful for the City Administration if HLC members express their viewpoints about the memorandum. This letter is not a response to the memorandum. What I have addressed here are: 1) a request for assembling quantitative information, and 2) a list of qualitative issues, problems and challenges that HLC encounters in performing its duties. Almost all of these issues have been discussed in HLC meetings since 1998 when I joined the commission. I think it is a good opportunity for HLC to assess its past accomplishments and shortcomings. The quantitative information will show the extent of the work and involvement of the City and HLC in historic preservation. The qualitative issues are the problems that should be addressed to City Administration and be resolved to make the City and HLC better able to serve the citizens and community.

1. **Quantitative Information.** This information is based on the data, notes, and minutes of HLC meetings, Architectural Sub-Committee (ASC) findings, and the Preservation Staff works. Following is a list of some of the data that may be included in this work and the Preservation Staff can gather them best.
 1. Number of cases, which were reviewed administratively, with ASC, and with HLC.
 2. Number of cases for relocation and those, which were withdrawn.
 3. Number of cases for demolition, which were withdrawn, rejected, or ultimately approved.
 4. Number of demolition cases which were forwarded to the Economic Review Panel (ERP).
 5. Number of demolition cases which were reviewed by ERP and approved by HLC.
 6. Number of demolition cases, which were ultimately rejected by HLC and forwarded to the Land Use Appeal Board (LUAB) and the decisions of HLC, were held or overturned.
 7. A map or maps and diagrams that show the geographical distribution of the historical districts, requests for demolition, and demolished buildings.
 8. It would be beneficial to periodically publish this information and assemble and update it in the HLC web site for public review and awareness.
2. **Qualitative issues.** Following are notes about HLC function, misconceptions about HLC, and the difficulties and challenges of historic landmarks preservation.
 1. **HLC and historic preservation.** HLC is a decision-making body that deals with historic preservation of specific districts in the city and occasional individual landmarks outside of these districts. It also reviews the nominations for National Register of Historic Places. HLC enjoys the indispensable help of the Preservation Staff in this task. Decisions of HLC are based on Title 21A of SLC Code (Zoning Ordinance), and Design Guidelines for Residential Historic Districts. HLC also considers The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. With the help of the Preservation Staff and within the

framework of the City Code, HLC has prepared a set of guidelines for Archival Quality Recordation for Demolition of Historic Landmarks. The Purpose Statement for Historic Preservation is summarized in item 21A.34.020A of Salt Lake City Zoning Ordinance. I find HLC a dynamic institution. Its voluntary members and the Preservation Staff are aware of the challenge they face. They cannot appease everybody when they perform their duties. They face a number of frustrating issues when they handle requests for demolition of historic landmarks, especially in the Central City historic district

2. **HLC and design review.** HLC has been criticized for becoming involved in the design or redesign of projects. HLC, by following the zoning regulations and its guidelines makes decisions about building, site, and even neighborhood and urban design. Scale and form, height and width, size and mass of a building, proportions of principal facades, roof shape, window location, style, and size, building materials, are all design issues and will be reviewed by HLC. Plans of the buildings also will be reviewed because they shape main features of the building elevations. For example, during the review of the frontage of Orpheum Theater (Promised Valley Playhouse) and the new parking structure behind it, the applicant was claiming that design limitations force placement of a sloped slab (ramp) behind the horizontally placed windows at the north elevation of the building. HLC viewed this composition disturbing in the north elevation. In an ASC meeting, the applicant learned that it is possible to relocate and redesign the ramp in the plan and provide a horizontal slab behind these windows. In another example, in the first proposal of the Madeleine Choir School master plan, a number of historically valuable buildings were suggested to be demolished. After discussing the project with HLC and ASC, the school authorities revised the master plan as per historic preservation guidelines. In the last meeting with HLC, the school authorities expressed their satisfaction and full support of the redesigned master plan in which the historic landmarks were preserved. Though all the issues with historic preservation are not about design, most of the involvements of HLC deal with control and management of architectural, site, neighborhood, and urban design.
3. **Development versus growth.** It seems there is confusion between the meanings of "development" and "growth". There is also a misconception that preservation of historic landmarks is not a development activity. One can argue that preservation is not growth. However, preservation, renovation, and reuse of historic landmarks, such as City and County Building, Hotel Utah, and many other large and small buildings and preservation of historic districts are among the best development-oriented activities of Salt Lake City.
4. **Inefficient regulations.** Some of the existing zoning regulations regarding demolition of historic landmarks are not effective in preserving historic landmarks. A few years ago a committee of HLC argued that in historic districts, if for any reason an old building is demolished, the new building should not be much larger or higher than the demolished building and should stay within its footprint. This is not a new idea and normally is practiced in a historic district as per existing zoning regulations. This concept, however, does not work in the Central City historic district because the City has designated parts of this district for growth and higher density, and existing regulations are inadequate for preservation of historic landmarks. Those items and procedures of the zoning regulations that weaken the historic preservation may be summarized as follows: a) Growth oriented policies. b) Policies beneficial for big developers and investors and restrictive for homeowners and small investors. c) Lack of preservation policies for historic neighborhood design fabric. d) Economic Hardship provision. e) Economic Review Panel and Land Use Appeal Board. f) Lack of documents for economic analysis and viability of renovated historic landmarks.
5. **Growth oriented policies and historic preservation.** When the City Council approves a high-density land use and overlay on a low-density historic district, that means the City gives a green light for demolition of historic landmarks in that district. This is what has occurred in the Central City historic district. One could argue that in this case a set of effective regulations should be able to save the historic landmarks. Unfortunately, the existing regulations are not effective enough to stop demolition attempts. The test of time has shown this inefficiency in the last eight years. A

