

City of Excelsior  
Planning Commission Meeting  
Minutes

Tuesday, December 6, 2011

1. CALL TO ORDER

Chair Gaylord called the meeting to order at 7:00 p.m.

2. ROLL CALL

Commissioners Present: Busch, Craig, Duyvejonck, Jensen, Wright, and  
Chair Gaylord

Commissioners Absent: Wallace

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

3. APPROVAL OF MINUTES

a. Special Planning Commission Meeting of November 1, 2011

Chair Gaylord asked if anyone had any additions or corrections to the Minutes.

Commissioner Craig moved, Commissioner Jensen seconded, to approve the Minutes of the Special Planning Commission meeting of November 1, 2011 as presented. Motion carried 6/0.

b. Special Planning Commission Meeting of November 17, 2011

Chair Gaylord asked if anyone had any additions or corrections to the Minutes.

Commissioner Jensen moved, Commissioner Wright seconded, to approve the Minutes of the Special Planning Commission meeting of November 17, 2011 as presented. Motion carried 6/0.

c. Planning Commission Meeting of October 4, 2011

Chair Gaylord asked if anyone had any additions or corrections to the Minutes. Commissioner Craig submitted a correction on page 9 of the Minutes.

Commissioner Busch moved, Commissioner Duyvejonck seconded, to approve the Minutes of the Planning Commission meeting of October 4, 2011 as amended. Motion carried 6/0.

4. PENDING ISSUES/PROJECTS

- a. Appoint Liaison to City Council (December 19, 2011)

Commissioner Craig will serve as the Planning Commission liaison to the December 19, 2011 Council meeting and Chair Gaylord will be the alternate.

5. PUBLIC HEARINGS - (Continued)

- a. None

6. PUBLIC HEARINGS

- a. Conditional Use Permit for a Parking Impact Fee and Design Standards Review – 217 Water Street – Yumi’s Sushi Bar

Richards reported that Yumi Kim has made application for a Conditional Use Permit (CUP) to allow for additional parking under the Parking Impact Fee process at 217 Water Street and an application for Design Standards review to make changes to the front and rear façades of the building. Ms. Kim has purchased the building with the intent of moving Yumi’s Sushi Bar from her current location at 28 Water Street.

The front façade is proposed to be covered with brick and will feature a new storefront system that will be covered in wood. A blue cloth awning will also be installed. On the upper portion of the façade, the bay window will be removed and a new window and wall sign identifying Yumi’s Sushi Bar will be installed. On the rear façade, the existing garage door will be removed and the opening covered in stucco to match. A new customer doorway and another service doorway will be placed at the rear and a sign will be placed at the rear façade. The façade on the side of the building facing Second Street is in need of repair and painting. The applicant should consider repairing the appearance of this façade at this time.

The property at 217 Water Street is a contributing site within the Excelsior Downtown Historic District. The HPC, at their November 30, 2011 meeting, continued the discussion of the Site Alteration Permit and asked the applicant to make changes to the front and rear facades. On the front they asked for the cornice to be constructed with brick detailing instead of the plain metal cap; they asked for three panes of window glass to the left of the doorway instead of four; and they asked that the awning be shortened to match the width of the storefront. They were favorable to the proposed brick, the color of the storefront, and allowing one upper story window. At the rear façade, they wanted to see additional detailing added around the service door. On the side facing Second Street, they asked that the stucco surface, if not painted, be resurfaced with a masonry coating. The applicant is to bring revised plans for review at their December meeting.

6. PUBLIC HEARINGS

- a. Conditional Use Permit for a Parking Impact Fee and Design Standards Review – 217 Water Street – Yumi’s Sushi Bar – (Continued)

A request for parking under the Parking Impact fee requires Heritage Preservation Commission (HPC) review if the property is within the Downtown Historic District. The HPC also considered the use of the Parking Impact Fee for this property at their November 30, 2011 meeting. The HPC forwarded a recommendation of approval of the Parking Impact Fee.

The subject site is zoned B-1, Central Business District. Restaurants are permitted uses within the B-1 District as long as parking requirements are met. The building setbacks, impervious surface coverage, and building height do not change.

The applicant has proposed new wall light fixtures at the front and rear façades of the building. The fixtures will not be full cut off but are more decorative in design. The three fixtures below the roof parapet on the front façade are designed to light the sign. The Planning Commission should comment on the use of the non-full cut off light fixtures.

