

City Planning & Zoning Meeting – Minutes – December 14, 2010

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Stan Gibbs called the special P&Z meeting Tuesday, December 14, 2010 to order at 4:35pm in the Council Chambers Meeting Room. Jasmine Tygre and Bert Myrin were excused. Commissioners present were Mike Wampler, Cliff Weiss, Jim DeFrancia, LJ Erspamer and Stan Gibbs. Staff in attendance were Jim True, Special Counsel; Jennifer Phelan, Deputy Community Development Director; Jackie Lothian, Deputy City Clerk.

Comments

Jennifer Phelan said that Jessica Garrow asked for comments on the draft of the Aspen Area Community Plan. Phelan stated for all of the hard work and extra meetings on the Aspen Area Community Plan staff wanted to provide a one day ARC pass or 2 tickets of your choice to the upcoming film fest; please get back to Jessica if you are interested in either of those items.

Emzy Vezy III, public, asked P&Z to help him brain-storm on an event for August of next year and was trying to think of possible sites that won't conflict in any way to pull off this carousal. Stan Gibbs said that it might be a good idea to run that by Council as well.

Minutes

MOTION: Jim DeFrancia moved to approve the November 16th minutes, seconded by Mike Wampler. All in favor, APPROVED.

Conflicts of Interest

None stated.

PUBLIC HEARING:

500 W Hopkins (Boomerang) PUD Amendment

Stan Gibbs opened the continued public hearing for 500 W Hopkins, the Boomerang PUD Amendment continued from November 2nd.

Jennifer Phelan stated that she is the deputy planning director for the City of Aspen. Phelan provided an overview of how the public hearing process works; the typical public hearing starts with the staff presentation of the application and follows with a presentation by the applicant and the applicant's representative. Phelan said at that time the planning & zoning commission members can ask questions of either the applicant or staff. The chair will open up the hearing for public comment; then the commission will discuss and debate the application and finally make a decision on the item. Phelan said the review process in general was a two step review process, first heard before the Planning and Zoning Commission

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for a number of recommendations and approvals required and then be heard by City Council, which will be the second step. Phelan stated there will be additional public notice and public hearings before City Council as they are the final decision makers on a number of land use requests.

Jennifer Phelan said there were a couple of clean up issues for the record re-number some of the exhibits in the packet; the first hearing we had an exhibit entered at the hearing as Exhibit N is really going to be Exhibit O (letters from the public); Exhibit O in the packet will be Exhibit P (transportation demand management plan); Exhibit R will now be Q (APCHA housing referral); Exhibit Q will be Exhibit R (the amended site plan) and will be entering additional comments from the public that were received after the packet went out as Exhibit S.

Phelan said that Lynn Rumbaugh from our Transportation Department was here so if the commission has specific questions for her it would be great to ask her earlier in the hearing rather than later.

Phelan said this was a continued public hearing and the requests before the planning & zoning commission was to amend the PUD approval that is associated with the Boomerang Lodge entitlements as well as additional land use reviews to redevelop the site with affordable housing. Phelan said the specific reviews before the commission are and amendment of the Planned Unit Development basically to amend the standards associated with the project including the parking; it's an amendment of the zone district map to rezone the property from R-6 LP PUD, which is medium density residential lodge preservation with a PUD overlay to Residential Multifamily PUD for the residential multi use of the property. Subdivision review for the multiple dwelling units and these 3 are recommendations the Planning & Zoning Commission makes to the final decision maker City Council.

Phelan said that the Planning & Zoning Commission had final decision making on Growth Management Review for Affordable Housing; that the Affordable Housing Units meet the standards in the land use code. Growth Management Review for a change in use from a lodge that had a free market component and affordable housing component to completely multifamily residential in nature. Also a credit for a certificate for affordable housing; when a developer creates affordable housing that's not associated with mitigation therefore voluntary affordable housing they can receive credits for the employees housed and that is what the applicant is looking for with this application. Phelan said at the last public hearing the request was to use the approved shell of the building associated with the

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Boomerang Lodge, which included in that shell 47 lodge units, 5 free market units and 2 affordable housing units and they wanted to re-develop the shell to 54 multifamily residential units that would be deed restricted as affordable housing. Phelan said that during the last public hearing P&Z recommended that the applicant reduce the mass and scale of the project and conform better with the multifamily residential zone district.

