

Special Meeting Aspen Planning and Zoning/HPC Commission July 08, 2009

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Michael Hoffman opened the Special P&Z and HPC Meeting in the Council Chambers at 5:20pm. Commissioners Sarah Broughton, Jay Maytin, Ann Mullins, Michael Hoffman, Cliff Weiss, Bert Myrin, Stan Gibbs, Jim DeFrancia, and LJ Erspamer were present. Staff in attendance were Jim True, Special Counsel, Sara Adams, Amy Guthrie, Jennifer Phelan, Chris Bendon, Community Development; Jackie Lothian, Deputy City Clerk.

COMMENTS

Jim True said that a quorum was needed by both commissions, so Sarah Broughton was needed for the HPC quorum but could not stay or participate in the meeting.

CONFLICT OF INTEREST

Jim True sent out an email on an open house on an unrelated project regarding ex-parte communications and the commissioners should disclose conflicts at the meeting.

Michael Hoffman stated that he legally represented Kathy Markle on another matter not pertaining to the Wheeler.

Sarah Broughton was conflicted on the Wheeler Opera House because she was one of the local architects on the Wheeler project.

CONTINUED PUBLIC HEARING:

320 E HYMAN – WHEELER OPERA HOUSE – HPC Major Development Review and P&Z Special Review for Parking

Michael Hoffman opened the public hearing on the Wheeler Opera House. Sara Adams stated this was the public hearing for Conceptual Commercial Design Standards for the Wheeler as a joint meeting with HPC and P&Z continued from June 24th.

Sara Adams said staff recommended Conceptual Commercial Design Standards approval. Adams said the public amenity was the rooftop access. The architects have pulled the addition forward 6 feet so there was a 4 foot setback for the building from the property line for the addition and eliminates the curved element but still exposes the corner of the historic Wheeler under the staff memo public amenity and Section 26.757.030.F.5 which states “public amenity space may not be 4 feet above grade” however Section 26.575.030C.4 –“Commercial Design Review may accept any method of providing Public Amenity not otherwise described herein if the Commission finds that such method equals or exceeds the value, which may be non-monetary value, of otherwise required cash-in-lieu payment.” Adams said this was providing public access to the rooftop with a

capacity of about 90 people for patrons of the Wheeler and does meet the intent of that public amenity space. Adams said that a condition in the Resolution that during final review the applicant will show an anticipated schedule for the 4th floor, they just want have a way to quantify that 4th floor artist in residence that it will be available to non-profits and won't be booked to an artist or performer the entire year, which would not allow the ability for the public to rent that unit.

Michael Hoffman asked what was different about the 4th floor. Sara Adams replied there was a stair enclosure to allow the public egress.

Sara Adams said that there wasn't really much change to the building height, mass and scale. Staff found the guidelines 6.27 and 6.28 are met with the proposed mass, scale and height of the addition. At the last meeting some P&Z members also brought up some of the uses being brought into the existing Wheeler and into the addition; the overall mass of the addition has not been changed. Staff recommended for final review that the applicant study the fenestration. Sara Adams said the big issue was the entrance with guideline 6.34 for the historic Wheeler as the focal point of this parcel with an addition of an ancillary use to the Historic Wheeler.

Sara Adams said the there was the historic grand staircase in the original Wheeler with the IBC and the new entrance was appropriate. Overall staff finds that the project meets the applicable review criteria specifically addressed with all of the exhibits in the packet. Adams noted there was a joint resolution included in the packet with the condition of approval regarding the public amenity space requesting the proposed occupancy used for the rooftop unit.

Michael Hoffman asked how the occupancy would work in real life. Adams responded that staff wanted to make sure that the unit was made available to non-profits and the public to rent for a reception or performers with information on how that would work.

