

ASPEN HISTORIC PRESERVATION COMMISSION
MINUTES OF JULY 14, 2010

Chairperson, Michael Hoffman called the meeting to order at 5:00 p.m. Commissioners in attendance: Jason Lasser, Ann Mullins, Jay Maytin, Jamie McLeod and Sarah Broughton. Brian McNellis and Nora Berko were excused.

Staff present: Jim True, Special Counsel
 Amy Guthrie, Preservation Officer
 Sara Adams, Historic Preservation Planner
 Kathy Strickland, Chief Deputy Clerk

Michael Hoffman stated that he is resigning from the HPC. Michael served the HPC for 8 ½ years of service and the board will miss his expertise.

Jay disclosed that his company does business with Ute City, 308 E. Hopkins but he doesn't directly. Michael will recuse himself on the Given Institute as his firm is involved.

**The Given Institute - 100 E. Francis Street, Ordinance 48 negotiation
for Preservation of Potential Historic Resources – Public Hearing**

Dick Crogman, Dean of Colorado University School of Medicine –Anschutz campus.

Steve Zweck-Bronner – Office of Counsel for the University of Colorado

Amy explained that the City is entering in a memorandum of understanding with CU. The demolition will be put on hold until the question on the ballot is voted on in November. Possibly a coalition of community organizations can occur to purchase the property. All three of the designation criteria are met. This is a very important property that illustrates Aspen's post war history. The Colorado Historic Society has preliminary indicated that they think the property is eligible for the National Register of Historic places. We need to determine how to make this a successful preservation.

Jim said hopefully there will be a joint effort with other non-profits to purchase the property and utilize and preserve it. Council cannot step in unless it goes to a vote in November. The applicant is willing to delay and give us the opportunity to contract if the voters approve it. In order to agree

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with the delay the City Council has agreed to not rezone it and not to go forward with designation.

Jim said brainstorming is a good idea and HPC should reiterate its position that the property is worthy of designation. If the memorandum of understanding doesn't occur then Ordinance #48 discussion needs to happen. HPC should make a definitive statement of the value.

Sarah said at the last meeting we made a motion to ask staff to go forward with designation.

Jim said in November if the vote passes the purchase would be under the contract amount.

Steve Zweck-Bronner pointed out that the MOU addresses the fact that the University would agreed to open the Institute on three occasions. We also put in the price and if someone wants to give us \$40million dollars for it we don't sell to them, we sell to the city for 17 million. It is a locked in price.

Sarah said in the MOU not only the city can purchase it but non-profits that are part of the city could be involved.

Jim said the city has asked for that amendment and the MOU has to go to the regents of the university.

Steve Zweck-Bronner said that portion of the amendment needs to be approved.

Jim said CU is asking in the agreement that we will not take action to designate or rezone it and it is our request that we would have the right to purchase it. The goal is to allow the city to put together groups of people to and purchase the property. CU has made it very clear that they don't want the election to come along and if it fails then the city asks for another six months to find someone to come up with the money. That is not the deal. If it passes on Nov. 2nd and we can find a non-profit to participate so the tax obligation is less then that will be part of the agreement. If it fails Nov. 2nd and no one steps up for \$17million then they will go to the buyer and the building will be removed.

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Jason said for clarification if the vote fails we cannot pursue designation or rezoning for ten years. We have a very quick timeline for community buy in.

Jim said Council has made the agreement that says we will not institute designation proceedings if the ballot issue fails. If it passes and we buy it then council can designate the property.

Jason asked if the new owner wanted to pursue designation can they do it. Jim said absolutely, they can do whatever they want. The understanding is that CU would deliver the property without a building.

Jay asked if CU will be campaigning for or against the question.

Steve Zweck-Bronner said CU is not taking any position on the ballot question.

Dick Crogman said as a state entity we try not to campaign for anything under the fair campaign act.

Amy said the city can endorse the ballot issue but they cannot campaign.

Dick Crogman said the memorandum is a nice potential compromise from CU's perspective.