high-density land use overlay for a low-density historic district is a strong incentive for a developer to demolish low-density landmarks. In fact, developers not residents have initiated most of the requests for demolition of old buildings in Central City historic district. There is nothing wrong for a developer to initiate a profitable enterprise. The problem is that deployment of a growth policy on a historic district by the City without providing specific and detailed safeguards for preservation ends up in the elimination of that historic district.

6. **Policies that initiate land speculation and are beneficial for big developers.** Deployment of a policy of higher density or intensive land use on a low-density historic district may multiply the value of land if one can build high density on it. This policy, which is already in action in Central City historic district, generates a condition that is beneficial for big developers or investors and restrictive for homeowners and small investors. A developer buys parcels of land with one or two story buildings next to each other in the district, files an application for demolition of a group of buildings as a package, secures a certificate of appropriateness for demolition of landmark site either through HLC or if HLC disagrees through LUAB by overturning HLC's decision, demolishes the buildings, acquires permits for high density buildings to maximize the value of land, either builds a high density complex or sells the vacant land with higher market value. A homeowner, however, with regard to the zoning regulations has almost no chance of building more than one or two story buildings in a historic district when there are single story buildings around it. If this is the real intention of the City to eliminate part or all of a historic district, then the regulations should be clear about it. There would be less misunderstanding among developers and more saving of time and money if the City was not trying to preserve a low-density historic district by one hand and encourage growth and high-density buildings on the same district by other hand.
7. **Preservation of historic neighborhood and district design fabric.** Although existing preservation guidelines make clear references to building and site design, there are not clear references to preservation of historic subdivision, pattern, texture, and fabric of neighborhoods and districts. This deficiency makes it easy to ignore these kinds of landmarks when a group of buildings are proposed for demolition. The assumption seems to be that once the buildings are gone, other landmarks are irrelevant.
8. **Economic Hardship:** This is the most effective item in zoning regulations for demolishing historic landmarks. Existing zoning regulations imply that if preservation of a historic landmark causes economic hardship for the owner, it can be demolished. The problem is that in most cases the City has initiated this process. In case of Central City historic district, first the City placed a higher land use or density on an otherwise low-density historic district. This generated a potential higher value for the property. Developers saw the opportunity. They bought properties with historic landmarks on them and applied for demolition of the buildings. If HLC did not accept their request, they took advantage of the Economic Review Panel to acquire economic hardship. This panel, which will be discussed later, normally will find economic hardship in every case they review. The definitions of economic hardship in zoning regulations are not well defined. Few flaws in this provision are as follows: a) A buyer can buy a property and immediately apply for economic hardship. b) It is not clear what rate of return for an investment causes economic hardship. Recently HLC with regard to the existing economic conditions and interest rates concluded that a 3 per cent rate of return is not economic hardship. LUAB overturned the decision of HLC. Lack of clarity in ordinances is the cause of this confusion.
9. **Economic Review Panel (ERP):** This three-person panel, at least in its existing form, is not a sound means for evaluating economic hardship. The representative of the applicant is either a paid panelist or has direct interest in the case. The other two members are volunteers. Based on the zoning regulations the panelists should be *"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."* I do not believe the volunteer representative of HLC in ERP can be a person of this caliber and can be changed for every case. No matter how knowledgeable a person is in the real estate and property renovation, formulating economic

