

MINUTES
PLANNING COMMISSION MEETING

Tuesday, August 3, 2010

7:00 p.m.

CALL TO ORDER

Chair Gephart called the meeting to order at 7:03 p.m.

2. ROLL CALL

Commissioners Present: Busch, Craig, Gaylord, Putnam, Wallace, and Chair Gephart

Commissioners Absent: Jensen

Also Present: City Attorney Staunton, City Planner Richards, City Planner Fuchs, and City Clerk Johnson

3. APPROVAL OF MINUTES

a. Planning Commission Meeting of June 8, 2010

Chair Gephart asked if anyone had any additions or corrections to the minutes. Craig submitted a correction to page 3 of the Minutes.

Commissioner Craig moved, Commissioner Gaylord seconded, to approve the minutes of the June 8, 2010 meeting as amended. Motion carried 6/0.

b. Special Planning Commission Meeting of June 28, 2010

Chair Gephart asked if anyone had any additions or corrections to the minutes. Craig submitted corrections to pages 14, 15, and 18 of the Minutes.

Commissioner Craig moved, Commissioner Gaylord seconded, to approve the minutes of the June 28, 2010 meeting as amended. Motion carried 6/0.

c. Planning Commission Meeting of July 7, 2010

Chair Gephart asked if anyone had any additions or corrections to the minutes.

Commissioner Craig moved, Commissioner Gaylord seconded, to approve the minutes of the July 7, 2010 meeting as presented. Motion carried 6/0.

3. APPROVAL OF MINUTES

d. Special Planning Commission Meeting of July 20, 2010

Chair Gephart asked if anyone had any additions or corrections to the minutes. Gaylord submitted a correction to page 5 of the Minutes.

Commissioner Craig moved, Commissioner Gaylord seconded, to approve the minutes of the July 20, 2010 meeting as amended. Motion carried 6/0.

4. PENDING ISSUES / PROJECTS

a. Appoint Liaison to City Council

Commissioner Craig and Chair Gephart will serve as the liaisons to the City Council's September 7, 2010 meeting.

5. PUBLIC HEARINGS - (Con't.)

a. Variance, Site Plan Review, and Design Standards Review for New Building at 10 Water Street, P.I.D. #34-117-23-11-0059 – Thomas F. James Property

Richards said that at the last meeting the Planning Commission discussed the recent Supreme Court case as it relates to granting variances. The Planning Commission also received a report on the traffic from Chuck Rickert, Traffic Engineer from WSB & Associates. The Planning Commission continued their discussion on this project to the August 3, 2010 meeting.

Richards reported that the Heritage Preservation Commission (HPC) met directly following the Planning Commission's meeting on July 20, 2010. He noted that the HPC had denied the Site Alteration Permit for the hotel project.

Gephart asked staff to explain why the Planning Commission should continue discussing this project when the HPC denied the Site Alteration Permit for the project. Richards said the Planning Commission needs to continue to work on the applications before them. Staunton said that all of the applications are subject to the timelines outlined in the State Statutes and must be dealt with separately.

Craig asked staff to explain the HPC's role with regard to this project. Richards said the HPC has the ability to look at this project because the property is located in the Downtown Historic District. He stated that there are specific criteria and regulations that the HPC applies when looking at new buildings to ensure that the building is not in conflict with surrounding properties.

5. PUBLIC HEARINGS - (Con't.)
 - a. Variance, Site Plan Review, and Design Standards Review for New Building at 10 Water Street – Thomas F. James Property - (Con't.)

Neil Weber, Project Architect, representing Thomas F. James Properties, said the main issue he wants to discuss this evening is the mass and scale. He noted that the HPC had requested statistics from staff on the heights of buildings in the downtown area, which was provided. He said one piece of information that wasn't previously available was a building area comparison between 200 Water Street and their building. He said that 200 Water Street has a building area of 15,175 square feet and a site area 9,450 square feet, which creates a floor area ratio of 1.6. Their building site is 24,079 square feet and the building area is 43,408 square feet, for a floor area ratio of 1.27.