The 217 Water Street building has no parking spaces at the rear of the structure. The Excelsior Parking District has specified 11 parking stalls for 217 Water Street based upon the retail use. The use of the building as a restaurant where liquor is served requires one stall per four seats. The proposed restaurant will seat 68 persons requiring a total of 17 parking stalls. The proposal will result in a deficit of six parking stalls that can be satisfied with CUP approval by the City Council under the Parking Impact Fee. The upstairs of the building will contain the office for the restaurant and will not require any additional parking. City Staff does not see any issues with the proposal or a reason to deny the request for parking under the Parking Impact Fee. The City has a total of 51 parking spaces available under the Parking Impact Fee for 2011.

The Excelsior Design Standards address the architectural, site planning, and sign elements for buildings. Staff has reviewed the plans for compliance with the Design Standards and identified areas that the Planning Commission should comment on. The architect has revised the plans to incorporate the changes that the HPC identified. The Planning Commission will need to review the Design Standards based upon the revised plans that the architect will be distributing to the Planning Commission.

Richards said that if the Planning Commission finds that the proposed CUP for 217 is consistent with the requirements of the B-1 District and the CUP review criteria and the proposed changes to the front and rear facades are consistent with the Design Standards, the Planning Commission could make a recommendation on the project contingent on the final approval of the Site

6. PUBLIC HEARINGS

- a. Conditional Use Permit for a Parking Impact Fee and Design Standards Review – 217 Water Street – Yumi’s Sushi Bar – (Continued)

Alteration Permit by the HPC. Staff has prepared a list of conditions for the Planning Commission’s consideration if it decides to forward a favorable recommendation to the City Council.

The architect distributed the revised plans to the Commission. Richards identified the changes. He noted that the plans show three versus four windows on the front façade, the changes to the transom, the awning just extends over the storefront, the soldier course detailing and the window treatment on the upper story window, the changes to the light fixtures, and the added detail on the front and back facades.

Frank Duan, architect for the project, said that the new design incorporates the items that the HPC had requested. He noted that the transom was revised to pick up a Japanese style and still fit with the other buildings in the downtown area. The window openings have not changed; trim and transom have been added to the front façade to bring in the Japanese architecture. The signage will be made out of aluminum and it will not be illuminated.

Duan said that intent was to pick up some of the details from the front and place them on the back of the building without drawing too much attention to the back. The façade facing Second Street will be patched and refinished with stucco to match.

Richards asked if the Second Street façade is painted or natural stucco. Duan said it is stucco.

Richards asked what material will be used on the surface after the stucco is patched. Duan said that they will use a masonry coating, which is what the HPC preferred.

Richards asked the architect if he had samples of the brick that would be used. Duan said that he wasn’t able to use the same brick he had shown to the HPC because it didn’t come in the right size so he had brought two other examples.

Craig asked if the brick needs to be a certain height or length. Richards said that a jumbo sized brick cannot be used. He noted that the Design Standards has a designated brick size.

The Planning Commission concurred that either brick sample would be acceptable and would defer the decision to the HPC on which brick would be used.

Busch asked how tall the sign is on the front façade. Duan said the “Y” on the sign is approximately 3 feet tall.

6. PUBLIC HEARINGS

- a. Conditional Use Permit for a Parking Impact Fee and Design Standards Review – 217 Water Street – Yumi’s Sushi Bar – (Continued)

Richards asked for comments from the Planning Commission on several of the design standard elements. The Planning Commission had no issues with the items discussed with the exception of the mechanical equipment and venting. The Planning Commission requested that a condition be added requiring that detailed plans be submitted for any mechanical equipment or venting to ensure that it is fully screened and constructed with compatible materials and like colors.

Chair Gaylord opened the public hearing at 7:30 p.m. Hearing no comments, Chair Gaylord closed the public portion of the meeting.

Chair Gaylord asked if the Parking Impact Fee would be transferrable. Staunton said it would remain with the property as long as the annual payment is made.

Commissioner Jensen moved, Commissioner Wright seconded, to continue the public hearing to the City Council’s January 3, 2012 meeting and forward the recommendation to the City Council that it approve the Conditional Use Permit for use of the Parking Impact Fee for 217 Water Street subject to the conditions identified below. Motion carried 6/0.