hardship requires extensive experience of economically sound preservation projects and working with ERP and HLC. Usually, Preservation Staffs choose a representative and HLC accepts him or her without interviewing. HLC members normally see their representative for the first time when the final decision of ERP comes before HLC. In addition, HLC and its representative do not have sufficient guidelines or data for evaluation of renovation project's economics. Specially, information about existing economically sound renovation projects. The representative of a developer does his or her homework before sitting in the panel and is fully vested in the task ahead. How much can one expect from a voluntary panelist that does not have any financial interest in what he or she does, has no contact with the commission he or she represents, and does not have the opportunity to learn from one case and apply that knowledge to the next case?

10. **Land Use Appeal Board (LUAB):** This board acts as a decision-making body. In case after case, whenever HLC finds that a building should not be demolished, the applicant appeals the case to LUAB and that board simply overturns the decisions of HLC. Recently, some of the decisions of HLC have been overturned by LUAB. HLC decisions are not made in the presence of a legal council. Presently, none of the HLC members are legal experts. To overturn an HLC decision, a developer uses the expertise of a legal expert to scrutinize the minutes of an HLC denial, and then crafts an appeal for LUAB. A Planning Staff, based on the minutes of HLC meeting, writes a response to the appeal petition. LUAB is aware of this imbalance between written minutes of a meeting and an attorney written appeal. However, LUAB makes a final decision based on that. I believe this procedure is defective and has a few problems. a) If LUAB finds HLC's decision inconsistent, for the first time, it should mention the inconsistencies and return the case to HLC for a second review. Then HLC in a second public hearing should make its second review with the advice of a legal council. If there were a second appeal, then LUAB can make a final decision based on two documents that are balanced and measured. b) Up to now, LUAB did not used to provide minutes of the meeting in which a decision was made. When a member of HLC wanted to see how LUAB's decisions were crafted, the City Attorney would refer him or her to the recorded tape of the meeting. c) In a recent HLC meeting, members who were concerned about ways and means to improve their actions asked the City Attorney that if HLC disagrees with LUAB decisions what the course of action is? The City Attorney responded that HLC has to take a complaint to the District Court and the City Attorney will defend LUAB's decision and oppose HLC's complaint. HLC has neither the resources nor the expertise to appeal a case in the District Court. d) Up to this date, HLC has not shown any reaction when its decisions regarding preservation of historic landmarks were overturned. If the historic landmarks of the City are valuable assets and LUAB in practice authorizes their demolition, HLC has to express formally its discontent and inform the City Council and the Mayor.
11. **Economic Analysis and Viability of Renovated Historic Landmarks:** There are many successful cases of economically sound renovation and historic preservation in the city. For example, Pierpont Café, Bacci Restaurant, Salt Lake Hardware, Art Space. HLC should keep records of economic analysis of all successful preservation projects in the city. This information would be useful for HLC and ERP members when they review economic hardship applications.

I did not provide a footnote for every reference in this letter because most of the HLC members are familiar with them. This letter may be forwarded to the City Administration and may be used for preparation of a response to Mr. Jergensen's request. Please contact me should you have any comments or questions. Thank you very much.

Sincerely,

Oktai Parvaz

Attachment B: Excerpt of “The need for aged buildings”

From *The Death and Life of Great American Cities* by Jane Jacobs. Vintage Books, 1992, pp. 187-188

Cities need old buildings so badly it is probably impossible for vigorous streets and districts to grow without them. By old buildings I mean not museum-piece old buildings, not old buildings in an excellent and expensive state of rehabilitation—although these make fine ingredients—but also a good lot of plain, ordinary, low-value old buildings, including some rundown old buildings.