Weber distributed an architectural rendering of the proposed development. He said the cupola is done in brick and the upper level has metal siding which helps it recede into the sky. All of the design elements help reduce the mass of the building. The building is underdeveloped when compared to other downtown buildings; unlike other buildings in the downtown area, they have accommodated all of the required parking on the site.

Gephart said he was disappointed that a scaled model or computer generated materials have not been provided. He said it is difficult for him to look at a stand-alone building and be able to gauge how large the building will be. He's seen the building that Weber designed in Wayzata which utilized a step back design and it still looks massive to him. He would like to see a scaled model so he can see how this structure will work with other buildings on Water and Lake Streets. Weber said it has taken him a considerable amount of time to put the information together that has been presented, so there hasn't been time to put together computer generated materials or a scaled model.

Gephart said Commissioners received a letter stating that this project has been worked on for three years, but yet there is no scaled model to look at in relation to the other buildings in the drawings.

Putnam asked how often the Planning Commission has required scaled models from developers. Gephart said the HPC had issues with the mass and scale and the Planning Commission has an issue with the variance. He still needs to know what the hardship is for granting a variance.

Weber said instead of coming in with a building that is 35 feet high at zero setback they've looked at a way to help reduce the mass and scale. The building was reduced in size after the concept plan based on comments that were received. By stepping back the building, they have given up 147,000 cubic feet. They are asking for 84,000 cubic feet in additional height to make

5. PUBLIC HEARINGS - (Con't.)

a. Variance, Site Plan Review, and Design Standards Review for New Building at 10 Water Street – Thomas F. James Property - (Con't.)

up for that area. He agrees that the further you are back from the building, the more you'll see of the building. They are asking for the variance to maintain the view corridor, which is unique to this site. He said they are able to meet all of the other zoning and building requirements.

Weber said at the last meeting there was talk about reducing the cupola. Craig said Weber had asked for feedback on the cupola, but there was not time for that. Weber said he still thinks the 12-foot versus the 5-foot high cupola looks better.

Craig said the cupola is one element that is not anywhere in Excelsior, so it will be big no matter what size it is. She thinks the building would be better without the cupola element.

Putnam said she likes the way the floors have been set back. She said this is a valuable and unique site and she would prefer to see a commercial building on the site. She would also prefer something with the mass reduced versus a massive building that meets the ordinance. She believes maintaining the view corridor is important. Gephart said he thinks the Planning Commission needs to stand on the ordinance.

Busch said the views help them understand the setbacks on Water Street. She asked Weber what the setback is from the third to the fourth floor. Weber said it is about 40 feet. He said coming down Water Street you don't see the fourth floor because it is stepped back far enough.

Busch said the variance is basically for the Lake Street side. Weber said the variance is for the entire site, but the height is measured from the driveway area going underground. The building would be about 4 inches higher than the adjacent apartment building on Lake Street when measured from where the building emerges from the ground to the peak.

Busch asked what the difference in topography is between Water Street and the far end on Lake Street. Weber said it is 8.33 feet from where it emerges from the ground.

Richards said the building would be 47.5 feet in height if looking at just the building height on Water Street. Weber said based on the City's definition for measuring height the building is 55 feet high, but it doesn't appear that high utilizing these design techniques. He can't imagine that anybody would

5. PUBLIC HEARINGS - (Con't.)
 - a. Variance, Site Plan Review, and Design Standards Review for New Building at 10 Water Street – Thomas F. James Property - (Con't.)

have said the building would appear smaller if it was 35 feet high at zero setback.

Craig said no matter what is put there, it will be a shock to people after seeing the Pizza Hut building there and now a parking lot.

Chair Gephart reopened the public hearing at 7:42 p.m.