Phelan said the amended proposal before the commission now shows the removal of the 4th floor, that was approved for the lodge use and so there is a reduction in the height of the project to 32 feet; there was a reduction in floor area of approximately 4500 square feet and a reduction in the number of dwelling units going down to 46 units rather than the 54 that was originally proposed. Illustrative elevations and layouts have been provided, which meet or exceed APCHA's standards for unit size also individual storage lockers are provided for every proposed unit in this current iteration in the basement of the project. The applicant is proposing 33 sub-grade parking spaces and 14 off site but on grade parking spaces along 4th Street and 1 in the alley and these are via an existing encroachment license that the applicant has for the sole use of those parking spaces. With the use of the encroachment license the parking meets the one to one ratio that's required. Phelan said overall there is a reduction in the mass and scale of the project, the height of the project now conforms better with the required parking standards, a reduction in the density of the property and staff recommends approval of the rezoning of the property to residential multifamily, the map amendment, recommendation of approval for the PUD Amendment to establish the dimensional standards for the project. The project is now a height of 32 feet, floor area of 1.5 to 1, total parking of 33 parking spaces in the underground parking garage and with the encroachment license allowing 14 at grad parking spaces within the right-of-way.

Phelan included a table of surrounding buildings heights including the Christiana with a max at the gable of 34 feet, so this would be shorter than a project directly across the alley from it. Little Ajax was approved for 34 feet and is an affordable housing multifamily development across the street. As proposed staff recommended the reduction in mass and all of these features to create a building that is compatible with the existing land uses in the surrounding area. Staff also supports the proposed parking because the development is close to the commercial core, near a car to go station, trails and pedestrian corridor, so driving doesn't have to be one's primary mode of transportation. Staff recommends approval of the Growth Management Reviews for the Affordable Housing Credit and

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recommendation for approval of the PUD Amendments, Subdivision and Rezoning.

Phelan said she would like to strike Section 3 of the Resolution.

LJ Erspamer asked if there were any parking spots designated for the car to go program. Lynn Rumbaugh replied not at that location; the applicant offered but Transportation did not have an extra car right now and there was a car about 5 blocks away. Rumbaugh said the applicant offered a car to go but the Transportation Department does not have the backing to maintain any more cars because the most expensive part is the maintenance, insurance and gas. Erspamer asked what triggers the need for a traffic study. Rumbaugh responded that he would have to ask the Engineering Department that question.

Erspamer asked about the 20% reduction in size and there was criteria for the program with APCHA. Jennifer Phelan said that 25 units were below and 20 units were at or above the required minimum for APCHA. Phelan said APCHA has a standard in their guidelines that says the overall minimum square footage required for a unit maybe reduced up to 20% if the applicant shows a number of considerations that are met; livability of the unit; close to transit. Erspamer replied that he read the 6 and was aware of that.

Erspamer asked if the mechanical was still the 7 feet on the roof. Phelan replied that Community Development goes with what the land use code allows and would be finalized in the PUD process. Charles Cunniffe, architect, said there was no mechanical on the roof.

Stan Gibbs asked the 2006 approved height. Phelan replied that the height was 37'6" for the lodge.

Michael Hoffman, attorney for the applicant, introduced Charles Cunniffe the project architect and Steve Stunda the representative for the applicant, FSP –ABR LLC. Steve Stunda stated it's clear from the last meeting Planning & Zoning with the neighbors wanted the height and mass to conform with the Residential Multifamily Zone District. Stunda said in addition the commission members were concerned about the livability of the units and reduced the height. Stunda said there is one parking space for every unit including a handicap space.

Charles Cunniffe, architect, stated they removed a story and reduced the units from 54 to 46.

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Public Comments:

1. John Provine said he has developed in this neighborhood but this project was too big.
2. Rusty Scott lived down the block from this project and said it was too big for the neighborhood.
3. Daniel Verner said that when there were events at the Jewish Community Center parking would very much be impacted.
4. Andrew Smith said that he lives in the Christiana and they have 28 units.
5. Esten Nadosis said that he lived 505 W Hopkins and it was a beautiful place but there was no parking.
6. John Olson encouraged comments; it has been recommended for approval by staff and the lodge is gone and these employee units were being done voluntarily.
7. Angela Young and she and her husband live at 413 West Hopkins and she had provided a letter; a great part of the year this is a pedestrian parkway and there is an oversaturation of parking and voiced concern for safety with the cars and pedestrians.
8. Donna Guerra said that she is usually on the side of the developer but owns 2 properties in this neighborhood and talked about the alley and the trash wasn't shown and the entrance from the parking garage into the alley wasn't shown. Guerra said it was one massive building that wasn't broken up and she also lives in Dallas and this will look like Dallas.
9. Cheryl Goldenberg said she lives at 430 West Hopkins and there is so much housing already and from the AACP meetings that she and her husband attended this is not modest in scale and harmonious; this was not modest in scale and doesn't fit into the neighborhood.
10. Steve Goldenberg utilized his map and disagreed with the staff conclusion that it fits in the neighborhood and is compatible. Goldenberg said there were 6 different buildings in the neighborhood that were broken up and that's the way it ought to be done. Goldenberg said by giving them the zoning change we are giving them a lot which is a big plus for the PUD and you are giving affordable housing subsidy with the affordable housing credits and the zoning; they should get one or the other but not both. Goldenberg said what will work here was a broken up building with 28 units and would eliminate the parking problem.
11. Jody Edwards, attorney for Cheryl and Steve Goldenberg; Cheryl, Steve and Dan have already spoken and John Statin who is not here. Edwards distributed a revocable encroachment license and he said his main point had to do with parking; what this has to do with is special review for a parking waiver with 3 criteria. Edwards said that the off street parking does not

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satisfy the code and there was nothing to prevent the applicant from putting the parking on site. Edwards said this was a city block and parking was a problem in this neighborhood and also the size, the mass and the impacts. Edwards said that this was a temporary license subject to be terminated at any time.

12. Paul Taddune, attorney, said we should listen to the people that live in the neighborhood and are impacted by a project such as this and there were competing interests the stability of the neighborhood; lodge preservation, historic preservation, scale and mass and also the notion of employee housing. Taddune asked the applicant to look at the Little Ajax buildings and Christina to reduce the scale and mass.
13. John Batey stated he was a local attorney and endorsed the comments of the 2 attorney before him; he said from the last meeting the applicant was to come back and demonstrate that the project was compatible with the neighborhood.
14. Doug Allen said that he was also an attorney but was not representing anyone other than himself. Allen said Little Ajax was a wonderful neighborhood for the project and fits in perfectly but they have a parking problem. Allen said this neighborhood has a parking problem and the building mass and scale should be broken up.
15. Tammie Stewart said that she lived at 400 West Hopkins in a 5 unit building and there were 2 parking spaces for every unit. Stewart said parking is a problem and this project would put on pressure that was already there.
16. Ron Erickson said that he was in favor of the project and a member of the Housing Board and reviewed this application and found it had merit on the following basis. (1) a large number of small units that are critically needed; (2) in town location and (3) they are producing 46 units at no subsidy to the city. Erickson said that it was amazing that the neighbors fought Little Ajax (where Ron lives) for 7 years and the city stepped into help the project to be built.
17. Martin Mata said he is an architect working here for many years and attended the meeting as a curious on looker. Mata said that the packet in front of you is skimpy for the magnitude with asking for a change in use and rezoning; any new development needs to fit into the neighborhood; the context and historical development patterns. Mata submitted another photo of a building broken up.
18. Tom McCabe said he was the director of the housing authority and they look at criteria and an important one is livability and said that Mr. Stunda has done a very good job making the representations and that was why many of the minimum square footages have been attained. McCabe said housing

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was very much in favor of the balconies and that balconies can be misused but your HOA Covenants can control that. McCabe said the underground storage was also a huge amenity.

Stan Gibbs closed the public comment portion of the public hearing.

Jennifer Phelan provided Exhibit S with additional letters from the public received after the deadline for the packet; Exhibit T photos; Exhibit U Jody Edwards encroachment license; Exhibit V Mata sketch.

Phelan clarified that the Christina Lodge was approved with 10 off street parking spaces. Phelan emphasized that they were using the 2000 AACP. Phelan said that a PUD allows for the establishment of parking requirements and after conferring with the City Attorneys today; they noticed for both amendments of the PUD and Special Review for parking they would utilize the PUD for off-street parking. Phelan said that Council will decide this issue; P&Z will still be making a recommendation to City Council. Phelan recommended striking Section 3 of the Resolution and renumber subsequent sections of the resolution. Phelan discussed with Rumbaugh the availability capacity in the neighborhood was based on occupancy counts; actual parking counts that the Parking Department has done in the neighborhood and they pulled that from files associated with the Jewish Community Center.

Stan Gibbs asked how long did the 2006 approval last with the vested rights. Steve Stunda replied the extension was good until October 2012.