Commissioner Jensen moved, Commissioner Busch seconded, to forward the recommendation to the City Council that it give Design Standards approval for the project at 217 Water Street.

Approval of the CUP for use of the Parking Impact Fee and Design Standards Review are subject to the following:

CONDITIONS

1. Owner and Occupant agree not to occupy or otherwise use the newly constructed space until such time as a CUP permitting payment of a Parking Impact Fee is issued, the conditions of said CUP have been satisfied and the Parking Impact Fee has been paid.
2. The Owner and Occupant shall enter into a development agreement with the City that includes an agreement to pay the Parking Impact Fee for as long as is necessary to satisfy the off-street parking requirements for the use of the property.
3. Detailed plans for mechanical equipment and venting are submitted to the City for approval.

6. PUBLIC HEARINGS

- a. Conditional Use Permit for a Parking Impact Fee and Design Standards Review – 217 Water Street – Yumi’s Sushi Bar – (Continued)
4. All conditions of the Site Alteration Permit shall be resolved to the satisfaction of the Heritage Preservation Commission and are a condition of this approval.
  5. Detailed plans for signage and the specific locations are submitted to the City for approval.
  6. Detailed plans for light fixtures are submitted and approved by the City in accordance with applicable ordinances.
  7. All applicable permits are applied for by the Applicants with all supporting documentation and issued prior to the start of construction.
  8. The structure shall be built in accordance with the plans approved by the City Council on January 3, 2012.
  9. Prior to the issuance of a Building Permit, revised building elevations in conformance to plans approved by the City Council shall be submitted for review and approval as outlined per Article 9 of Excelsior Code of Ordinances – Appendix E. Said plans, shall comply with all City Ordinances, City Codes, and approving Resolution and be submitted in both electronic and paper copy.
  10. Any damage to Water Street or public improvements that occur as a result of construction shall be repaired at the Applicants’ expense.
  11. All indirect costs with the building permit, review, final plans and the certificate of occupancy associated with engineering and administrative costs shall be paid by the Applicants.
  12. The Applicants shall record this resolution in the chain of title for the property with Hennepin County and shall provide the City with verification of its recording.
  13. The CUP shall expire one year from the date of adoption of the resolution if not acted upon; City approval will be required for any subsequent extension.

6. PUBLIC HEARINGS

- b. Conditional Use Permit for a Parking Impact Fee – 344 Water Street – Knapp Radio and TV Building

Richards reported that Tim Caron of Madelena Properties, LLC has made application for a Conditional Use Permit (CUP) to allow for additional parking under the Parking Impact Fee process at 344 Water Street. The request has been made to allow for a restaurant use at 344 Water Street.

A request for parking under the Parking Impact fee requires Heritage Preservation Commission (HPC) review if the property is within the Downtown Historic District. At the November 30, 2011 HPC meeting, the HPC did not see any issues with the proposal or a reason to deny the request for parking under the Parking Impact Fee and approval of the Parking Impact Fee was granted by the HPC.

The 344 Water Street building has no parking spaces at the rear of the structure. The Excelsior Parking District has specified six parking stalls for 344 Water Street based upon the retail use. The use of the building as a restaurant where liquor is served requires one stall per four seats. The proposed restaurant will seat 76 persons requiring a total of 19 parking stalls. In the summer there will be 72 seats inside and four seats on the sidewalk. During the winter months, the four seats from outside can be accommodated inside. The proposal will result in a deficit of 13 parking stalls that can be satisfied with a CUP approval by the City Council under the Parking Impact Fee.

City Staff does not see any issues with the proposal or a reason to deny the request for parking under the Parking Impact Fee. The City has a total of 51 parking spaces available under the Parking Impact Fee for 2011. If the CUP's are approved for 344 Water and 217 Water under the Parking Impact fee, the remaining capacity for 2011 will be 32 spaces.

If the Planning Commission finds that the project is consistent with the Zoning Ordinance requirements, City staff recommends approval of the CUP request subject to the conditions outlined in the staff report.

Chair Gaylord asked what type of restaurant was proposed for this site. Jennifer Caron, the applicant, said she is not ready to discuss the type of restaurant at this time because a decision has not been made.

Duyvejonck said when the design review was done in October the City wasn't aware that there might be a restaurant at this site, so the Commission hadn't looked at locations and/or screening for any mechanical equipment. Richards said that the requirements for these are outlined in the City's ordinances so this is something staff can enforce.