Mark Kelly, 352 Second Street, said this is not a negotiation. State law controls what a City can do and the City's ordinance mirrors the State Statute. This is not about design. The City has an ordinance that has bulk regulations. The applicant would like a variance to build 20 feet over what the ordinance allows, but the City doesn't have the authority to grant the variance. The applicant has a legal obligation to prove that the need for the variance was not created by them. If the City wants a view corridor then have the applicant turn the building around. Unfortunately that is not possible because the lot is too small to accommodate the parking. The applicant has to demonstrate to the satisfaction of the City and the courts that the property cannot be put to a reasonable use without a variance. That isn't possible because there is history to show that the lot can be put to a reasonable use without a variance.

Busch said it is not clear to her that the law is that cut and dried. The courts did not actually reverse the decision. Mark Kelly said that is correct, but the courts did tell Minnetonka to go back and take another look at the proposal. It is not possible to put a building of that scale on that lot and not change the character. The applicant wants to do more on the site than the City Code allows.

Craig asked if in the recent court case if the garage had been built. Staunton said the garage was built before this case got to the Supreme Court.

Mark Kelly said why have a 6-foot setback along Water Street when none of the other buildings are set back. The City has a zero setback for a reason. Why would the City create a downtown historic district if it was going to allow a building bigger than any other building in downtown? If the City says yes to this proposal, how can it say no to the next applicant? The City has a main street from the 1900's. Why would the City want to lose that? The City needs to preserve what it's got. It's not possible for the applicant to define that they have a hardship.

5. PUBLIC HEARINGS - (Con't.)
 - a. Variance, Site Plan Review, and Design Standards Review for New Building at 10 Water Street – Thomas F. James Property - (Con't.)

Putnam said Kelly is entitled to his opinion. She said she does not believe this is a negotiation.

Tom Ryan, 2 Maclynn Road, said he just learned about this project. He is concerned that the HPC, which is a non-elective body, can block a project. If the only recourse is an appeal of the HPC's decision to the City Council, why is this meeting taking place? He splits his time between Excelsior and Naples, Florida. If his house in Naples was in Excelsior, he would pay around \$75,000 in real estate taxes. Excelsior has no tax base. Excelsior doesn't have any commercial or industrial to speak of and 60% of the properties are tax exempt. This is why Excelsior's taxes continue to go up. If this proposal came before the City Council in Naples, Florida, the City Council would give them the key to the City. This project would probably bring in about \$300,000 real estate taxes each year. What will this cost the City? It would be a high class hotel, so there would be little police problems. It will be built to 2010 building and fire codes and it will bring in 55 people who will shop downtown Excelsior. The City needs something to bring it into the 21st century.

Jon Monson, 202 Water Street, said he owns several properties in Excelsior. He's concerned when he hears that this proposal has become emotional, because this is in fact a legal decision. This is about the game-changing Supreme Court decision rendered on June 24th, because prior to that decision municipalities could grant variances using the 1989 standard. He's been a beneficiary of receiving variances. The Supreme Court interpreted that the language of the Statute is clear and not ambiguous. If the property can be put to a reasonable use, the municipality cannot grant a variance. He pays \$100,000 in property taxes on a \$3 million property. The City of Excelsior receives about 27% of the property tax. He also understands that the proposal includes taking one of the City's docks, which will take revenues away from the City. Every building on Water Street is being put to a reasonable use and not one of them exceeds 35 feet.

Tom Drummond, President of the South Lake Excelsior Chamber of Commerce, read a formal statement from the Board of Directors supporting the project.

John Fenstermacher, 723 Water Street, said he is concerned with the height variance. If the City grants this variance it will be difficult for the City to tell another project requesting a height variance that they can't have a variance.

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 - a. Variance, Site Plan Review, and Design Standards Review for New Building at 10 Water Street – Thomas F. James Property - (Con't.)