Stunda utilized Steve Goldenberg map and when he bought the property from Charlie Paterson he agreed to keep the trees along Hopkins so if you walked down the sidewalk it would mitigate the size of the building and dedicate the east wing in perpetuity as a reminder of old Aspen. Stunda said that he will be self supportive in respects to parking. Stunda said the footprint of the building has not deviated; it was this big when Charlie had it; the spaces on Fourth Street have always been dedicated to the lodge and its use.

Michael Hoffman stated he saw this application as good competing for the community; the existing approval is an example of how valuable a lodge project was in 2006 reflected by the 2006 approval. Hoffman reiterated the height has been reduced substantially; they have removed an entire floor; the mass and scale has been reduced to 41,000 gross square feet. Hoffman said they have actually increased the parking.

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Charles Cunniffiee said that parking was the issue here and they have reduced the size of the building and increased the number of parking spaces. Cunniffiee said there would be more auto trips if it were a lodge because as affordable housing people will go to work and come home. Cunniffiee said this has been a rehashing of the previous meeting; the smaller units with new technology have smaller hot water heaters and they will sit in a soffit above the bathroom and hallway so it doesn't take valuable floor space away.

Jim DeFrancia said the comments about mass and scale do seem to be displaced because the point of comparison is to what is proposed to what is now approved. DeFrancia said that everything that he has heard what has been approved prior is greater in height, square foot and mass. DeFrancia said that parking was the other issue that was raised quite frequently and he is sympatric with that but the issue of parking is a broader issue; if there is parking congestion already so it is a municipal problem to be solved or a bigger problem to be solved and with the approval of a lodge with less parking and the Jewish Community Center he said that he didn't understand why the parking for this project was to bear the brunt of solving all the parking problems. DeFrancia said there was 1 space per unit; the units were relatively small and if we are going to get ourselves into a less auto incentive society then we should quit accommodating the cars.

Cliff Weiss said that every project had to be a good neighbor; he realized that the code says 1 parking space per unit but what happens to all of the guests of these employees, where do they park. Weiss said he agreed with the neighbors about breaking up the building; can it be less impactful. Weiss said that technically he agreed with Jim there is an application approved before this one that is even larger than this. Weiss voiced concern for the pedestrian way that he uses 4 times a day except in the winter; he did not want to see that a corridor for cars. Weiss said if this project is going to be a good neighbor it needs more than the minimum amount of parking and he said that they were moving in the right direction and he realized underground parking is expensive. Weiss said that he was not ready with this as is; he felt there were more tweaks that need to be made to make it compatible with that neighborhood. Weiss said it was one thing to put a lodge there and expect it to be compatible, this is housing. Weiss stated in order to be compatible break it up.

Michael Wampler said that they do want housing within the City limits; he said that parking is the way it is. Wampler said people are still waiting for ownership units; studios, 1 and 2 bedrooms are in dire need in this town. Wampler said that if this were a lodge to be built he thought it was too far from the town and tourists don't walk which means you would constantly having some kind of van use.

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Wampler said people who do live in affordable housing do ride their bikes and they will take care of their units and they use other than cars to go up and down Hopkins. Wampler said that he was going to go with Cliff on this that the building could stand some improvement; it needs to at least look like it can be broken up. Wampler said that he would like to see that in a motion to work on the building. Wampler reminded everyone in the room that this wasn't the end of this project it was still going to City Council.

LJ Erspamer voiced concerns for parking and asked if P&Z disregards the parking. Phelan replied that a PUD has standards for parking and what she was saying after discussing Special Review for the parking was to incorporate it into the dimensional standards of the PUD on page 29 & 30. Phelan said if the project gets entitled as Multifamily residential it will be developed by the applicant who cannot get any affordable credits until the Cos are issued and those units will be for sale units. Erspamer asked if we hold free-market to a higher standard than employee housing; in other words we should be a little more generous of this because it is employee housing. Phelan answered they are reviewed under the same standards that another project would be reviewed under. Erspamer asked how they judge compatibility with this project. Erspamer said that he liked the project, it wasn't bad, but the parking issue was big for him and where do the visitors park; those are the issues that hold him up right now. Erspamer said breaking up might help a little and addressing these parking issues were needed for him.