Chair Gaylord opened the public hearing at 7:38 p.m.

6. PUBLIC HEARINGS

- b. Conditional Use Permit for a Parking Impact Fee – 344 Water Street – Knapp Radio and TV Building – (Continued)

Bob Bolles, 340 Water Street, said that he is joint owner of the neighboring property and part of the 344 Water Street building sits on that property. The Caron's and he were made aware of this just before the Caron's purchased the property. He has some concerns with the proposed use of the property. He noted that there has not been a site plan provided or plans on the design for the rear of the building. It's also important that property lines are shown on the site plan. One of the drawings submitted is misleading because it shows that the Caron's own more property than they actually own. Restaurants have lots of deliveries and the access is very limited in the rear of the building, so deliveries will need to be from Water Street. With the parking along Water Street, it is possible that delivery trucks will need to double-park. Trash is also a concern. If the trash will still be contained inside the building it would not be an issue. Elevations of the rear of the building and a site plan have not been provided. It would behoove the Planning Commission to require a site plan with the seating outside and inside to make sure there is adequate circulation.

Bolles said the main topic tonight is the parking impact; are the parking spaces in the East and West parking lots? Richards said the Parking Impact Fee encompasses the entire downtown area, including street parking. He noted that on certain days the parking lots are to full capacity, but there has still been parking available on the streets.

Bolles said that street parking is not acceptable. Richards said that when the City Council establishes the number of parking spaces available, it looks at the entire downtown area. In January, the City Council will look again at available parking and establish the number of available parking stalls that can be purchased through a Parking Impact Fee.

Staunton said that the Parking Impact Fee does not designate where the parking spaces are located. Bolles said if the City is counting the spaces in the municipal parking lots and that's where the vacant spaces are available, how does the City ensure that the people are using those spaces? Richards said it is not regulated by the City. Bolles asked how the City can ensure that the people aren't using private parking spaces? Richards said it is up to the private property owner to regulate their parking.

Chair Gaylord explained to Bolles that his concerns are valid, but the Planning Commission is not the body who decides the number of parking spaces and where they are located. Bolles said that the Planning Commission is looking at the CUP application. Chair Gaylord said that is correct, but the Planning Commission can only apply the requirements for the Parking Impact Fee.

Craig said it would be difficult to monitor who is parking in a private lot, because someone may park in the lot and then go to multiple stores.

6. PUBLIC HEARINGS

- b. Conditional Use Permit for a Parking Impact Fee – 344 Water Street – Knapp Radio and TV Building – (Continued)

Chair Gaylord said when the design standards review was conducted previously for this property there was a different use proposed.

Bolles said that there are some windows on the building that encroach onto the neighboring property.

Hearing no further comments, Chair Gaylord closed the public portion of the meeting at 7:52 p.m.

Chair Gaylord said he is a little troubled with the change in use. If the Planning Commission is approving the parking maybe it should also reopen the design standards review.

Caron said what was applied for previously was design standards review for some exterior alterations to the front façade.

Richards said that a site plan is not required because there is no change to the building envelope.

Chair Gaylord asked the applicant if the comments about the property lines overlapping were accurate. Caron said there is an encroachment of about six inches and the encroachment has been in existence since the building was constructed.

Chair Gaylord asked if the encroachment is an issue. Staunton said this is an issue between the property owners and there may be adverse possession rights.

Chair Gaylord asked if the encroachment affects the use of the building. Caron said that she's not sure, because it is not something that she's been involved with. She noted that the owners of the Mill property knew there was an encroachment before they purchased the property.

Richards asked Caron what the plans were for handling deliveries. Caron said this is being looked into. Bolles said he wanted the dumpster moved away from the front, which is where it has been. Caron said they would prefer to place the dumpster in the rear and have it screened and enclosed.

Chair Gaylord asked how the garbage would be collected from the rear. Caron said that the garbage truck would need to access from Beeman Street, which is a one-way street behind the property. The issue will be addressed with the City.

6. PUBLIC HEARINGS

- b. Conditional Use Permit for a Parking Impact Fee – 344 Water Street – Knapp Radio and TV Building – (Continued)

Duyvejonck said it seems like a lot of these issues would be addressed by the Building Official and Fire Inspector through the building permit process, and are not issues that the Planning Commission needs to deal with.

Caron said she has asked City staff to look at the access to the rear.

