

ASPEN HISTORIC PRESERVATION COMMISSION
MINUTES OF NOVEMBER 11, 2009

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

Staff present: Jim True, Special Counsel
 Amy Guthrie, Preservation Officer
 Sara Adams, Historic Preservation Planner

*MOTION: Ann made the motion to approve the minutes of October 28,
2009, second by Jason. All in favor, motion carried.*
Brian and Jay abstained.

Public Comments:

Toni Kronberg; I'm concerned how certain things are being approved by the
City. A building permit was issued for a driveway in one of the gardens of
Adam Walton's designated house without a public hearing. This is not right.
I cannot understand a designated landmark property was allowed to build a
driveway and was exempted from landmark review. The man spent 50 years
building this property. This is why people are so upset with preservation;
another example is the Paepcke property. They also want to take trees out of
Adam's property. I am livid. The fence is gone and part of a tree is gone.
We are not preserving in this community.

Ann asked staff for clarification; can we say no they can't have the parking
spaces or they can only have one or is it a given when requested that they get
the parking spaces somewhere onsite.

Amy said we require two spaces on-site and they aren't accomplishing that.

Sara said they only want one space and it isn't a driveway, it is a space so
that they can park on their property.

Amy said the property is located downtown and has no parking that they
have ownership over.

Michael asked if a site plan was submitted and could HPC review it at the
next meeting.

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Jason asked if the building was affected. I am not clear about the standard procedure for an administrative review. I understand the city's position because it is in their best interest to get the on street parking off the street. Maybe we should get a list as to what is covered by administrative review.

Michael said Toni has brought up a complaint and we are asking staff to fill us in as to the basis of the complaint and we will look at the site plan and get a better understanding what was approved and whether it should be reviewed by HPC.

Brian said this review will also help staff in terms of what this board is concerned about.

Jim asked if the work has been done.

Toni said the fence is out, the guard rail in the back is gone and it looks like it has been leveled. In the code where it says staff is allowed to issue a certificate of no negative effect, it says it can only be granted if the proposed work will not diminish, eliminate or adversely affect the significant historic or architectural character of the subject property.

Jim said you can certainly ask staff to come back with a few examples.

Brian said looking at the process is to aid us and staff as to what in the future should be seen by the HPC.

Jay said this is a prominent corner lot and if there is time to look at something like this on our next agenda I would like to review it. It is one of the few special corners left. I feel the commission should have probably seen this one.

Commissioner comments:

Brian said he roamed around Aspen today and he is concerned about the streetscapes in Aspen that we worked so hard to make pedestrian friendly. They are being eaten up by every vendor having sandwich boards outside their doors. You can't utilize the sidewalks or malls. The City has done fantastic things with the movable tables outside but these vendor signs do nothing but takes away from the pedestrian experience and it makes it very difficult to walk through them. I have a real problem with urban clutter that is starting to occur throughout the town. The newspaper vending machines

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are another issue. At the meeting it sounded like there was support for these signs.

Sara said sandwich boards are allowed but there are size restrictions, location restrictions and you are only allowed to have one per business.

Amy said we have found signs a half block away from the building.

Jason said there is no enforcement right now.

Sara said another concern is the resources for enforcement.

Ann said the sandwich boards also keep moving. Ann suggested a site visit and then we can make an amendment to our landscape guidelines and pass it onto council.

Sara said she will research what happened at the work session and report at the next meeting about sandwich boards. Possibly Drew Alexander can give the presentation he gave to city council at our next meeting.

Jason said there is a sign code and our guidelines that need to be reviewed. The new guidelines should have something added about our malls and what is appropriate in reference to signage. Jason also said the potential for funds are not going to be available anytime soon. It is also compounded because we are trying to create vitality and businesses are going out of business.

Brian said while council is thinking about this we can make a recommendation and add it to our guidelines etc.

Project monitoring:

Amy said Hayden Connor came before the HPC to ask permission to install a spruce tree at the property of Third and Hallam. It was discussed at that time that it has taken a long time to get the landscaping done. It was started about 2005 or 2006. The fence is up and the sod is in and aspects of the landscape plan have been completed. When you discussed the spruce tree I mentioned that the sidewalk was never constructed to the front door. They have sod in the front yard and there is a sign that says go around to the back. A secondary door being used as an entrance is a concern and the commission determined that no CO can be issued until the sidewalk is installed. Hayden e-mailed me requesting a CO even though several things cannot be

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completed until next spring; plantings and the stone walk. The fence is in and the lawn sodden and everyone thinks it looks great.