Jay Maytin said there were clear guidelines about the entrance but not the interior; how did you decide to move the entrance rather than the staircase. Adams replied that it is a guideline with the philosophy of maintaining a Historic entrance with the historic staircase. Maytin asked with the removal of the existing elevator will that be a passage way to the new addition. Adams replied that the opening would be maintained as a passage way. Gram Slaton stated that the original door was used by Aspen film.

LJ Erspamer said that all of the egress for the new theatre was on the left side; should there be an egress on the right side for fire code. Adams replied that the architects have been meeting with the building department and the fire marshal and have scheduled a DRC for July 22nd. Erspamer said that pedestrian amenity has him confused because it says that it has to be on the streetscape but that HPC and P&Z can decide where it goes. Adams responded that HPC and P&Z could actually waive the public amenity requirement because it was a development on a landmark and they were proposed since public amenity was so important that the rooftop space meets the section of the code the rooftop deck either equals or exceeds the value, which could be non-monetary value, of the public amenity.

Cliff Weiss asked for the diagram of the rooftop and asked which part was public access. Michael Farewell stated the cross hatched area was public access. Weiss asked if the concerns for blank walls were addressed. Adams answered that it really hasn't changed; the curved piece on the corner was eliminated and moved the façade forward so the setback was now 4 feet from the property line.

Ann Mullins asked why the building was moved 6 feet forward. Michael Farewell responded that there was discussion about the guideline of holding the façade on the street or should it be met or whether a setback should be maintained of 10 feet by 60 feet would be used and the while some setback was called for to free the corner it would show the way the stone turns into brick and that 10 feet would impact the interior more than what was needed; so the setback was modest and met the interior needs.

Stan Gibbs asked the square footage of the roof gardens area. Michael Farewell replied that it was about 30 by 50; the rooftop space would be larger than the reception space.

Bert Myrin said that he packet mentions a parking requirement that was recommended that it be waived and there was no mention in the resolution of parking. Sara Adams responded that parking was under HPC's purview.

Jay Maytin asked about the cash in lieu being public cash being paid back to the public.

Michael Mills, partner in charge of preservation, introduced Michael Farewell partner in design. Michael Mills said that his role was to protect the historic character of the team though research that they have developed a deep appreciation for the history and materials of the Wheeler. Mills said the preservation planning

for the Wheeler based on the Aspen Historic District Guidelines, which are in turn based upon the Secretary of Interior Standards for the rehabilitation of historic buildings. Mills said the preservation for the Wheeler were for two levels of treatment conditioned by the integrity of the historic fabric and these were defined by the standards as preservation and rehabilitation; restoration and reconstruction really don't apply to this project. Mills said the preservation area includes the storefronts, the stone, cornices, the windows, the doors and all of the trim of the Wheeler. The preservation zones on the interior are the main stairwell and the auditorium and the other spaces in the building were support and could be rehabilitated for other spaces while preserving the significant features like the bank vaults. The interior has some functional areas that need to be addressed including inadequate lobby space, the ticket area with poor circulation, fire and egress issues and heating and air conditioning system that needs to be updated to current environmental standards. This project offers the opportunity to make those needed improvements. The design goal was not to imitate but create a quietly confident work of architecture that fills the program and be useful and a source of pride to the citizens of Aspen. The public reviews have helped refine the project to conform to the intent and provisions of the ordinances and design standards; they look forward continuing this project.

Michael Farewell utilized power point to show the mass of the historic building and the infill adjacent to it. Farewell said the 4 foot setback provides a larger queuing space and respectful attitude towards the corner. There were 2 floors below grade (about 30 feet) and that is taken up by the 235 seat theatre and balcony and above it with 3 main floors and the apartment with multi-use space on the top. Farewell said the lower level did not have the 4 foot setback but came out to the property line. Farewell said the plan shows the current Wheeler offices and the restaurant has storage down there and the new plan will have storage and new mechanical space needs with about 1100 square feet left of usable space. Farewell explained every floor including the employee apartment so there would be an employee on site. The roof terrace space was reconfigured to be a publically accessible multi-use space and a 2 bedroom 2 bath apartment with a kitchen and living room which can be easily setup for receptions. Farewell said there was more work to be done on the elevations. Farewell said the addition had its own character and transparency and exhibits the quality and life of the theatre, makes it visible when you are outside of the building and also opens up to the landscape when you are inside.