Chair Gaylord asked how deliveries would be handled. Caron said the hope would be to have all of the deliveries come to the rear of the property.

Caron said the application is for parking tonight, it's not for all of these other things. If there are issues with the other things brought up this evening then City staff needs to tell them to address these.

Chair Gaylord asked if the Parking Impact Fee shouldn't be deferred until the other issues are worked out. Richards said these other items are addressed in the City's ordinances, so they will be handled.

Jensen asked how soon a business will be located at the site. Caron said the hope is to have a business there by spring. If the Planning Commission decides to delay the approval, she would want the Planning Commission to allocate these spaces so they do not lose them.

Staunton said that the Planning Commission needs to apply the criteria in the ordinance, which he outlined for the Commission. It is conceivable that the Planning Commission might want to know more information before it makes a decision. It would be difficult though to guarantee the spaces for the property, because it is not clear what the inventory will be when the Council reviews the parking impact fee ordinance again in January.

The Commission and Staunton discussed the Parking Impact Fee criteria.

Craig said that the City requires so much information from an applicant that it's interesting that the Planning Commission is hearing about some of these items tonight, especially since everything that was required by the City's ordinances was submitted.

Staunton said in this instance there is an existing building, so a site plan isn't required. Also, design standards review doesn't deal with use, it deals with design.

6. PUBLIC HEARINGS

- b. Conditional Use Permit for a Parking Impact Fee – 344 Water Street – Knapp Radio and TV Building – (Continued)

Caron said that the Planning Commission didn't have a survey or site plan for the 217 Water Street item prior to this agenda item and the Planning Commission recommended approval of the CUP for the use of a Parking Impact Fee for that property.

The Commissioners and Caron discussed the plans in the agenda packet for the rear of the building and the seating arrangement.

Bolles said he is concerned that there is a lack of understanding and there could be conflicting elements and relationships that are happening. Staff has to be somewhat objective and represent what they are reviewing and allow the advisory commissions to make recommendations. The drawings in the agenda packet definitely show changes to the rear of the building. He would think that the Commissioners would have gone to the site and would have seen that there are changes being proposed to the rear of the building. With the review of this project being done in piecemeal, there are a lot of things that could fall through the cracks. He would hope that the City would review this project with the completeness that it deserves.

Chair Gaylord said that this is not a comprehensive and cohesive review of this project. Bolles said that is correct, but he would not leave the review of the rear entrance and the trash enclosure up to the building officials to review.

Caron said if there are things that the Planning Commission needs to have followed up on with a revised plan, she is happy to comply. The encroachment has been there since the building was constructed and it was there when the adjacent property owners purchased the property.

Busch asked if the issue is whether the rear façade has changes. Richards said there are two issues, the design review and the encroachment.

Gaylord said he agrees this has been kind of piecemeal, but it would be helpful to have information from the applicant with regard to the placement of the building and the design of the rear façade.

Craig said she never thought that the Caron's were trying to push anything over; the Caron's have done several good projects in the City and their intentions have always been good.

Commissioner Duyvejonck moved, Commissioner Craig seconded, to continue the public hearing to the City Council's December 19, 2011 meeting and forward the recommendation to the City Council that it give approval to the Condition Use Permit for the use of the Parking Impact Fee for 344 Water Street, subject to the following:

6. PUBLIC HEARINGS

- b. Conditional Use Permit for a Parking Impact Fee – 344 Water Street – Knapp Radio and TV Building – (Continued)

CONDITIONS

1. Owner and Occupant agree not to occupy or otherwise use the newly constructed space until such time as a Conditional Use Permit permitting payment of a Parking Impact Fee for 13 parking spaces is issued, the conditions of said CUP have been satisfied and the Parking Impact Fee has been paid.
2. The Owner and Occupant shall enter into a development agreement with the City that includes an agreement to pay the Parking Impact Fee for as long as is necessary to satisfy the off-street parking requirements for the use of the property.
3. All applicable permits are applied for by the Applicants with all supporting documentation and issued prior to the start of construction.
4. The Applicants shall record this resolution in the chain of title for the property with Hennepin County and shall provide the City with verification of its recording.
5. The Conditional Use Permit shall expire one year from the date of adoption of the resolution if not acted upon; City approval will be required for any subsequent extension.
6. All indirect costs with the review, final plans and the certificate of occupancy associated with engineering and administrative costs shall be paid by the Applicants.