Ann asked Dick to explain to the board what the history is and why the property needs to be sold.

Dick said he came to Colorado as an intern in pediatrics in 1968. Was there three years and as a resident talked to people who wanted to develop the site. After joining the faculty in 1973 he came up to the Given for conferences. He's been coming here for more than 30 years. In 1990 he became the dean of the medical school. The Given is operated by the medical school and is under the medical school's budget. It was clear by the late 90's that the business model for the Given as a conference center. Originally in the 70's the Given was a laboratory and people were learning molecular biology. When OSHA decided there was no appropriate ventilation then the laboratory was shut down and turned into a conference center and it has been a conference center ever since. In the late 90's it was determined that the business model doesn't work. While it is a beautiful building it does not

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have the ability to be functional in the winter. The facility has no kitchen and no place for people to dine. All the meals are served out in the back yard which works from June to September. We can only make it work four months a year which has led to progressively larger deficits. The school of medicine has subsidized for 20 years \$200,000. Since the Tabor amendment and the cuts for state funding that began in 2001 we have lost 50% of our state appropriation in the school of medicine. We used to have 20 million from the state and we are down to 10.9 million and I am told we will drop 25 to 50% over the course of the next year or two. Given the fact that we have been looking at state budget cuts I have to focus our state resources and student's tuition on what our core mission is. Our core mission is not to run an operative facility in Aspen. It has been fabulous and terrific and I wish it could go on forever. We have had posters etc. in the lobby of the Given to see if people will contribute to the five million that it would take to expand it so it could be used year round and to make it ADA compliant. We don't have the resources to do it or the resources to maintain it. We have had a community advisory board at the Given for the last 15 years or more and I met with them every two months and we have tried to raise money. We have been very successful in raising funding for the public lectures. We have been totally unsuccessful in raising funds for the renovation. No one will contribute to a building that the state should be fixing up. The state's capital construction list would put the Given in the bottom thousand of the state priorities. When I met with people last year what everyone wanted was the public lectures. I met last year with a buyer and explained that we could not accept the appraised value and that the school is in such dire straits financially that I needed to not sell it for 11 million but substantially higher. I asked for double that 17 million but over the course of conversations we arrived at 17 millions. Selling the building and having the bulk of the money in an endowment could in fact substantially improve the financial situation of the school and help us with our core mission. An endowment would give us around \$500,000 a year and I wouldn't have to spend \$200,000 on a facility that I couldn't operate. Our mission is education and that is how we got to where we are.

Sarah said the commission talked about designation and it would be prudent to go through that discussion. The criteria for designation is in 26.415.030.b and we feel that this building falls within the three criteria and the integrity considerations are met.

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Ann asked why the university entered into the Ord. 48 process when you don't have too.

Steve said the university doesn't have to go through a number of city processes anywhere but we want to be good citizens.

Dick said when we went through the expansion process with Harry Teague we went to the Planning office not because we had to but because we wanted input from the city. State and city governments need to communicate to each other and try to collaborate as best they can.

Jason asked if there were other way to have an open house at the Given and possibly do some public lecture series. Dick said we have public lectures all the time and everyone is welcome. Dick said anyone who wants to see the Given just needs to call. Dick said with the public lectures we were able to raise \$75,000 to \$100,000 with 20 lectures given. Dick said he is prepared to continue the lectures but not at that building.

Jay asked if we became the owners of the building would you be willing to keep the lectures there. Dick said he didn't know that answer. If there are 200 people in a lecture they wouldn't fit there. It is the lectures and the content that is important; it's not the building and property that is important to them.

Sarah said hopefully there is a buyer in conjunction with the City of Aspen and that we could then pursue designation.

Exhibit I - Ann presented the designation criteria on why HPC feels this building is important. The property needs to be 30 years old and has integrity of location. Everything under the requirement is met.

2 a) An event, pattern or trend. The pattern has remained for 29 years.