John Rowland said they will be doing another series of open houses and community outreach to try to address some of the community concerns and make

sure that everyone is informed and to have the same information when this goes to the ballot. Rowland said this was a great opportunity for citizens to co-mingle with community and some groups that want to use this space.

Anne Mullins asked what the connections between the 3rd and 4th floors with the Wheeler and the addition. Michael Mills replied the 3rd floor was a lobby space maintaining the stairwell. Ann Mullins said when you come up the stairs where can you actually get to on that 3rd level. Michael Mills responded if you bought your ticket or have your ticket one option is to take the elevators off to the left to the uppermost level; the second option was to take the staircase and at the current lobby level ascend up the next set of stairs to the orchestra level or the third option was to ascend up the historic stairs. Mullins asked what the proposed access to the upper level was. Mills answered there would be a potential to make the connection but can't make an interior connection without raising the roof of the building which wasn't feasible so they were maintaining that relationship.

Bert Myrin said there were concerns about the view from the north and the Hotel Jerome viewplane. Michael Mills showed pictures taken from the Hotel Jerome with angles that they were clearly in that zone and the existing Wheeler was above the defined viewplane by about 10 feet and the new addition is below that viewplane.

LJ Erspamer asked where the viewplane is at the Hotel Jerome. Sara Adams said the origination point for the viewplane that we are talking about is in front of the J Bar with a determination of eyelevel in the land use code from the survey. John Rowland replied the height was 5 foot 6 inches and basically the width of the Hotel Jerome.

Bert Myrin asked about the historic view of the Wheeler from Red Mountain. Michael Mills responded that the Wheeler would still be seen from all sides and was so distinctive from any point.

Jay Maytin voiced concern with the cross section which shows the balcony protruding past the façade of the Wheeler. Sara Adams replied that the balcony was not dealt with until final but at this time the concerns were volume, mass, scale, height and proportions during conceptual. Adams said the balcony will be discussed during final reviews. Maytin asked if granting this conceptual would grant this drawing. Adams replied it would not grant the details, the materials, and fenestration but rather what is the size of the box.

Cliff Weiss asked how important was the tenant revenue of the existing space. Gram Slaton replied the revenue is going to be key to make this building work and he is interested in getting a tenant that was a media outlet for the Wheeler in the subgrade space. Weiss said there was a lot of space dedicated to the entrance lobby area. Mills said the current lobby cannot accommodate the occupancy of the theatre and that was a challenge from a life safety point of view, from an operational point of view and for patrons that want to socialize at intermissions. Mills said that the lobby had to be safe and accessible. Mills said the theatres would have staggering time starts and the new lobby picks up the 3rd floor intermission patrons.

Jay Maytin asked what 90 people get to use the roof; the Wheeler hold 480 some people; will it truly be a public accessible place or orchestra seats first and balcony seats second. Maytin voiced concern for this rooftop becoming a VIP area and that the public has access to it; will there be a plan for that. Gram Slaton replied that the cut roof from the balcony was just presented to him about 90 minutes ago. Maytin said that he was talking about the terrace. Slaton said that they were looking at this as a room not connected to any particular performance and looking at this as an amenity to be used for a variety of intended uses.

Ron Erickson, chairman of Wheeler board, stated the board's mission statement was to promote local non-profit arts groups and the use of the Wheeler. Erickson said they subsidize performances in the Wheeler for local arts groups and all of the elements of the building would go as a public amenity. Erickson said their goal was to make this a transparent process. Erickson said the rental income funds the non-profit grants in this town.