Michael said he is opposed to giving the CO.

Jason mentioned that the weather is fine and the work can be completed.

Brian said the tree looks fine but the walkway is an issue.

Ann said she sees no reason to grant a CO unless he completes what he was supposed to complete.

Jim said a vote doesn't need to occur unless the board is planning to amend the previous requirement. Michael said no one on the board is willing to change the conditions.

**Red Butte Cemetery – Extension of Major Development –
Conceptual Approval**

Amy said conceptual was granted and they have received all the approvals for a PUD amendment and GMQS exemption. Given the extended process they have been in they are asking for a six month extension of conceptual.

Alan Richmond represented the Cemetery board. Alan pointed out that they have been working diligently with the neighbors and one of the neighbors is working on the landscape plan. The landscape management plan is a condition of the PUD approval. Sarah Shaw is part of the landscape team and she is a neighbor.

MOTION: Jason moved to approve resolution #20 for a one time six month extension of the major development approval, conceptual for the Red Butte cemetery, 808 Cemetery Lane for a new maintenance facility; motion second by Jay. All in favor, motion carried.

211 W. Hopkins Ave. Ordinance #48 negotiations

Ann recused herself because she is within 300 feet of the subject property.

Sara pointed that the property owner submitted a demolition permit less than a year ago which triggered the Ord. #48 review. This is a pan-a-bode

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vacation home that was built in 1956 from a log kit home. Staff finds that it represents a pattern of Aspen's early skiing development and rustic style. Staff also finds that it meets landmark designation criteria and it scored 95 points on the integrity score but since it is an Ordinance #48 review the property owner is looking for a ten year vesting on their demolition permit. Typically you apply for a demolition permit that gets issued by the Building Dept. and then it is valid for a year and they are asking for a ten year extension. In the past they have applied for four demolition permits. This is the #1 best example of this type of vacation lot kit style. Staff is recommending that HPC approve the ten year vesting in the hope that we can continue to work with the property owners to come to some sort of result that everyone is happy with.

John Kelly, attorney for the Vaughn Family Trust.

This property has been in the family since the 60's. The family at this position is not willing to spend a lot of money on a building permit. Howard Vaughn represents the family and he does not want to do demolition. No one knows what the new historic regulations are going to be. The client is not in the position to redevelop the property right now. They kind of have to protect the family interest in the future. This is probably the fifth demolition permit. We do not want to tear this building down and keep it pristine. To spend a quarter of a million on architectural drawings doesn't seem realistic and that is why we are asking for the ten year vesting period because we don't want to tear it down. We have had numerous opportunities to do that. In the past other people have been granted vesting. We have negotiated in good faith. Nobody knows what the new rules are going to be and I sat on the commission for 17 months. That is why we are asking for an extended period of time so that we don't have to keep coming in here every year. We have had plenty of chances to destroy this place and this is the fifth building permit we have filed and my file starts in 1990 on this. I do know of other places in town where the negotiations failed and the houses are coming down. That is what we don't want.

Jim True said that Ann Mullins lives across the alley but this is not a public hearing but if it was a public a notice would have been sent to her. The code talks about residing within 300 feet of an application is deemed to be substantial interest. All four affirmative votes would be needed for approval.

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Jason said for clarification they are trying to keep from coming in for a building permit.

Jason said ordinance #48 is supposed to be an interim ordinance and we do not know what will happen with that ordinance.

John Kelly said if we waive ordinance #48 we might end up with something that we couldn't live with. On the other hand we do not want to take this house down. We could have taken this down long ago.

Jay said giving you a ten year right for demolition keeps the tear down door open.

John Kelly said he doesn't want to mislead anyone. We are between a rock and a hard place.

Jay asked if the owner would consider designation.

John Kelly said we don't know what that means.

Jay asked if involuntary designation occurred would this property be exempt from any rules for ten years. Jim said they have a demolition permit and it can be exercised.

Jason said we are in a similar situation.

John Kelly said he is asking the HPC to accept his client's position that there are no current plans to do anything and my client who is the trustee wants the house the way it is. Again we have had numerous chances to demolish but that is not what we wanted to do. They are not in a position economically to redevelop the property at this point. I have met with Sara and met with the Parks Department regarding the trees etc.

Jason asked about the ten year number. John said that was a number that was give in another case.

