



Appeal of Historic Landmark Commission Decision

Planning Division
Community & Economic Development Department

To: Historic Landmark Commission

From: Robin Zeigler, Senior Planner

Date: September 3, 2008

Re: Land Use Appeal Board Petition 08-003, Appeal of Historic Landmark Commission decision regarding Petition 470-07-47 (PLNHLC2008-00283), Liberty Park Tennis Bubble

Background

On June 30, 2008 the Land Use Appeals Board reviewed an appeal application of the Historic Landmark's decision of February 20, 2008 to allow a tennis bubble at Liberty Park, a Landmark Site, located at approximately 1051 South Constitution West Drive.

The Land Use Appeals Board remanded the case back to the Historic Landmark Commission with a request to make specific findings regarding the evidence and its application of Section 21A.34.020 H. (See Attachment A, Record of Decision.)

In their discussion, members of the Land Use Appeals Board acknowledged that the Historic Landmark Commission had a difficult job in trying to apply the standards of subsection H to the tennis bubble, as required by court. They stated that where the Historic Landmark Commission was successful was with providing written findings, weighing the benefit of the public interest, discussing whether or not the design guidelines for residential districts were applicable to this project, and with applying subsection H in the staff report. However, the Land Use Appeals Board was concerned that the analysis of the Historic Landmark Commission was not complete. **They stated that they did not find that there was sufficient discussion by the Historic Landmark Commission members of the specific standards, which ones were applicable and which ones were not, how the project substantially met the**

applicable criteria, and which sections of the staff report they agreed with or did not.

Therefore the Land Use Appeals Board remanded the case back to the Historic Landmark Commission with direction to clarify their findings for each standard.

Options

The Historic Landmark Commission may:

1. clarify its earlier decision, providing evidence and findings of fact on each standard as to its applicability and how the project substantially meets the applicable standards; or
2. reverse its decision, providing information on how the project does not substantially meet the standards.

It is not necessary to open the project up to a public hearing, unless the Commission decides to do so.

Historic Landmark Decision, February 20, 2008

The Historic Landmark Commission spent more than two hours hearing evidence and considering the decision. Public comments were extensive. Six spoke against the project and forty-three spoke in favor of the tennis bubble. (Please see the Attachment C, ratified minutes, for a summary of comments.)

The Historic Landmark Commission visited the subject property prior to the scheduled meeting, reviewed plans, photographs, and written material and made a decision to approve the request. With only one dissenting vote, the commission moved **“that the Historic Landmark Commission accept the staff recommendation to approve the Certificate of Appropriateness with the condition that the height of the bubble be controlled so that it did not exceed the thirty-five foot maximum.”**

Regarding each of the four standards for New Construction, section 21A.34.020.H of the zoning ordinance, the Historic Landmark Commission based their decision on the findings of the staff report. (Please see Attachment B, pages seven through twelve, and the following reiteration.) According to the Ordinance, the Commission “shall determine whether the project substantially complies with all of the following standards that pertain to the application, is visually compatible with surrounding structures and streetscape as illustrated in any design standards adopted by the historic landmark commission and city council and is in the best interest of the city.”

Reiteration of Findings:

1. Scale And Form:

Finding: Staff reviewed the bubble as new construction within a Landmark Site. The Design Guidelines for new construction assume that

new construction is planned to take place within a traditional residential district with a traditional block face design. A park does not develop in the same way as residential or even commercial neighborhoods but instead evolve with a varying array of uses that require a wide variety of structures such as tents, pavilions and shelters, band shells, athletic fields and courts, public restrooms, playgrounds, swimming pools, etc. In the case of a park setting, matching the design of surrounding park features is not a reasonable action and would impede the applicant from keeping the Park accessible, active, and from providing the variety of uses currently enjoyed. A tennis bubble is not an unusual feature for a park and have been in existence since the 1960s.

A tennis bubble is the least intrusive manner of covering a tennis court because of the mode of installation and because of its temporary nature. The tennis bubble will not require the removal of any historic features. When the bubble is disassembled each spring, the park will remain identical to the pre-bubble state. No site work, in terms of berming, revision of trails, roads, or paths; landscaping; or topographic work is necessary for the installation of the bubble. The character of the park (estimated 110 acres) is transitory in terms of the nature of landscaping materials.

Although it is not reasonable to expect one park structure to be similar to other features it is reasonable to expect a park feature to be compatible in terms of scale with the overall historic site. In this case, the tennis bubble's 27,000 square feet within the 4.8 million square feet of the park renders the bubble subservient in size to the overall park.

The bubble is compatible with the size, scale and character of the site in that the spaciousness of the park can visually absorb the bubble. In general, the tennis bubble, invented in 1957, has been a typical seasonal park element for those parks that provide tennis courts, since the 1960s.

2. Composition Of Principal Facades:

Finding: As stated in Standard 1, the Design Guidelines are for residential districts and do not take into account the physical needs of different types of park structures. The types of openings and projections required by the Design Guidelines do not translate to park structures. For instance, windows would not be practical in a facility where tennis is played and an opening that might be appropriate for a public restroom would be significantly different in design and size from that of a window designed for a park office or event space.

Compatibility of new structures within historic settings is sometimes partially achieved by simply using historic materials in fresh ways. The tennis bubble is an example of an historic material, canvas, fashioned into an obviously modern structure. The color of the structure is appropriate since white is the most common color used for tennis bubbles, since its invention in 1957.