Lucille Crow, 221 Bell Street, said she recognizes that the Planning Commission is responsible for land use. Excelsior is a strong community and a large amount of the real estate is tax exempt. She knows it is impossible to stay status quo. Excelsior residents and business people want to chip in more than real estate taxes. Excelsior is in dire straights. The City Council has been working on a project to repair badly deteriorated streets, water, and sewer lines. After several years, the City Council has identified several streets that need to be redone. The debt service will be approximately \$170,000 a year. The most effective way to expand the tax base is through commercial real estate. Two and a half years ago the City Council voted down a project for the Port of Excelsior and the issue was the view corridor to the lake. There will not be a project that meets everyone's dreams and hope. Access to Lake Minnetonka is important and this is a resource that very few cities have. The view corridor is important. The marketing studies for this project are guild-edge. This will be one of the most attractive hotel sites in Minnesota and it will probably be the greatest boost for Excelsior's tax base and downtown. The downtown needs activity and one of the most viable resources the City has to offer would be a hotel. It could be a gold mine. She would expect the expertise of staff and the Planning Commission to make a case that this is unique and a one-time project that will anchor this end of Water Street for prosperity.

Weber distributed copies of several articles that have been in the local newspapers recently. He said that Charlie James, the owner of this property, is a unique individual. When James started this process, he wanted to make sure the project was not about him. They did extensive studies to see if a hotel even made sense. About ten years ago, James had drawn plans for an office building. When the leases expired on the Pizza Hut property, James wanted to do something special for Excelsior. They looked for something that would add to the vitality of downtown Excelsior. James attended the original concept plan meetings because he wanted to hear firsthand what people had to say. They had about 100 people attend a meeting at the Southshore Center and they received a tremendous response in favor of the project.

Weber said that some of the design premises that the City has put forward are a zero setback with parking behind the buildings. They've worked hard to meet the City's requirements. They've put the parking in back and underground. The building is expected to cost about \$12 million to construct. If you read through the minutes when the concept plan was presented, height was not mentioned once. They made a number of changes to the proposal based on the comments that were received.

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 - a. Variance, Site Plan Review, and Design Standards Review for New Building at 10 Water Street – Thomas F. James Property - (Con't.)

Weber said they are not here to negotiate. He doesn't understand why people are fighting this if they think this is a good project. They are trying to give something of value to Excelsior long term. Findings-of-fact will need to be carefully crafted if the variance is granted. Every time he came to Excelsior he made a point to go to the lake and design the building to preserve as much of that view as possible. He would love to have a discussion on the cupola. He said the HPC voted the project down at their July 20th meeting without seeing the presentation. He's not sure if they saw the presentation whether it would have changed anything.

Weber said that Charlie James will be at the Council meeting. He said that James will not build something that is not of good quality.

Gephart closed the public portion of the meeting at 8:16 p.m.

Putnam said it is disappointing to her to hear some of the comments this evening. She said she is passionate about the City and her passion comes from the community's concern for this City. Passion is an appropriate response and she would prefer not to see this become personal.

Craig said she likes the public hearing and hearing from others. When she looks back at the information that City Attorney Staunton provided the Planning Commission, reasonable provides a degree of reasonableness. Gephart said if the applicant had come in with this exact design and it was at 35 feet it would not need to come before the Planning Commission. He said that Weber had mentioned that if he put up a building within the 35 feet height that meets the zoning requirements that it will not support itself. Craig said so much is being placed on the Supreme Court case and to her the case does not seem that cut and dried. This is why it was good to hear from another attorney, Mark Kelly. Yes, it was a stringent application, but she believes there can still be some subjectivity.

Staunton said what the Planning Commission has to do is make the conclusion that the property cannot be put to a reasonable use without the variance and put findings together with regard to the property and site. The turning point is whether the Planning Commission has the evidence that the property cannot be put to use without a variance.

Craig said she agrees that this should not be emotional. If a property is already being used as a single family residential home for a family of two,

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is it reasonable to fit a family of four? Under the new ruling, it seems like you would never be able to grant a variance. Staunton said there is a stricter interpretation under the new Supreme Court ruling. The Supreme Court made it clear that you have to follow the literal language and have factual findings to show the property can't be put to a reasonable use. It is clearly a stricter standard. The only question is how far is reasonable. Craig said it appears that there is still some discretion.