2b) People associated with it such as Elizabeth Paepcke who sold the university the property and Irene and John Given who are philanthropists in the medical community. Harry Weese, 20th century architect is also associated with the institute.

2c) Physical design that embodies the distinctive characteristics. Amy explained how Harry Weese designed the building. This property needs to be saved among the Post War properties.

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Sarah said CU embellished all of Colorado and the history of that is important. The philanthropic community that we have here in Aspen allowed the building to be here today.

Jason said criteria 26.415.030 b 2a,2b,2c, are the primary criteria for designation.

Suzanna Reid, public

Suzanna expressed her excitement in the discussions on how to save the building. She appreciated the City and the University working together. It is a critical building to preserve. People don't appreciate the physical location and how valuable that is. I hope a group will take that on as a challenge to promote the preservation of the building and site for our community.

John Katzenberger, public - Director of Aspen Global Change Institute

We have maintained continuous programs at the Given since 1990 and the programs have been national and international in scope. We have had scientists come to study different aspects of the earth's system, Global change topics such as atmospheric chemistry and oceanography. These scientists are from all over the world and are supported by grants from federal agencies such as NASA and the National Science foundation. The Given has been our home for the workshops and there have been roughly 1,000 scientists over the last 20 years and we have public lectures. This is a fantastic educational facility and it is very important that we find ways to keep this educational facility. There is a short time line to convince the public for a purchase like this. National and International discussions occur at the facility.

Ziska Childs, public – Ziska said she owns property in Aspen and would be affected by the bond issue although she would not be able to vote on it because she lives in Garfield. I was here in the 70's when the Given was built and I have attended lectures there. The building is a lovely space that functions beautifully for its original intent. I started a face book group that has 135 members on it but for a small community most of the people are from Aspen. If the non-profits have a history of speakers who spoke at the Given that should be supplied and also if you have history as to what has been accomplished in this building during your tenure that would history would be very important for this town to have. It would also help in the campaign to save this building. As a long time resident of Aspen there are

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people who are not familiar with the Given so at the very least if we have a solid record of the history that has happened in that space it would be beneficial.

MOTION: Sarah made the motion that HPC finds that the Given Institute buildings and property meets all 3 criteria of the land use section 26, 415, 030 2.a,b,c and the property is worthy of history designation. HPC recommends that council proceed negotiations; motion second by Jason.

Jason asked if we should talk about the benefits.

Amy said in the resolution she will insert the entire findings from the staff memo and Jamie's findings so that they are stated as well as they can be expressed.

Ann asked that the score sheet be attached as an exhibit.

Amy said we will include, staff's findings, HPC finding's and attached the integrity scoring as an exhibit.

Vote: Motion carried 5-0.

**308 E. Hopkins Ave. – Ute City Restaurant - Minor Development –
Public Hearing**

Michael was seated.

Walt Harris, owner

Amy Guthrie said as part of the HPC review the canopy that is covering the area was approved to be used during the summer months to protect diner's when sitting out in that space from weather changes. There are no records about sides rolling down so this would be a new request. The sides are already installed but there would be an additional set running perpendicular. They are canvas with a see through window cut out in each one. As much as we want this business to be successful staff is recommending against the pull down sides because we feel it is not in the spirit of the outdoor space. This is entirely private property but it is deemed public amenity space which is a requirement of downtown properties to provide some sort of contribution to the street. There are a variety of ways that can be done and in this case the idea was outside dining. The property technically should have had almost

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twice as much space physically provided for this type of use on the site but a request was granted by HPC to waive half of it and not require cash in lieu.

We don't find that the roll down sides meet the guideline 6.60 of the Historic District Design Objectives and Guidelines. Part of the objection is the inferior quality of the canvas wall attached to the building that really doesn't contribute to the street in the way the building was intended to.