Motion carried 6/0.

Commissioner Duyvejonck moved, Commissioner Busch seconded, to ask staff to work with the applicant on whether there are any changes to the rear elevation that would require design standards and HPC review and to look at deliveries, mechanical, trash enclosure, etc. Motion carried 6/0.

Jensen asked how long are the 13 parking spaces assigned to this property and does the property retain the spaces. Staunton said the CUP is only good for one year unless it's acted upon.

7. UNFINISHED BUSINESS

a. Design Standards Amendment for 404 Second Street - Brandow

Richards reported that Tim Brandow has made application for amendment to the Design Standards review for 404 Second Street. In accordance with the plans approved by the City Council in 2008, the applicant has made improvements to the rear plaza area that include landscaping, seating areas, and parking stalls for six cars. The applicant has also added a rolling gate/fence structure designed to close off the parking area in the rear of the buildings. The gate/fence is installed along the wall of M and M Auto Body at 420 Second Street and can be rolled into place to close off the plaza. The gate/fence was not approved as part of the original plan and the approvals specified that the rear plaza area was to remain open. An amendment to the Design Standards is required to approve the gate/fence and allow the applicant to close the rear plaza from the East Parking Lot.

The applicant stated in the narrative that when the new plaza with landscaping was created behind the buildings, a sculptural backdrop was added at the entrance to the private parking area to add charm to the rear of the lot. This functions as part of the showroom, as well as providing closure of the patio during specific times. The tenants at 205-207 and 211-213 Water Street like the addition and prefer it to be closed as it shuts out the large "unsightly" parking lot in back, as well as allowing dogs to get exercise. Occasionally, there will be events in the plaza, at which time they'd prefer the "gate" be closed for security and privacy. The entire gate opens easily, and within the gate there are easy ways to access doors for entry and exit. The Fire Marshal agrees that the gate/fence could be closed and locked as long as there is a Knox Box mounted next to the gate lock to allow for access. It is further recommended that the gate/fence remain open at night after the businesses have closed.

The Heritage Preservation Commission (HPC) approved a Site Alteration Permit for exterior alterations at their June 17, 2008 meeting; HPC review is not required for this change.

The Design Standards indicate that the site fencing needs to be constructed of materials which are consistent with the principal structures and site furnishings and that the dominant materials be brick and wrought iron or a compatible substitute. Plastic and chain link fencing are not permitted as a screening or fencing material in the commercial area, but wood can be used where it is consistent with the principal building materials. The gate/fence is a custom design of high quality steel with wood inserts, which is consistent with the principal building.

If the Planning Commission decides to move forward with a favorable recommendation, there are list of conditions outlined in the staff memorandum for the Commission's consideration.

7. UNFINISHED BUSINESS

a. Design Standards Amendment for 404 Second Street – Brandow – (Continued)

Chair Gaylord asked if the plan is to pull the gate shut. Richards said the gate is on wheels and can be rolled back and forth.

Chair Gaylord asked if the parking in back is just for the 404 Second Street property. Richards said no it is for the entire complex; all of the buildings are owned by the Brandow's.

Duyvejonck asked if when the fence is pulled shut if it will trap the six cars in the parking area. Richards said that is the concern.

Duyvejonck asked if this area is the available parking for the complex, can it be closed off to the public? Staunton said it is private parking and it is required off-street parking for those buildings. The property owner would be allowed to have them available for just their customers.

Duyvejonck asked if the City maintains this parking area. Staff said no.

Staunton said if the property owner permanently closed off the area, the parking spaces would not be accessible. When the original design standards review was approved, the neighboring property raised a concern with the area being closed off so the City had placed a condition on the approval that the parking area remains open. The main concern is to ensure that the parking area is open for the customers for that property. The question is at what point does it cross the line and not meet the parking for the property.

Craig asked if the City will need to police the area to check how often and when the gate is closed or should there be hourly restrictions placed on the approval.

Chair Gaylord asked if there will be signage stating that this is private parking. Staunton said that it would be up to the property owner to sign the area and enforce it as private parking.

Staunton said that the topic came about because staff had noticed that the gate was already installed. As staff reviewed this, they realized the reason for the condition and thought it should come back to the Planning Commission to be discussed and reviewed.

Duyvejonck asked staff to request that the applicant also show the gate in the closed position on the plans.