If a city area has only new buildings, the enterprises that can exist there are automatically limited to those that can support the high costs of new construction. These high costs of occupying new buildings may be levied in the form of rent, or they may be levied in the form of an owner's interest and amortization payments on the capital costs of the construction. However the costs are paid off, they have to be paid off. And for this reason, enterprises that support the cost of new construction must be capable of paying a relatively high overhead—high in comparison to that necessarily required by old buildings. To support such high overheads, the enterprises must be either (a) high profit or (b) well subsidized.

If you look about, you will see that only operations that are well established, high-turnover, standardized or heavily subsidized can afford, commonly, to carry the costs of new construction. Chain stores, chain restaurants and banks go into new construction. But neighborhood bars, foreign restaurants and pawn shops go into older buildings. Supermarkets and shoe stores often go into new buildings; good bookstores and antique dealers seldom do. Well-subsidized opera and art museums often go into new buildings. But the unformalized feeders of the arts—studios, galleries, stores for musical instruments and art supplies, backrooms where the low earning power of a seat and table can absorb uneconomic discussion—these go into old buildings. Perhaps more significant, hundreds of ordinary enterprises, necessary to the safety and public life of streets and neighborhoods, and appreciated for their convenience and personal quality, can make out successfully in old buildings, but are inexorably slain by the high overhead of new construction.

As for really new ideas of any kind—no matter how ultimately profitable or otherwise successful some of them might prove to be—there is no leeway for such chancy trial, error and experimentation in the high-overhead economy of new construction. Old ideas can sometimes use new buildings. New ideas must use old buildings.

Even the enterprises that can support new construction in cities need old construction in their immediate vicinity. Otherwise they are part of a total attraction and total environment that is economically too limited—and therefore functionally too limited to be lively, interesting and convenient. Flourishing diversity anywhere in a city means the mingling of high-yield, middling-yield, low-yield and no-yield enterprises.

Attachment C: List of HLC Merit Awards Program winners

2001 Merit Awards Winners

217 'B' Street	Avenues Historic District	Young House
1124 Third Avenue	Avenues Historic District	Middleton House
1128 Third Avenue	Avenues Historic District	Nielsen House
531 Fourth Avenue	Avenues Historic District	Hansen House
20 'O' Street	Avenues Historic District	Funk House
422 N. 300	West Capitol Hill Historic District	O.P. Skaggs Market
82 'E' Street	Avenues Historic District	E Street Gallery
831 S. Green Street	Central City Historic District	Gotberg-Anderson House
404 S. 800 East	Salt Lake City Landmark Site	LDS Tenth Ward Building



20 'O' Street, a 2001 HLC Merit Award winner, before its recent restoration. The building had lost much of its character due to 1960s remodeling.



The same house, after work was complete. The owners removed the inappropriate windows and doorway and installed new windows and doors in keeping with the building's historic appearance. The owners also built new full-width front porch, another original element that had been removed.

2000 Merit Awards Winners

1321 E. South Temple	South Temple Historic District
1136 Third Avenue	Avenues Historic District
986 First Avenue	Avenues Historic District
613 Third Avenue	Avenues Historic District
337 N. Main Street	Capitol Hill Historic District
253 'L' Street	Avenues Historic District
439 S. 1100 East	University Historic District
118 'T' Street	Avenues Historic District
235 S. 1200 East	University Historic District

1998 Merit Awards Winners

32 Exchange Place	Exchange Place Historic District	Jack & Edmund Simantov Jack Knowlton, Cooper/Roberts Architects
204 M St.	Avenues Historic District	Graham Stork
235 N. East Capitol Blvd.	Capitol Hill Historic District	M. Louis Ulrich & Magda Jakovcev
236 S. Main St.	Salt Lake City Landmark Site	U.S. Bank Corp. Halstead Construction
573 N. Wall St.	Capitol Hill Historic District	Loren Wissbrod
687 Third Ave.	Avenues Historic District	John Hoggan
700 N. 200 West	Capitol Hill Historic District	Wally Cooper
802 S. 600 East	Central City Historic District	Leslie & Sergei Trubetzky
1250 E. South Temple	South Temple Historic District	Donald & Sharon Leifer Rod Mortensen (architect), Kent Whipple (contractor)

1997 Merit Awards Winners

118 E ST	Avenues Historic District	Werner Weixler
139 R ST	Avenues Historic District	Phyllis Harries
157 B ST	Avenues Historic District	Eric & Jennifer Thompson Craig Paulsen
226 Fern Avenue	Capitol Hill Historic District	Mike Gaumnitz Pam Wells