Walt Harris, owner

We only desire to do this temporarily. We have applied for a temporary use with the city that has a six month window of operation. The primary reason for having these is the weather which can change quite quickly and dramatically. When it rains we want to lower the curtains and when it stops we will roll them up unless the weather changes substantially. It is a livelier experience in the restaurant when they are rolled up. If it is a busy night and all the tables inside are full we are left with telling the customer to sit and get wet or we impinge the business and save ten tables inside in case it does rain to be able to move the people inside. It is the simple solution when the weather changes we lower them and when it clears up we raise them back up. It is not something that we are looking at for a year round use. We would be happy to follow the guidelines for outside dining which is May 15th to October 15th. The material is canvas because it is temporary.

Jay said if we approve this can we put use restrictions on it; only use them in the rain; do not use it for keeping people warm.

Amy said if the roll down sides are permitted they may go down every night. We need to accept if approved that they will go up and down as deemed necessary by the business owner and we can't have expectations on how to control that.

Jamie asked if the Fire Department has looked at this for egress. Walt said there is plenty of egress on the sides and we might not put them on anyway. The front will be covered and the sides going back will be covered.

Walt said the main concern is the front and there is a small corner that hasn't been installed that would be a similar type thing. It is for the protection from the rain. We can leave the sides open.

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Sarah asked about the color of the awning. Sara Adams said the awning can stay up and then when it needs to come down an approved color will go in its place.

Walt said he had no purview over the color. Charles Cunniffe architects presented the color. Walt said any darker color will cause more heat and be problematic.

Ann asked if the awning was removable. Walt said it is removable but there is not a set time but we could tie the awning to the outside seating. The awnings would be a temporary use during the summers.

Sarah said we need to be clear about the public amenity in the land use code.

Sunny Vann, planning consultant said he did the original approval and the reason why the open space was minimized was something HPC requested and has the ability to do. In 2006 they were required to pay cash in lieu for the difference. The temporary use provision in the code which council has purview on specifically provides for temporary uses within public amenity space. The two are not inconsistent. HPC may weigh in as to the purpose but council can approve the temporary use such as the awnings in the public amenity space. It specifically speaks to roll down plastic awnings. We are putting together a temporary use application for council.

Amy went over public amenity: It is required in most of the downtown commercial and lodging district. You have to provide 25% of the parcel size in the manner that meets the definition of public amenity or there are options to provide cash-in-lieu to do other valuable improvement to the downtown like contribute to the malls, benches etc. If you are going to provide on-site like this project has the idea is to create exciting pedestrian shopping and entertainment atmosphere. It doesn't mean you can bring your lunch to the restaurant and sit there, it just means that there has to be some contribution to the streetscape. There are physical qualities that the space has to have if it is on-site. It has to be open to view, open to the sky and not have a solid roof. The property has to be at grade with the street.

Sarah said we should discuss the aesthetics and how they relate back to our guidelines.

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Chairperson, Michael Hoffman opened the public hearing. There were no public comments. The public hearing portion of the agenda item was closed.

Jay commented that he works with restaurants all the time and the model in this town is almost impossible to work. Although I don't agree with putting it out before it was approved and our guidelines are clearly against this I can move away from that because the vitality and growth and infill structure in this town is not growing right now. It is our responsibility as a commission member to understand why the restaurant model could be improved by approving a very temporary use in this situation. I am usually very staunch on our guidelines but with the education that I have and dealing with businesses maybe the guidelines should be changed. I would support the application. When a thunderstorm comes at 6:30 at night there is a necessity for the sides because there is nowhere for his patrons to go.

Ann said the idea of the public amenity space is to add something back to the street and once you drop those plastic walls you cut that off and you turn your back to the public and it has lost its value to the streetscape. I am torn because if it rains and gets cold for the comfort of the patron you need to do it but I believe it deadens the streetscape once you drop the sides. The guidelines require 25% and there is only 11% and it was good to hear the explanation why it was reduced.

Jason said the guidelines talk about designing a space that maximumizes sunlight throughout the year and there is a lot of discussion about creating a street edge. Council should make the decision and I feel the guidelines should be adhered too. Having a temporary structure is questionable. The historic component is the historic building next door and we pushed to have the open space carved out so they could respond to their open space.