Kathy Markel, member of the Wheeler board, said that many of the local art groups have asked her to represent their enthusiasm for the type of space that will allow a smaller venue to fill up with a flexible venue allowing different types and styles of performance. Markel said that most of the people that she spoke to would like every square foot of the property maximized as a public amenity; the building itself was a public amenity.

Pam Cunningham, board member, stated that there was exceptional leadership in this process that stems from Gram; he was instrumental in setting up the architects and processes with the city. Cunningham complemented the architects for listening to the boards.

Michael Hoffman read the letter from Lisa Markalunas. Sara Adams included in the packet the letter from Lisa Markalunas, Bill Wiener, June Kirk, Jasmine Tygre, Susan O'Neal plus 2 more letters from June Kirk.

Public Comments:

Lisa Markalunas, public, voiced concerns for parking, the mass and scale of the building. Markalunas said that the applicant needs to address the parking needs because of adding more performances and patrons to the Wheeler. Markalunas was concerned about the glass on the façade of the new building and the nature of the building. Markalunas said that the Wheeler was one of Aspen's crown jewels and if it is destroyed it in the process of trying to make it something that it really can't be a performing arts center that might be appropriate somewhere else.

Page Price, artistic director of Theatre Aspen, thanked the Wheeler for including them in discussions and offered support in the direction that they were going.

June Kirk, public, wanted to say that looking at the viewplane from the Jerome there was not much to see but if you look at the poster card that everybody identifies Aspen with from Mill Street and Main with the historic shape of the building. Kirk said that they have fought long and hard to protect these iconic buildings and open space and that open space was bought to protect the Wheeler. Kirk said that we need to protect our historic structures and there were other places around town that could be used for performances.

Jeffrey George, managing director of Theatre Aspen, gave a vote of confidence to this architectural firm in particular to this historic building.

Michael Hoffman closed the public hearing.

Michael Hoffman asked if the trade of public amenity space from the ground level to the rooftop space and are the balance of the commercial design standards were satisfied by the application.

Bert Myrin said that he agreed with the public amenity space being the whole building and saw no need for public amenity space outside the building. Myrin suggested shrinking the height of the addition but that was another issue.

Cliff Weiss said he had a problem with the rooftop unit because some artist would have that rooftop as their own space and it would be closed to the public; he wanted it as a public amenity space at all times. Weiss said the height was pushed

up for this fourth story apartment and that was a concern of his. Weiss said he would like to see the atrium area as a grand lobby but wanted to see this at final. Hoffman said that these were concerns for final. Adams said that the request was for both commissions to be weighing in on the height, mass and scale. Adams said this was an application against the commercial design standards which a review similar to HPC conceptual review in looking at mass, scale, proportion, context and how it relates to the historic district. Adams said that in conceptual the concern was what is this structure going to look like in Exhibit C.

Jim DeFrancia said that he agreed with the statement that the whole building was an amenity and would like to see the setback on the addition.

Ann Mullins said the rooftop doesn't meet the intent of public amenity space since it is only for Wheeler patrons and that would only accommodate 90 people. Mullins said that she would have retained the 10 foot setback; the 4 foot setback is creating a non space and you might as well go to the lot line. Mullins said that this needed open space to the front or side of the building both to reduce the mass and create a public amenity.

LJ Erspamer asked if a public amenity was supposed to be available to the public 24/7. Hoffman replied no. DeFrancia said that a public amenity was a space that was available to the public and inheritably has hours, character of operation and whether or not it is free. Hoffman agreed that the whole building was a public amenity.

Jim True said there was the ability to waive that public amenity or reduce the amount that is set forth in that section.

Hoffman also agreed with Ann with the spirit of public amenity.

Weiss said that he was hesitant to eliminate the public amenity space requirement.

Maytin said that it was important that the public amenity language remain in the resolution.

Adams said to summarize the public amenity options could be (1) the 25% requirement; (2) a reduction of the requirement; (3) waving the requirement or (4) the rooftop access is sufficient to meet the public amenity intent.