267 Second Avenue	Avenues Historic District	Doug & Jan Bayly
324 South 1200 East	University Historic District	Alex Wilson
613 East 400 South	Central City Historic District	Thom Williamsen Russ Naylor
736 Third Avenue	Avenues Historic District	Sean & Daphne Hansen
986 Third Avenue	Avenues Historic District	Bill & Barbara Burt James Carroll Doug Rosenbaum
1166 First Avenue	Avenues Historic District	Betty Lou Burton
<i>1995 Merit Awards Winners</i>		
87 E Street	Avenues Historic District	Brek & Jenny Anderson
251-253 N. Center Street	Capitol Hill Historic District	David Geher Jill Jones
665 East 100 South	Central City Historic District	William L. Hunt Ron Molen, A.I.A. Babcock Design Group Keller Construction
219 S. Elizabeth Street	University Historic District	John & Jan Wood Robert D. Hermanson, AIA John Rice
527 N. Main Street	Capitol Hill Historic District	Doug Dansie Lane Neilsen
145 N. State Street • 151 North State Street • 157 North State Street	Capitol Hill Historic District	Zions Securities Corporation Kent Money, President Jim Walton, Construction Department Robert Money, Architectural Division
129 G Street	Avenues Historic District	David & Debra Scott Kimble Shaw P.C.

November 24, 2003

Mr. Louis Zunguze, Director
Salt Lake City Planning Division
City & County Building – Room 406
Salt Lake City, UT 84111

Dear Louis:

On behalf of the Redevelopment Agency of Salt Lake City, I am writing this letter to provide information regarding the Agency's experience in redeveloping properties within a historic district. This letter is to provide information related to the City Council's request for legislative intent regarding the Historic Landmark Commission (HLC) and historic districts in general.

In 1996, the Redevelopment Agency created the West Capitol Hill project area that is bounded by 200 West Street, 300 North Street, 400 West Street and 800 North Street. As you are aware, half of the Agency's project area lies within the Capitol Hill historic overlay district. Over the past six years, the Agency has purchased several properties within the historic district. It has been in carrying out the proposed redevelopment of these properties that the Agency has struggled with the restrictions of the historic district.

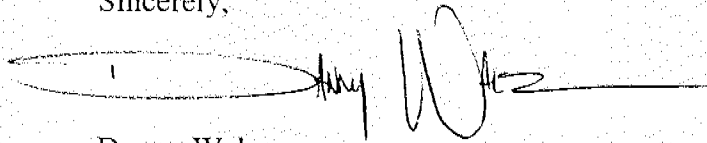
The primary issue with the requirements in the ordinance governing HLC considerations is that the standards used to approve demolition of an historic structure do not take into account the goals of the adopted master plan. HLC considerations are very site specific and do not look at how a particular property or its redevelopment could benefit the area as a whole. The Agency's goal to improve areas of the City by implementing the objectives of the master plan are not given any consideration when presented to HLC.

As an example, the Agency is currently attempting to redevelop a property into a commercial development as envisioned in the master plan. However, it has been difficult to move forward with the project due to the historic designation of the residential structures on the site. There is nothing in the standards that gives consideration to the fact that this is the only location within the neighborhood that allows the higher commercial density.

The secondary issue that hinders moving forward with a decision is the limitations of the appeal process. Currently, decisions can only be appealed to the Land Use Appeals Board if there is believed to be a procedural error or that the findings of the HLC are not supported by the facts. Given the fact that members of both groups are appointed, it would seem to make more sense to have either the City Council or the Mayor hear appeals. Otherwise you continue to have a committee that is not accountable to anyone and is free to make subjective decisions.

This letter is being written with the hope that these concerns will be included as part of the information provided to the City Council. While we understand and encourage the benefits historic districts can present, it has also been our experience that the requirements can actually serve as a deterrent to private development. I would be more than willing to discuss these issues further with you or your staff. If you have any questions or would like additional information, please don't hesitate to call me at 535-7254. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Danny Walz', with a long horizontal line extending to the right.

Danny Walz
Senior Project Manager

Cc: Dave Oka
Cindy Gust-Jenson
Eric Jergensen