Jamie said the awnings are not taking away from the building because it is a temporary use. I would ask that the front be installed and not the sides. For the record they should be up when you are not in service even in the morning. The monitor will handle the color but I would be careful so that it doesn't blend too much so people won't walk into them because they don't see them. I am not concern about the historic context because this is a temporary canopy.

Sarah said the public amenity part of our code is troubling for our board. In the historic context this building is the largest building on the block besides

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the Wells Fargo building. I wish the awning was up all year long to make use of that space. If we go by the code this is not an allowable use. If we look at the streetscape and historical context it doesn't take away because it is temporary. I am torn on this decision.

Ann said this is a difficult decision because we don't want to make your business any harder. On the other side I think the awning just kills the streetscape. I can back this up with the guidelines.

Amy explained the process: HPC has an independent decision and council is looking at a temporary use. IF HPC denies this we have suggested to the applicant that they either cannot proceed to council because HPC is required or if they proceed they would actually have to ask council to appeal and overturn HPC's decision and grant the temporary use.

Jim said you need to keep separate the two issues of the historic aspect of it which is in your purview vs. the public amenity aspect and the temporary use aspect.

Jay said this is very temporary, a storm comes through they awning goes down and the storm is out and they go up. Had not the awnings been there then nobody uses the space. The vitality and interaction on the street is gone. It makes the amenity space more usable. In the winter there is no roof and no sides.

Michael said he totally agrees with Jason and staff that the side walls do a lot of violence to the streetscape and they are not consistent with the historic context of the central core but I have also heard the applicant make a number of promises all of which are acceptable to me as conditions of approval. I would suggest that we grant approval and make the conditions that it is only used from protection of rain and cannot be used for warmth and that the awning be kept up except under those conditions. If someone comes in with a photograph at 11:00 a.m. in the morning with the sidewalls down then the permit is revoked.

Sunny clarified that the application for council is for inclement weather which is defined as high wind, rain and snow.

Michael said he is willing to define it as inclement weather,

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MOTION: Michael moved to approve the front awning for 308 E. Hopkins with the following conditions:

The awning is only used for protection from inclement weather.

The awning be kept up except under those conditions.

The awning can be up from May 15th through October 15th yearly.

Review the application after the summer of 2011.

The request is for the front of the restaurant only, the south facade.

Walt Harris explained that no one will be sitting in inclement weather.

Jay mentioned that this application is not the same as Pacifica. Sarah said it is enclosing space that should be outdoor space.

Michael pointed that there is no precedent value.

Amy asked the applicant if they have to go to council every year for the temporary use. Sunny Vann explained that council can grant a temporary use up to ten years.

Amy suggested that it should be revisited in five years. Sarah suggested a review after a year.

MOTION second by Jay.

Jim suggested deleting inclement weather and adding high wind, rain and snow.

Amended motion: Michael amended the motion to delete inclement weather and add high wind, rain and snow.

Vote: Jason, Ann, Sarah, no. Jay, Michael Jamie, yes. Motion denied 2-2 tie.

Sarah asked for the motion to be re-read.

MOTION: Michael moved to approve the front awning for 308 E. Hopkins with the following conditions:

The awning is only used for protection from high wind, rain and snow.

The awning to be kept up except under those conditions.

The awning can be up from May 15th through October 15th yearly.

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Review the application after Oct. 15th, 2011.

The request is for the front of the restaurant only, the south facade.

There is no precedent set.

Jay pointed out that this application was publically noticed and no one from the public came. There are a lot of businesses etc. that were public noticed and no one came.

Michael added to the new motion that the awning can only be dropped during business hours or at times when patrons are seated.

New motion second by Jay.

MOTION carried 4-2.

Yes vote: Michael, Jay, Jamie, Sarah

No vote: Ann, Jason

MOTION: Michael moved to adjourn; second by Jay. All in favor, motion carried.

Meeting adjourned at 7:30 p.m.



Kathleen J. Strickland, Chief Deputy Clerk