Putnam said reasonable is still subjective. Staunton said reasonable in the Supreme Court's opinion and the Statute makes it more than a regulatory taking; there is no use that the property can be used for. This does not say there is no use, it says there is no reasonable use. The Planning Commission and the City have to be able to support the conclusion.

Putnam said to Staunton that in his memo he stated that the question will be if it's reasonable to forego giving up a portion of his building. Staunton said the Planning Commission still has to be able to articulate why the property cannot be put to a reasonable use without the variance.

Busch said she finds this discussion very helpful. One interpretation is that the project is over and another says that the project may still be possible. Staunton said you need to focus on the language "can't be put to a reasonable use" without the variance. The court has not interpreted the word reasonable, so he can't predict what that means. There is clearly less room for interpretation than there used to be. He would also add that any decision made here does not necessarily mean there won't be a project. There are other means, such as a change in the ordinance or the way the applicant proposes the project. The Planning Commission should focus on the variance for this particular proposal.

Richards said a number of cities are looking at what remedies to utilize versus using a variance. The City should probably look at their ordinances within the confines of the Comprehensive Plan.

Gephart said the City was receiving so many requests from people asking for variances for front porches, so the City created an exception so variances weren't needed. In a case like this, the developer has the option of coming back with another plan that meets the requirements. This has nothing to do with the use. The proposal is too large to meet the City's ordinances. If the developer can squeeze what he needs into a building that meets the ordinances, he would not need to come back before the Planning

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Commission. Richards said that the top two floors would need to be eliminated to meet the height requirement because of the topography.

Gephart said the issues are the height and size of the structure not the use. Putnam said that would be unreasonable. If the applicant conforms to the height, they would lose 40% of the use. If the fourth floor is eliminated there would be no incentive to compromise the building use. He is responding to what the people have asked for.

Gephart told Putnam that if she's convinced that there are findings to support granting the variance, she should make a motion.

Putnam moved, Busch seconded, to accept this proposal citing the hardship that the applicant would be willing to give up 40% of their usable cubic feet for a view corridor by stepping back the height and placing the parking to rear of building.

Gephart asked for findings-of-fact to support granting the variance. Putnam said the sloping of the site and the economic benefit to Excelsior of \$60,000 to \$100,000 per year. Also, is it reasonable to build something that would conform to the ordinances and not allow the view corridor? They need to be sensitive to the larger community.

After some discussion, Putnam and Busch withdrew their motion.

Busch said she supports granting the variance. She said this is a complex issue and there needs to be a motion drafted that is thorough. She suggested that City staff help draft findings to identify the loss of a large amount of cubic feet of the building in support of public input for maintaining a view corridor.

Wallace said he does not think it's a complicated issue. He commended Weber on the work he did on the plans. He said that the zoning as it is currently written is not appropriate for handling this issue.

Craig said she agrees with the zero front yard setback. She does not believe the view corridor is a hardship. The topography is the difference. The fact that two levels would be lost is unreasonable. She does not like the mass and scale. It doesn't make a difference if the height variance is 3 feet or 20 feet. She wants to be able to make a good decision.

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Gaylord said he agrees with Wallace, this is a simple decision. The ordinance and State Statute is clear; the property can be put to a reasonable use without the height variance. It is all about design. Weber put in design elements but missed the height. With a new design and similar concept, it is possible to meet the height and the proposal can go through.

Gephart said he also agrees with Wallace and Gaylord. This is not a difficult question. He asked the question as to what is the hardship. He doesn't agree that staff should draft the findings to support granting the variance. Busch said that the Planning Commission has had staff draft language for other applications. Gephart said it is the applicant's charge to articulate the findings-of-fact. He believes the Supreme Court's decision is clear. If there is a reasonable use that the property can be put to a variance cannot be granted. The Planning Commission's job is very simple. The applicant came up with design elements. No one has said that a hotel is not a good idea. The City is bound by its ordinances, which have been reinterpreted by the Court.

Busch asked if there have been other interpretations of the Supreme Court case. Gephart told Busch if she can come up with findings-of-facts to change the Planning Commission's mind she should state them. Gephart told Busch she is looking at this as a hotel with 55 rooms, not a building. People think this is needed, that it will help drive business and financially help the City.

