



MEMORANDUM

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Economic Review Panel Members:
Lewis Francis
Claudia O'Grady
Merlin Taylor

From: Amy Thompson, Principal Planner
(801) 535 -7281 or amy.thompson@slcgov.com

Date: April 11, 2018

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

Request

Bruce Baird, representing property owner Don Armstrong, is requesting a determination of Economic Hardship to allow for the demolition of nine contributing structures at the above listed addresses. The properties are located in the Capitol Hill Historic District.

The Economic Hardship Panel will review and evaluate the evidence and information submitted by the applicant and staff, as well as any additional information submitted by the public regarding the requests and make findings of fact and conclusions based on the standards for Economic Hardship in the zoning ordinance which are included in [Attachment A](#) of this memo.

Background

On July 6, 2017, the Historic landmark Commission denied the demolition of all nine subject properties. The purpose of the demolition process is to evaluate the historic integrity of the buildings, negative effects from demolition on both the streetscape and the local district as a whole. It also takes into account if there were negligent acts which deteriorated the buildings. The Historic Landmark Commission found the demolition requests did not meet the threshold for approval and the applications were all denied.

After a Demolition application is denied, the City has an Economic Hardship process that allows the applicant the opportunity to demonstrate whether the denial deprives the applicant of all reasonable

economic use or return on the subject property (a regulatory taking). The Salt Lake City Planning Division received Economic Hardship applications for the nine Bishop Place properties (addresses and petition numbers referenced above.)

Section 21A.34.020.K identifies the Definition and Determination of Economic Hardship as:

“The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.”

Economic Review Panel Evaluation

The Economic Review Panel must make findings and conclusions applying the standards for Determination of Economic Hardship in the zoning ordinance ([Attachment A](#)). The applicant has the burden of proof to demonstrate to the Economic Review Panel that an economic hardship exists. The panel should evaluate whether or not there is an Economic Hardship for each building/petition separately.

Historic Landmark Commission Decision

The Economic Hardship Panel’s findings will be forwarded to the Historic Landmark Commission for their review and final determination on the next available agenda. If the Commission finds the applicant meets the standards for economic hardship, then the Commission must approve the demolition. If the commission finds the application does not meet the standards for economic hardship, the Commission must deny the application. The Commission’s decision must be consistent with the findings presented by the Economic Review Panel, unless the commission finds, by a ¾ vote of a quorum, that the Economic Review panel either acted arbitrarily or based its report on an erroneous finding of material fact. Appeals of the final decision of the Historic Landmark Commission relating to the application for Economic Hardship can be made to the Appeals Hearing Officer or the Mayor.

[Attachment A](#): Standards for Determination of Economic Hardship

[Attachment B](#): Planning Staff – Timeline of Planning Applications and Approvals

[Attachment C](#): Building Services – Timeline and Building Permit Information

ATTACHMENT A:

21A.34.020.K.2

Standards for Determination of Economic Hardship: The historic landmark commission shall apply the following standards and make findings concerning economic hardship:

- a. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;
- b. The current level of economic return on the property as considered in relation to the following:
 - (1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased,
 - (2) The annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years,
 - (3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years,
 - (4) Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Salt Lake County assessor,
 - (5) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property,
 - (6) The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed,
 - (7) Form of ownership or operation of the property, i.e., sole proprietorship, for profit corporation or not for profit corporation, limited partnership, joint venture, etc., and
 - (8) Any state or federal income tax returns on or relating to the property for the previous two (2) years;
- c. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
 - (1) Any real estate broker or firm engaged to sell or lease the property,
 - (2) Reasonableness of the price or rent sought by the applicant, and
 - (3) Any advertisements placed for the sale or rent of the property;
- d. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:

- (1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation,
 - (2) Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations,
 - (3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use, and
 - (4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;
- e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

ATTACHMENT B:

Planning Staff has provided a timeline below of applicable applications and decisions related to the subject properties.

October 2013 – Applicant awarded a building renovation loan through the RDA of \$1,677,727 (renovate historic buildings) with an increased contingency and a \$205,350 matching grant for infrastructure improvements as recommended by the Loan Committee with a Condition that the private street become a public street. [RDA Meetings Minutes](#) (page 7)

June 2014 – Planning Commission approved a Planned Development for street and setback modifications, and a preliminary subdivision that includes two buildable lots currently not occupied by any structures. The private street was made public. The Planning Commission also forwarded a favorable recommendation to the City Council for a zoning change related to 432 N. 300 West (see additional details under October 2014 below). The objective met to qualify for the Planned Development process was for renovation of historic structures within the Capitol Hill Local Historic District. [Staff Report](#)

September 2014 – Subdivision Plat approval for Bishop Place allowed for 11 existing lots to be increased to 13.

October 2014 – City Council approved a zoning change that would allow for an increase in density to the property located at 432 N 300 West to allow it to be converted from a single family dwelling to a two family dwelling.

2014/2015 – Historic Approvals (Certificates of Appropriateness) were issued for multiple application requests for exterior alterations and repairs to the subject properties. Approvals included repairs and replacement of roofing, windows, doors, porches, and exterior materials/siding, as well as new rear and side additions to several of the properties. Staff also met on site with John Maxim, who previously represented the property owner, to discuss potential options for New Construction on the vacant parcels within Bishop Place.

June 2015 – Planning Commission approved an extension to the Planned Development approval from 2014 to allow the applicant more time to draw up plans and submit building permits for the development.