Amy said we have two houses that were given ten years vesting but they had cavettos attached. They need to give us a warning so that we can have some chance to respond whether it would be about moving the property or talking about new incentives.

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John Kelly said they have no problem with a reasonable notice period.

Michael said the first question is the property historic and worthy of preservation.

Brian said yes. Jason said it is the best example of a pan-a-bode. Jay said scoring 95 out of 100 and two criteria met it is worthy designation.

Michael said even though you can buy a pan-a-bode today, would that influence your decision.

Jason said it is the site placement and the relationship to the site, the landscaping on the site and the context that are important.

Amy pointed out that some of these cabins have a very specific scale and some of the features change. The pan-a-bodes in the 70's were somewhat of a long rectangular structure and the earlier ones had a cottage like character to them.

Sara said this style of house can no longer be purchased.

John Kelly said he had lived in pan-a-bodes most of his life and at that time they were delivered and you put them together. It was a different world then; they were built as vacation cabins not to be lived in all year long. The new pan-a-bodes have been improved by no one is building them around here.

Michael said the fact that they stopped building this particular model ten years ago that doesn't influence your decision. Jason said the building looks close to how it looked years ago except for the trees which are mature now.

Brian said you can build Victorian replicas. Jay said it is an example of Aspen's history.

Michael said what incentives do we want to provide as they are asking for a ten year vesting.

Amy said the incentive is that the pressure is off of them and they are insured that they have some control over what happens next.

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Sara said they are trying to buy time to continue to work out issues.

Jay said this is not a bargaining tactic to create designation today. Sara said hopefully it will give us the chance to work with the property owners to hopefully preserve this building.

Brian said we don't have incentives to work with.

John Kelly said they won't want to tear the house down and they don't want to be forced to tear it down. We have a decision to make because we are dealing with an interim ordinance.

Jason said maybe in four years they can come back and give us an update and we can review it again for another four years.

Jay suggested making the demolition permit non-transferable.

Jason asked if the vested right is carried with the land.

Jay said they could come back in ten years and ask for another permit. On the other hand if we don't grant this are we putting a D-day on the property by not granting it?

Michael said in negotiation you give things and get things. We are giving an additional 8 years for them to decide what they are going to do with the property. What are we getting? Right now it is a threat that they are going to demolish the structure. Michael suggested the ten year vesting but they wouldn't have the right to exercise for four years.

John Kelly said under ordinance #48 you file your demolition permit and it is accepted you then go into the negotiation period. We are willing to accept a reasonable amount of time for a notice.

Michael said we need to know how long you are willing to preserve the building and we will allow you to demolish after that time.

John Kelly said he hasn't talked to Vaughn family. It might be possible but I would need to discuss it.

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Michael said we need to determine what is in the best interest for the City of Aspen. I suggest we set a period of time that they are not to demolish the structure and some period of time after that that they could demolish the structure and give that as an alternative to his clients.

John Kelly said if you look at our history if we really wanted to tear the house down we would have done it five years ago.

Jason said he would prefer to give the vested rights. As a suggestion maybe four years.

John Kelly said the owners want a period of time so that they can enjoy their property.

Jay said possibly in five years we may have a more stable economy.

Michael said we aren't getting anything out of this.

Jason pointed out that ordinance #48 isn't setup for us to get anything out of it.

Brian said ordinance #48 is designed that at the end of the day we get an historic resource preserved.

Brian suggested ten years with a five year guarantee period of keeping the house. This would be a recommendation to city council.

Jay suggested two recommendations: One the value of the structure and the other recommendation of our idea of the preservation side.

Amy said HPC can give choices to city council.

Jason pointed out that we don't want the applicant to feel like we have created a negative negotiation.

Michael said he is not comfortable with ten years but he can agree to it.

Brian said Council is knowledgeable enough and will negotiate.

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MOTION: Jay moved to recommend to council to pull out all the stops and do whatever they can to save this building with negotiations because the building is the best example of a pan-a-bode. We also recommend that an agreement between the applicant and the city be a ten year vested rights in return for three years of no demolition and during the demolition period we ask for six months notice to staff prior in case of demolition. Motion second by Brian. All in favor, motion carried.

Jason said he feels the board does not have authority to recommend the motion.

Jay said the three years offers a chance to find out what the incentives could become in the future. Jay said maybe whatever comes out of the task force will be great for John's client and we get to preserve a piece of property.

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

Meeting adjourned at 8:00 p.m.



Kathleen J. Strickland, Chief Deputy Clerk