Gaylord asked if the gate required a building permit. Staff said they did not think a building permit was required.

Commissioner Craig moved, Commissioner Wright seconded, to continue this agenda item to the January 4, 2012 meeting. Motion carried 6/0.

7. UNFINISHED BUSINESS

b. Design Standards Review for 31 Water Street – Licks Unlimited

Richards reported that Loren Lessard has made application for Design Standards review for the addition of a window at 31 Water Street on the side of the building facing Dunn Bros. He also plans to replace the second story windows at the front of the building above the canopy and on the side of the building. A Design Standards review is required to approve the addition of the window but not required for window replacement.

The Heritage Preservation Commission (HPC), at their meeting on November 30, 2011 reviewed the Site Alteration Permit for the replacement of the windows and the addition of the window. They continued the discussion to allow the applicant to determine if the existing second story windows can be repaired instead of being replaced and to provide additional information about the proposed new window.

The applicant has proposed installing a bay window on the side of the building facing Dunn Bros. The HPC raised questions of whether the window can be placed so close to the property line and meet Building Codes. The applicant was going to meet with the Building Official and determine the setback distance from the proposed window to the property line.

Chair Gaylord said more information is needed before the Commission can make a recommendation on this application.

Commissioner Jensen moved, Commissioner Craig seconded, to continue this agenda item to the January 4, 2012 meeting. Motion carried 6/0.

c. Discuss Amendment to Article 15, Non-Conforming Buildings, Structures, and Uses

Richards reported that the Planning Commission continued the discussion of the draft text to the December meeting to allow the City Attorney to further research Minnesota Statute revisions related to stormwater. The City Attorney would like additional time to discuss this matter with other attorneys who have dealt with these regulations and amended their regulations accordingly. It is expected that this material will be ready for the January meeting.

Craig asked if this would also address someone who wants to add a second story on a substandard lot. Staunton said that is not an issue he is really looking into, but it is something that the Commission can discuss if they want.

Commissioner Jensen moved, Commissioner Wright seconded, to continue this agenda item to the January 4, 2012 meeting. Motion carried 6/0.

7. UNFINISHED BUSINESS

d. Parking Update - Implementation

Richards will be asking the City Council in January when they discuss the parking if the City needs to continue doing parking counts in October, November, and December.

Gaylord said that there should be adequate data available from the parking counts that have been done so parking counts shouldn't be needed anymore.

8. NEW BUSINESS

a. Variance Allowance for New Construction

Duyvejonck said that she had raised a question with staff regarding 153 West Lake Street. She said the City had granted a variance to remodel the garage, but then the contractor ended up taking down the entire garage because it was not structurally sound. She was concerned that the garage was rebuilt in the exact same location when it could have been moved over.

Jensen said that State Laws give a property owner the ability to rebuild non-conforming structures.

Richards said this pertains more to structures that come down due to natural causes. He said that the City can take this project through the process again, but it would probably be approved again.

Staunton said the granting of the variance allows the structure to be rebuilt in the same manner as it was approved. The only recourse would be to place a condition on approval that the structure couldn't be torn down.

Wright said the contractor did not intentionally tear it down.

Duyvejonck said she questions whether there shouldn't be a condition on approval that the structure can't be torn down. She can see where it would be easier for someone to want to go through the process to get a variance for a remodel than for a new structure. Staunton said that the City could put the condition on the approval.

Duyvejonck said she thought the Commission should discuss this and give it some thought.

Richards agreed to place this on a future agenda for the Planning Commission to discuss further.

b. Dates for Additional Work Session(s)

None were scheduled at this time.

9. COMMUNICATIONS & REPORTS

a. Update on Residential Design Guidelines Subcommittee

Richards said he will send out an email to the Subcommittee with possible dates in January to hold a meeting.

b. Update on Green Technology Subcommittee

Richards said he will send out an email to the Subcommittee with possible dates in January to hold a meeting.

c. Next Planning Commission Meeting – Wednesday – January 4, 2012

Information only.

10. MISCELLANEOUS

a. Recent City Council Actions

City Attorney Staunton provided an update to Commissioners on recent City Council actions.

11. ADJOURNMENT

Commissioner Wright moved, Commissioner Craig seconded, to adjourn the meeting at 9:18 p.m. Motion carried 6/0.

Respectfully submitted,

Cheri Johnson  
City Clerk