Staff also considered the temporary nature and use of the bubble in determining the appropriateness of its design. For instance, a permanent structure, with a bubble shaped roof, might not be appropriate in an historic park like Liberty Park and therefore could have an adverse effect on the historic environment. However, temporary structures designed to serve seasonal needs are common in park settings. A large tent, no matter its design, erected for a series of weekly summer concerts would likely be a compatible feature for a large active park; but a large and permanent structure for events, which permanently changes the environment and possibly even the use of the park, may or may not be designed to be compatible with the site and would need to be given more careful consideration in terms of design.

The proposed bubble meets this standard because of its modern design, use of a historic material, appropriate color and because it is an appropriate design for a temporary park structure.

3. Relationship To Street:

Finding: As stated in Standard 1, the Design Guidelines are for residential districts and do not take into account the physical needs of different types and settings of park structures. Park structures are usually not oriented to the street in the same manner as residential buildings, but instead are oriented based on use and the park's development. In this case, the bubble is placed within the interior of the park over four tennis courts, its only logical location. **The results of this interior orientation diminishes the impact of the bubble on the view shed of property owners surrounding the park.**

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

Finding: This standard is not relevant to this project.

Attachment A: Land Use Appeals Board Notice of Decision

Attachment B: February 20, 2008 Staff Report (attachments are not included as it would be a duplication of other attachments and materials already presented to the Historic Landmark Commission.)

Attachment C: February 20, 2008 Minutes

Attachment D: Land Use Appeal Board Staff Report (attachments are not included as it would be a duplication of other attachments and materials already presented to the Historic Landmark Commission.)

Attachment A: Land Use Appeals Board Notice of Decision

NOTICE OF DECISION

**SALT LAKE CITY
LAND USE APPEALS BOARD**

Date of Appeal Hearing: June 30, 2008

LUAB Case #: Petition 08-003: Liberty Park Tennis Bubble New Construction – A request appealing the Historic Landmark Commission (case #470-07-47) decision to approve the Salt Lake City Public Services Department's request to legalize the construction of the Liberty Park Tennis Bubble at approximately 1051 South Constitution West Drive. Liberty Park is a Landmark Site located in the OS Open Space District. (Staff – Robin Zeigler at 535-7758 or robin.zeigler@slcgov.com)

Appellant's Name: Melissa Barbanell

With a unanimous vote, the Historic Landmark Commission's decision has been:

Overturned

Upheld

XXXX

Remanded with direction that the Historic Landmark Commission make specific findings regarding the evidence and its application of Section 21A.34.020(H).

The Land Use Appeals Board decision is based on the following findings, as more fully detailed in the record:

- There is insufficient evidence in the record of the Historic Landmark Commission's identification and analysis of the application of the subsections of Section 21A.34.020(H) pertinent to the subject legalization; and
- Specific findings by the Historic Landmark Commission are necessary.


John Bogart, Land Use Appeals Board Acting Chair

07/03/2008
Date

Appeals Process: Any person aggrieved by any Land Use Appeals Board decision may appeal that decision to the District Court, provided the appeal is submitted to the District Court within thirty (30) days after the Land Use Appeals Board's decision.

Attachment B: February 20, 2008 Staff Report for Historic Landmark Commission (without attachments)

HISTORIC LANDMARK COMMISSION
STAFF REPORT

Petition 470-07-47, Liberty Park Tennis Bubble
Located at Approximately
1051 South Constitution West Drive
Liberty Park Historic Landmark Site
February 20, 2008



Planning and Zoning
Division
Department of Community
Development

Applicant: SLC Department of
Public Services, Engineering
Division, Steve England

Staff: Robin Zeigler, 535-7758,
robin.zeigler@slc.gov

Tax ID: 16-07-427-001-0000

Current Zone: OS, Open Space
District

Master Plan Designation: Salt
Lake City Open Space Plan

Council District: District 5;
Council Member Love

Acreage: 110, estimated

Current Use: Public Park

Applicable Land Use

Regulations:

- 21A.32.100
21A.34.020 (H)

Attachments:

- Photos of existing
building
- Site Plan and Building
Elevations
- Order of the Court
- Public Comments

REQUEST

The applicant requests the Historic Landmark Commission approve a major alteration to the Liberty Park Historic Landmark Site. The alteration is the seasonal installation of a tennis bubble over four tennis courts at approximately 1051 South Constitution West Drive, for six to seven months each year.

PUBLIC NOTICE

A notice was mailed to all property owners within 85 feet of the subject property on February 5, 2008 meeting the minimum 14 day notification requirement of the Ordinance. Community Council Chairs, Business Groups and others interested parties were also notified through the Planning Division's listserv.

STAFF RECOMMENDATION:

Staff recommends that the Historic Landmark Commission approve the Certificate of Appropriateness for a tennis bubble located at approximately 1051 South Constitution West Drive based on the discussion and findings of fact in the staff report with one condition:

1. The bubble should be erected to no more than 35' at its highest point, which according to Public Services is the height of the bubble currently. It is regulated by forced air.

The tennis bubble meets the criteria of 21A.32.100 and the requirements of 21A.34.020 (H) in terms of design and character.