Gaylord said this is about a building not a hotel. Everyone needs to take out the emotional view of a hotel and look at this as a 55-foot high building. If another developer came in and wanted to put in a 55-foot high office building would everyone be supportive? Busch said this is a unique property. Putnam said you would still have the same issues, because the issues are not unique to a hotel.

Gaylord said this property has been put to a reasonable use for years with a one level Pizza Hut building. Putnam asked why a building with a stepped back design would not be good for Excelsior?

Craig said this is difficult because the building is not four stories all the way around. Gaylord said if you take off the top floor, the one side would be 18 inches too tall. That comes down to a design issue. They decided to push it back, when in reality they need the four floors to make it attractive for

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people to come. If this would be office/retail they would not need those floors. Craig asked would you rather see a one story CVS drug store? Gaylord said it was a one story Pizza Hut building for 35 years.

Gephart said there are other projects that have come before the Planning Commission and they have been told it would be the best thing for Excelsior. They City hasn't always jumped at the first project that has come forward for a property.

Craig said she cannot think of anything that has come before the City in her six years on the Planning Commission that was this important. Gephart said Jake O'Connor's and Wyer Pearce were important.

Craig asked why this can't be handled as a Planning Unit Development (PUD)? Richards said the PUD ordinance can only be used if the proposal is for a use that is not allowed in that zoning district. He said the City can look at the PUD ordinance, but it shouldn't be changed for just one project.

Gephart said if the City looks at the PUD ordinance, it needs to consider that entire area because whatever happens there could impact the entire City. He's heard from people who are not supportive of the project.

Gaylord said this would be a great time for business owners to meet and work together to redevelop this area. They currently have one developer who has a piece of prime real estate, which is just one element. By denying the project tonight, the property owners could have that larger discussion.

Gaylord moved, Wallace seconded, to deny the variance. Voting in favor of the motion was Commissioners Gaylord and Wallace, and Chair Gephart. Voting against the motion was Commissioners Putnam, Busch, and Craig. Motion failed.

Busch asked Staunton if he would be able to articulate findings-of-fact to support the variance. Staunton said no, he hasn't heard anyone say that the property can't be put to a reasonable use without a variance.

Wallace asked why can't a two-story office building be put on the site? Putnam said the Planning Commission wouldn't be able to say then that they want something different. Wallace said the zoning ordinance dictates the use.

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Craig asked if a height variance would be reasonable if it was less. Gaylord said a variance is a variance. Richards said it may help the perception of the site, but it won't help in measuring the height because of the way the City measures height.

The Planning Commission discussed the use. Everyone agreed they liked the idea of a hotel, but there could be other uses for the property. If the hotel didn't make it, the public and gathering spaces would be lost. The issue is the variance and the City is bound to enforce their ordinances. If there is something in the ordinances they don't like, they should do something to change it versus grant a variance.

Wallace said there are a multitude of uses that wouldn't require a variance. The Planning Commission has discussed developing an envelope for residential uses. There are a lot of design elements that can be used. The variance is more complicated because of the recent court decision.

Putnam said if a resident came in who had a small lot, but they wanted to build a garage and the only place to put it is on the side of the property due to the topography and safety issues. Under the new court ruling, the variance wouldn't be allowed. Is that reasonable? This is the same principle. Wallace asked if a two-story office building is unreasonable.

It was noted that if the Dunn Bros. building burned down it could be rebuilt to a 35-foot height if it complied with all of the other zoning provisions.

Wallace said if someone comes before the Planning Commission that meets the zoning they would need to approve it. They probably wouldn't like it, but that is the regulations.

Gephart said there is another safeguard with regard to this site and that is that the HPC has the ability to look at what is going on that site. The project would also need to conform to the City's design guidelines. A three-story office building would not be able to meet the design standards or the HPC standards.