June 2016 - Planning Commission approved a second extension to the Planned Development approval from 2014.

January 2017 – Applicant submitted demolition applications for the 9 subject properties.

June 2017 – Planning Commission approved a third extension to the Planned Development approval from 2014.

July 2017 – The Historic Landmark Commission denied demolition for all 9 Bishop Place Properties. The Commission's decision was based on the analysis and findings outlined in the Staff Reports, information presented and input received during the public hearing. Staff Reports for each property can be accessed by clicking on the address below.

April 20, 2017– [Meeting Minutes](#)

July 6, 2017 – [Meeting Minutes](#)

[Staff Reports](#)

[241 W Bishop Place](#)

[245 W Bishop Place](#)

[249 W Bishop Place](#)
[259 W Bishop Place](#)
[265 W Bishop Place](#)
[432 North 300 West](#)
[262 W Bishop Place](#)
[258 W Bishop Place](#)
[248 W Bishop Place](#)
[July 6, 2017 Supplemental Staff Memo](#)
[Demolition Application Information](#)

August 2017 – The applicant filed an appeal of the Historic Landmark Commission’s decision to deny nine demolition requests for the subject properties. [Appeal](#) (large file - 799 pages)

October 2017 – The appeals hearing officer issued a decision on the appeal. The decision was to uphold the decision made by the Historic Landmark Commission because the applicant failed to demonstrate that the properties met the standards for demolition as set forth in the zoning ordinance. [Decision Letter](#)

February 2018 – Complete Economic Hardship Applications for the 9 subject properties were submitted.

ATTACHMENT C:

Building Services has provided the information below related to building permit applications for the subject properties. Building Permit applications were submitted in 2012 and 2015. All building permits have expired due to inactivity and therefore no inspections were conducted. Stop work orders were issued for several of the properties for building without permits and interior demolition without permits. Information is organized by property address.

432 N 300 West –

Permit BLD2012-07158, dated 9/27/2012

Permit for interior non-structural exploratory demolition.

Status: No inspections conducted. Permit expired.

241 W. Bishop Place –

Permit BLD2012-07158, dated 9/27/2012

Permit for interior non-structural exploratory demolition. Use not verified, applicant communicated intent to resolve/develop as a single family dwelling.

Status: No inspections conducted. Permit expired.

Permit BLD2012-06581, dated 9/5/2012

Permit to remove vinyl siding only for exploratory work to determine next approval for replacement, carport to remain. Drawings on file.

Status: No inspections conducted. Permit expired.

Permit BLD2015-07110, dated 9/2/2015

Plans were submitted incomplete to proceed with a plan review. No progress has been made on this application for over a year. Plans are for a full remodel.

Status: No inspections conducted. Permit expired.

245 W. Bishop Place –

Permit BLD2015-07109, dated 9/2/2015

Plans were submitted incomplete to proceed with a plan review. No progress has been made on this application for over a year. Plans are for a full remodel.

Status: No inspections conducted. Permit expired.

248 W. Bishop Place –

Permit BLD2012-07168, dated 9/27/2012

Permit for interior non-structural exploratory demolition.

Status: No inspections conducted. Permit expired.

Permit BLD2015-07111, dated 9/2/2015

Plans were submitted incomplete to proceed with a plan review. No progress has been made on this application for over a year. Plans are for a full remodel.

Status: No inspections conducted. Permit expired.

249 W. Bishop Place –

Permit BLD2012-07114, dated 9/26/2012

Permit for interior non-structural exploratory demolition.

Status: No inspections conducted. Permit expired.

Permit BLD2015-07108, dated 9/2/2015

Plans were submitted incomplete to proceed with a plan review. No progress has been made on this application for over a year. Plans are for a full remodel.

Status: No inspections conducted. Permit expired.

258 W. Bishop Place –

Permit BLD2012-07167, dated 9/27/2012

Permit for interior non-structural exploratory demolition.
Status: No inspections conducted. Permit expired.

259 W. Bishop Place –

Permit BLD2012-06214, dated 8/22/2012

Permit to remove vinyl siding only for exploratory work to determine next approval for replacement, carport to remain. Drawings on file.
Status: No inspections conducted. Permit expired.

Permit BLD2015-07107, dated 9/2/2015

Plans were submitted incomplete to proceed with a plan review. No progress has been made on this application for over a year. Plans are for a full remodel.
Status: No inspections conducted. Permit expired.

262 W. Bishop Place –

Permit BLD2012-07175, dated 9/27/2012

Permit for interior non-structural exploratory demolition.
Status: No inspections conducted. Permit expired.

265 W. Bishop Place –

Permit BLD2012-07181, dated 9/27/2012

Permit for interior non-structural exploratory demolition. Demo work only in single family dwelling, property line situation not reviewed/verified (between units).
Status: No inspections conducted. Permit expired.

Permit BLD2015-07106, dated 9/2/2015

Plans were submitted incomplete to proceed with a plan review. No progress has been made on this application for over a year. Plans are for a full remodel.
Status: No inspections conducted. Permit expired.

267 W. Bishop Place (265/267 Duplex)–

Permit BLD2012-07180, dated 9/27/2012

Permit for interior non-structural exploratory demolition. Demo work only in single family dwelling, property line situation not reviewed/verified (between units).
Status: No inspections conducted. Permit expired.

Permit BLD2015-07105, dated 9/2/2015

Plans were submitted incomplete to proceed with a plan review. Plans are for a full remodel.
Status: No inspections conducted. Permit expired.