Stan Gibbs said that he agreed with Bert that the whole building was a public amenity.

Weiss said that photovoltaic was a problem.

MOTION: Jim DeFrancia moved for the adoption of the language which is Section 1 public amenity space; seconded by Bert Myrin.

Discussion:

Chris Bendon provided background on the City's approach to this pedestrian amenity; it was called open space as a way to recognize the importance both open space with visual access to the mountain and urban elements that make downtown fun to be in and lots of different ways to express that. Bendon said in the old code 25% of the parcel was the rule and the City found out that some spaces worked really well like Paradise Bakery and Zele but other places were not good so the City went away from a quantitative thing. The Cantina outside dining is pedestrian amenity space that works well, which contributes to the life and vitality of town. Bendon says the code specifically grants the authority to come up and understand someone's contribution to the downtown. Bendon said the importance of the viewplane was from the Wheeler parcel and there maybe a few times a year for someone to go up to that 4th floor deck and enjoy that space and maybe with a ticket to an event.

Ann Mullins said that it was a great amenity to the project to have a rooftop terrace but her objection was that it did not add any vitality to the street.

Jay Maytin said that 10 feet was not enough to create vitality but would not support bringing the new portion to the lot line because the 4 foot setback does create a distinction to the historic resource.

Jim True said that there needs to be a resolution to approve the resolution then you could amend the motion.

MOTION: Jim DeFrancia moved to amend the motion for approve the P&Z and HPC Resolution as presented by staff; Bert Myrin seconded.

Discussion:

LJ Erspamer asked if they were voting as a group. Jim True replied they were voting as a group and the majority prevails.

Michael Hoffman noted that staff directed the commissions to talk about the height, the relocated uses, the bands on the front façade and the relocated entrance. Sara Adams said that the bands on the front façade were a heads up to the design team for final review so the bands were off of this discussion. Adams said it would be appropriate to discuss the basement of the addition and the massing of the addition how it relates to that size of the building.

Bert Myrin said that Section 2, Design Guidelines, 6.25 mentions perceived scale of the building and vertical fenestration would bring the building down. Myrin was not convinced that the top 2 floors could shrink enough for the Wheeler to stand out.

Jim DeFrancia asked Bert if he thought the addition was too high. Myrin responded that it doesn't fit into the scale of the area and was too high. Myrin said that Section 3 was more of a fact and was concerned about the height and the Diva Apartment may have some opposition in an election.

Ann Mullins said the perception of the mass could be changed dramatically depending upon the type of fenestration and the detail; the height seems to work well because it is lower than the Wheeler and does not overpower the Wheeler. Mullins said there should be a storefront street presence that would also bring in that entry and was unfortunate that we can't resolve something with that entry because it becomes a secondary part of the development. Mullins said the addition becomes too much of a departure from the Wheeler and looks too massive, too uniform and too bulky and detracts from the original.

LJ Erspamer said that he would like to see more articulation. Erspamer said that there was a minimum of 2 feet between buildings but what was the maximum and how do you articulate the modulation between the buildings but yet is there some way to make it softer and more harmonious with the neighboring buildings. Erspamer said he was concerned about the 4th floor.

Jay Maytin agreed with the LJ on the 4th floor that was already too high. Maytin said that he can't see how the 4th floor fits in with the rest of the block with the Motherlode and Crystal Palace buildings.

Michael Hoffman said he was trying to put the pieces together. Hoffman said the 3rd bullet point was additional height in the zone district may be added for one or more of the following reasons and one of the reasons was the primary function of the building was civic.

Sara Adams said they were talking about the placement of an addition, the size, how it fits into the guidelines, how it fits into the historic district, how it contributes to the urban fabric and then the applicant will go to Planning & Zoning and Council to determine the specific dimensional requirements for floor area and also for height.