Stan Gibbs tended to agree with Cliff on the impacts of a lodge compared to housing; he felt the impacts on the neighborhood would be greater with a lodge. Gibbs said that employee housing were residents and likely to take advantage of all the public transit that is available; one of the problems with guests is that they don't know that system. Gibbs said they have to differentiate between the lodge project that is already approved; we would have all rather that this application had been brand new and come to P&Z in a normal fashion without the baggage of the previous approval that we have to work into the equation. Gibbs said the encroachment was not the issue because it also exists for the lodge. Gibbs said the source of these affordable housing credits could have a huge impact on the size and scale of other projects in the city. Gibbs said this felt like a conceptual approval, at least in the last meeting we had and I still feel like the building is larger than it should be for this area but I know that the old building as you said big and the new lodge building is bigger in terms of total mass so again I have a problem with where to go with that piece of information. Gibbs said the density seems large to him and the zoning was R-6 underneath and we are taking R-6 to RMF; is that compatible with the neighborhood because that increases density; he was

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struggling with that. Phelan said that there were non-conforming uses in the neighborhood at this point; there were a number of multifamily projects that were non-conforming because of the rezoning. Gibbs said he appreciated that the 4th floor was gone but he wished they could go around again; the mass of the building still troubles him but he is not unwilling given to what P&Z has said and the record in place let Council make this decision but recommend they think about it hard. Gibbs said he would have liked to have seen more changes in the building between what we saw last time even though you have made huge progress it doesn't feel like quite enough.

Weiss asked in the 2006 Boomerang were the condos for sale or hotel rooms. Phelan replied the form of ownership was 47 condo and lodge units, 5 free-market residential multifamily units and 2 affordable housing units. Phelan said that a person with a fractional time share unit has a 30 day limit that they can stay in their unit; if they are living there permanently, it is illegal, if they exceed the amount of time the hotel is not operating under its obligations in the city and under its approvals. Weiss said the shorter the term the more impact it will have; if people would stay more than a week and had kitchens they have to shop and take their car and things of that nature. Stunda responded that they all had kitchens, they were all for sale and about 50% presold when the meltdown occurred; the least desirable category for financing was condominium lodge, no lender wants to touch that because of the use restriction 30, 90 days maximum it was going to be run as a lodge. DeFrancia said procedurally we are recommending to the City Council.

MOTION: Cliff Weiss moved to extend the meeting until 7:30 seconded by LJ Erspamer. All in favor, Approved.

DeFrancia said P&Z was approving the Affordable Housing credits. Phelan replied for the Affordable Housing units they need the APCHA Standards and for the change in use from Lodge to Multifamily Residential; the others are recommendations they are only useful until they get their approval from City Council.

Erspamer asked if they were going to break these up into each individual vote or are you going to make a motion to the whole.

MOTION: Jim DeFrancia moved approval of Resolution #22, series 2010 approving certain growth management reviews, special review, the establishment of Affordable Housing credits and recommending approval of PUD Amendment, Subdivision and a Map Amendment with conditions delineated by staff and with an

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additional condition that the applicant review and present to City Council alternative on architectural reduction of the mass. Seconded by Michael Wampler.


Discussion prior to the vote: Phelan said if you are going that way she had some recommendations on how that could be inserted into the resolution. Phelan said that she recommended deleting Section 3, which was Special Review for Parking, which can be included in the PUD and create a new Section 1 which would have Jim's condition and renumber the existing Section 1 in the draft to Section 2 and existing Section 2 to 3 and the rest of the motion would stay as described. Phelan said the breaking up of the mass of the building to architectural modifications. Weiss said that he still had issues with the parking because it is a PUD and wanted Council to know that he felt the parking was somewhat inadequate; so it either has to be less units with the same amount of parking or more parking to handle that many units. Weiss said the neighborhood will be impacted by this project as it is; he didn't like changing a lodge to employee housing but he felt that it was the minimum in parking. DeFrancia said it meets code. Weiss said that he would like it to say that parking is inadequate within the application and needs to be increased and it is not necessarily a recommendation. DeFrancia suggested that all of the parking meets code but we recommend additional parking. Phelan said these will be put into Section 1.

Jim DeFrancia amended his motion as described above; Michael Wampler seconded. Roll call: Weiss, yes; Erspamer, no because of page 25 of the AACP and inadequate study by the City (he was not against this project); Wampler, yes; DeFrancia, yes; Gibbs, yes given the additions and the concern about massing is real, if this application went forward as it is today, he would recommend that Council not pass it but given that is known to Council. APPROVED 4-1.

LJ Erspamer was disappointed in the City's handling of parking and it was totally inadequate and this was a very ambiguous part of the code.

Erspamer suggested the City P&Z address the Area Community Plan.

Adjourned at 7:25 pm.



Jackie Lothian, Deputy City Clerk