

city of saint paul  
planning commission resolution

file number 15-23

date April 24, 2015

WHEREAS, Shepard Development LLC, File # 15-022-204, has applied for a variance of a 40 foot River Corridor height limit and 55 foot height limit for a mixed use building in the T3 District to allow a maximum building height of 73 feet 6 inches under the provisions of §§61.601 and §68.601 of the Saint Paul Legislative Code, on property located at 1465 Davern Street, Parcel Identification Number (PIN) 21.28.23.42.0016, legally described as Whitneys Re arrangement Ofbe Vac Fairview Ave Adj And Part Of Lot 28 Steels Subd E Of 7th Blvd And In Sd Re Vac Wheeler St And Leonard Ave Alleys Accruing All Of Gertrude St E Of W L Of Lot 21 Blk 2 And Lots 16 Thru 30 Blk 1 Lots 21 Thru 30 Blk 2 All Of B; and

WHEREAS, the Zoning Committee of the Planning Commission, on April 16, 2015, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. To approve any variance, the Planning Commission must find that it meets the following findings:
  - A. *The variance is in harmony with the general purposes and intent of the zoning code.* This finding is met. In the T3 district, heights greater than 55' feet are allowed through either increased setbacks or conditional use permits, except in the river corridor (MRCCA) overlay district. The proposed height is generally consistent with similarly situated buildings along Shepard Road and with other buildings within approximately one half-mile that were constructed on similar shallow bedrock sites.

In regard to development in the RC3 district, Sec. 68.231 of the Zoning Code gives the intent statement for the district:

*It is intended that land and waters within this district shall be managed to conserve and protect the existing and potential recreation, scenic, natural and historic resources. Open space provided in the open river corridor is for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district will be protected.*

moved by Nelson

seconded by \_\_\_\_\_

in favor 11 with 1 abstention (McMahon)

against 1 (DeJoy)

The proposed building is consistent with the protection of natural, historic, and recreation resources in the river corridor. The building would have a minimal visual impact on the river valley and is consistent with the visual character of urban development along the bluffs in this segment of the river corridor.

The applicant submitted a cross section illustration of the river valley and bluff in relation to the proposed building. The building would be visible from the Saint Paul river bluff, which is directly across Shepard Road from the site. It would not be visible from the northern shoreline. During the months when leaves are on the trees, the building would not be visible from the river itself, and would be barely visible from Pike Island's trails and the river's southern shore. Pike Island is a quarter to half a mile away on the river bottom.

From Fort Snelling across the river to the west, the Shepard-Davern area is not visible from within the fort because the view is blocked by the barracks. It is only visible from the tower. The view is partially obscured by trees, but the top floors of the proposed building would be visible. The tower is half a mile away.

The site is intermittently visible from across the river in Mendota. Highway 13, running near the bluff, is three-fourths of a mile away. When viewed from across the river, Shepard-Davern lies within a panorama dominated by the green of the river valley with ribbons of urban development at the crests of the bluffs on both sides. The proposed building would become another small part of this ribbon on the bluff crests.

In regard to location relative to the bluff, the standard for bluff development is 40' landward of the bluffline, per §68.233. This building would be approximately 170' from the bluffline. Apart from the building height limit, the development is consistent with the other standards in the RC3 district (§68.233).

It should be noted that Updated DNR rules for the Mississippi River Corridor Critical Area (MRCCA) are expected to be published by June and adopted by the state by the end of 2015. Saint Paul will then be required to adopt a new plan and ordinances for the MRCCA consistent with the state rules. The most recent version of the draft DNR rules shared with City staff would allow heights of up to 65' on the project site, with the potential for greater heights with a conditional use permit based on an analysis of the impacts to views of the additional height.

*B. The variance is consistent with the comprehensive plan.*

This finding is met. The future land use map of the Land Use chapter of the Saint Paul Comprehensive Plan identifies the area of the proposed development as part of a Mixed Use Corridor. The Land Use chapter describes Mixed Use Corridors as characterized by a fine-grain mix of uses including residential, commercial, retail, office, small scale industry, institutional, and open space at residential densities of up to 150 dwelling units per acre.

The Shepard-Davern Area Plan, an update to the 2007 District 15 Plan, was adopted by the City Council in early 2015. The vision articulated in the plan calls for redevelopment of the area's under-utilized land with the following: 3-5 story mixed use development; better pedestrian orientation in new development; new development consistent with the

character of the neighborhood; and a better balance of housing types and tenures, including high quality housing that will act as a neighborhood amenity. Although the proposed building is a story taller than the range identified in the plan, it is similar in height to existing buildings similarly situated along Shepard Road and within approximately one half-mile, where even taller buildings have been built on similar shallow bedrock sites.

- C. *The applicant has established that there are practical difficulties in complying with the provision and that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

This finding is met. The proposed development eliminates large off-street surface parking lots, which characterized previous development on the site. The incorporation of resident and commercial tenant parking into the structure allows for an improved relationship of the overall development to the street. It also allows space for significant landscaping along Shepard Road and the proposed S. Wheeler extension. However, due to shallow bedrock, structured parking cannot be buried underground and must be incorporated into the above-ground portions of the building. A taller building is needed to accommodate the residential potential of the site that is being displaced by the above-grade parking garage. This constitutes a practical difficulty. The proposed use is reasonable given the location and zoning of the site.

- D. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

This finding is met. The plight of the landowner is the result of shallow bedrock, a condition over which the landowner has no control.

- E. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

This finding is met. The variance allows additional height, but the use itself (mixed use with accessory parking) is a permitted use of the property.

- F. *The variance will not alter the essential character of the surrounding area.*

This finding is met. The area has been long developed, and a large commercial building was located just west of the site until its recent demolition. The proposed building is adjacent to an existing parking garage on the site. Allowing additional height will not substantially alter how the site appears as viewed from the area north of Norfolk Avenue. The building is also similar in mass to existing buildings similarly situated along Shepard Road and within approximately one half-mile, where even taller buildings have been built on similar shallow bedrock sites.

2. To approve a variance to permit a building height of 73'4" in the RC3 (Urban Open District District), the Planning Commission must find the variance request meets the following test, spelled out in §68.601:

*The burden of proof shall rest with the applicant to demonstrate conclusively that such variance will not result in a hazard to life or property and will not adversely affect the safety, use or stability of a public way, slope or drainage channel, or the natural environment; such proof may include soils, geology and hydrology reports which shall be signed by registered professional engineers. Variances shall be consistent with the general purposes of the standards contained in this chapter and state law and the intent of applicable state and national laws and programs.*

This finding is met. The area of the proposed building has long been in urban use and the proposed building will not result in the loss of natural habitat. Previous development immediately adjacent to the site and existing development of similar scale nearby adequately demonstrate that the proposed building will not affect the safety, use, or stability of a public way, slope, or drainage.

Building plans submitted to the City are required to be signed by a registered professional engineer or architect and will confirm among other things that the site has the bearing capacity for the proposed building.

In regard to the general purposes of the development standards for the RC3 district, please refer to variance Finding 1 above, which covers the same point.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Shepard Development LLC for a variance of a 40 foot River Corridor height limit and 55 foot height limit for a mixed use building in the T3 District to allow a maximum building height of 73 feet 6 inches at 1465 Davern Street is hereby approved, subject to the following condition:

1. Site plan approval.