Michael Hoffman said that he did not have a problem with the Diva Apartment. LJ Erspamer asked how many square feet was the 4th floor. Sara Adams said on the 4th floor the questions were is that mass appropriate and does it fit into the context adjacent to the Wheeler and sandwiched between the Motherlode and the Wheeler.

Cliff Weiss said they were asking for a height variance and it was a judgment decision.

Michael Farewell said the roof access will require stairs and a bathroom.

Bert Myrin asked where the solar panels were going. Michael Farewell said that they were going on the apartment roof. Myrin said that he could support this if the top 2 floors weren't there as far as mass and scale.

Cliff Weiss asked if they were prepared to have a conceptual vote because a lot of the details were in a vague description in the resolution and in the PUD would get to the specifics and they were getting all of the signals. Jim DeFrancia agreed with Cliff said that the PUD application had to go to P&Z and Council for the necessary waivers; he suggested that this review approve the height with a qualification. Sara Adams said that if you approve the drafted resolution then you would be approving the placement of the building, the shape of the building, the setback. Adams said the PUD process would include the height variance and floor area. If the commissions have not resolved the height and mass issues tonight she suggested continuing to August 4th.

Amy Guthrie read that the commercial design review shall be binding upon the commission in regards to the location form of the envelope of the structure addition including its height, scale, mass and proportions no changes will be made by the commission unless agreed to by the applicant. Sara Adams said the height was to be defined in the next step, what the height is through the PUD process.

Jim DeFrancia said that there did not seem to be broad support of the height and Section 3 should be amended or come back and have a more extensive discussion. Adams said that if the commissioners say this is too tall and needs to come down.

Michael Hoffman said that he did not have enough information to make a decision with this joint commission with some structure to evaluate this application. Hoffman said the applicant has supplied information.

Stan Gibbs said if the commissions move the sentence from Section 3 and remove the word height and simply puts the reference to height and floor area to Section 3. Gibbs said the qualitative items would be part of the design guidelines section that could be approved but the actual floor area and height would be deferred to a PUD process going through P&Z. Jay Maytin said that he felt it was important for HPC to vote on the height because of the historic resource next door. Michael Hoffman said that he was not happy with the current process.

Sara Adams said this was the first joint review for commercial conceptual design review so it was a work in progress. Michael Hoffman asked to reconsider the code and come back with a process that actually works. Jim True said that they were in the process with the joint board. Michael Hoffman said that they could refashion to address the concerns. Jim True said that they might be able to refashion to give everybody a comfort level for this whole process to proceed.

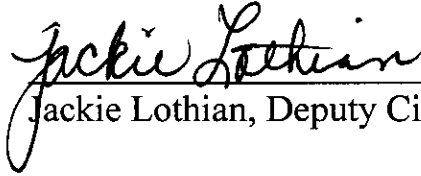
Jim DeFrancia and Bert Myrin withdrew the first motions.

MOTION: Cliff Weiss moved to continue the Wheeler HPC/P&Z to August 4, 2009 seconded by Jim DeFrancia. All in favor from P&Z and HPC; APPROVED 8-0.

Discussion:

Weiss said it was not P&Z's intention to cut out HPC but there were flaws and he felt the need to continue. Chris Bendon suggested that the code provides for a modification of review procedures; what might be all the same issues here of PUD, Commercial Design or the major conceptual at HPC. Bendon said all was dealing with the height, mass, setbacks and the form of the structure and three different actions have to take place and 3 different boards to take actions on. Bendon said they could consider because the August 4th meeting could be noticed as this joint board takes action on the Commercial Design Review and the conceptual PUD to City Council. Jim DeFrancia said that P&Z would review with HPC as a joint board. Bendon replied yes. Bendon said that the criteria are observed and the public is noticed properly. Hoffman asked the P&Z if they were comfortable in the HPC making the joint decision making. Both commissions agreed to this joint review.

P&Z adjourned at 8:15 pm.



Jackie Lothian, Deputy City Clerk