Gephart moved, Wallace seconded, to continue the public hearing to the City Council's meeting and forward the recommendation that the Council denies the variance because the property can be put to a reasonable use without the variance, a building of this size would change the character of the area, the design is an issue in a number of respects, and based on the determination of the recent Supreme Court case the application does not meet the

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requirements for granting a variance. Voting in favor of the motion was Commissioners Gaylord, Wallace, Craig, and Chair Gephart. Voting against the motion was Commissioners Busch and Putnam.

Gephart moved, Wallace seconded, to forward the recommendation to the City Council that it deny approval of the site plan and design standards due to the denial of the variance.

Gaylord said they would not necessarily need to deny the design and site plan if the proposal meets all of the requirements. The design standards do not address the height. Richards said that without the height variance the top two levels could not be built. Gaylord said the proposal meets the design criteria. Gephart said he believes there were some other issues with the design standards.

Richards said that the Planning Commission's recommendation will not go to the City Council until the September 7, 2010 meeting, because the HPC will not adopt their decision and order denying the Site Alteration Permit until they meet on August 17, 2010.

Richards went through the items from the design standards. The building height, the cupola, mass and scale, architectural features of the buildings around it, corner elements pertaining to common/public space, and pedestrian circulation were the main items of concern.

Putnam she said she's noticed there are a lot of cupolas. It was an important feature from the late 1800's and early 1900's.

Gaylord said he supports the design. If the height was fixed, the design elements would still pass.

Busch said that the design may meet the design standards, but it can't meet the design standards built as proposed because it does not meet the height requirements. Gaylord said what he is suggesting is that the design standards says 35 feet, and he believes the project would pass the design standards if the building height was less than 35 feet.

Busch said in order to fulfill these requirements he had to do certain things to the building to provide the open and public space. There would not be any public space if the building was not pushed back.

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Gaylord said they shouldn't close the door on this project. With a new design and a new approach something could be built there. There has been a lot of study and effort put into this proposal that could be used. It all comes down to design.

Gephart said the reason he made that motion is the project fails on the height and mass and scale. He also has questions regarding the open space.

Voting in favor of the motion was Commissioner Wallace and Chair Gephart. Voting against the motion was Commissioners Busch, Craig, Gaylord, and Putnam. Motion failed.

Gaylord moved, Busch seconded, to approve the design guidelines and site plan with the assumption that the building height meets the 35-foot height requirement.

Gaylord said he believes this project would satisfy the design standards and site plan requirements if the height requirement was met.

Busch said that to build the project as designed, the City would need to grant a variance.

Commissioner Gaylord voted in favor of the motion and Commissioners Busch, Craig, Putnam, Wallace and Chair Gephart voting against the motion. Motion failed.

Putnam said that she voted against the motion because she thinks they need the whole package.

Busch stated that she has supported the project and respected their adherence and attention to community input. She does not believe the design is possible, which was designed to fit community desires with the site lines and view corridor, without the height variance. She said she does support reducing the size of the cupola.

Gephart thanked Weber for his work on this and his patience. He noted that Weber has had to answer a lot of hard questions. He suggested that Weber review the discussions from tonight's meeting with the owner to see if there is something else that can be done on the site.

5. PUBLIC HEARINGS - (Con't.)

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Putnam thanked Weber for his professionalism throughout this process.

Wallace said he is disappointed that there was not a council member at the meeting this evening. Gephart said he would like to have the Council liaison again.

8. NEW BUSINESS

- a. Schedule Dates for Additional Work Session(s)

Staunton said that staff may need to request that the Planning Commission schedule a special meeting to review a subdivision application for the Lyman property if a purchase agreement moves forward for the Library. If needed, the special meeting would probably be held the last week in August.

No work sessions were scheduled at this time.

9. COMMUNICATIONS & REPORTS

- a. None

10. MISCELLANEOUS

- a. Recent City Council Actions

No report.

11. ADJOURNMENT

There being no further business, it was moved by Commissioner Craig, and seconded by Commissioner Busch, to adjourn the meeting at 9:47 p.m. The motion carried 6/0.

Respectfully submitted,

Cheri Johnson
City Clerk