

CITY OF SAINT PAUL Deadline for Action: July 24, 2020
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 20-038544
DATE: June 15, 2020

WHEREAS, Joseph Peris for Ryan Companies has applied for variances from the strict application of the provisions of Sections 66.931 pertaining to the Ford district dimensional, and 66.945 pertaining to the Ford district general development standards of the Saint Paul Legislative Code along with requirements in the Ford Site Public Realm Master Plan pertaining to the glazing and the general standards related to special parking facilities (car-share) in order to construct a six-story mixed-use building consisting of approximately 51,000 square feet of retail (grocery) space, 227 market rate apartment units, 436 structured parking spaces and 240 bicycle parking spaces . This property is located in the F5 zoning district at 2170 Ford Pkwy., PIN: 172823110111; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on June 29, 2020 pursuant to said application in accordance with the requirements of Section 61.601 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

FINDINGS:

- 1. The variance is in harmony with the general purposes and intent of the zoning code.*

The applicant is proposing to construct a six-story, mixed-use building with 51,000 square feet of retail (grocery) space, 230 residential units above, indoor and outdoor residential amenity spaces, 436 structured parking spaces, 240 bicycle parking spaces, corner tower element (non-occupiable space), and a private alley (Outlot A). The following variances are requested:

- 1.) The Ford Site Masterplan requires buildings in the Urban Center to have a minimum of 65% transparent glazing in the bottom 12 feet of the building for portions of the ground floor not dedicated to residential units. 34% is proposed, for a variance of 31%.

- 2.) Allowed building height is a maximum of 65 feet in a F5 zoning district, with the ability to increase to 75 feet if the building meets the minimum interior setback of 6' and the minimum right-of-way setback of 5 feet, plus an additional 10 feet of setback for all portions of the building above a height of 30 feet. The applicant is requesting a variance from the additional 10 foot setback requirement for three interior lot line segments at the northeast, southeast, and southwest corners of the building in order to construct a 75 foot tall building, for a variance of 10 feet.

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3.) A decorative tower (non-occupiable space) is proposed as a corner element at Ford Pkwy. and Cretin Ave. that exceeds 75 feet in height; 90 feet is proposed, for a variance of 15 feet.

4.) Maximum building lot coverage in a F5 zoning district for a mixed-use building is 70%; 90.3% is proposed, for a variance of 20.3%.

5.) The Ford Site Masterplan requires two designated spaces for car-share vehicles for properties with over 201 residential units, plus 1 additional space for every 200 units over 200. Additionally, two spaces for car share vehicles shall be provided for parking lots with more than 50 spaces for non-residential use, plus 1 additional space for every 40 spaces over 50. A total of 8 car share spaces are required based on residential units and commercial parking spaces; the applicant is proposing zero spaces for a variance of 8 car-share spaces.

This lot's elevation is 15' higher on the northeast corner compared to the southwest corner. As a result, the wall space available for windows is reduced on the northeast corner making it a challenge to meet the required 65% of glazing (window/door openings) that could be provided if the building was on a flat lot. The variance request from the glazing requirement aligns with intent of Sec. 60.103 of the zoning code to fix reasonable standards to which buildings, structures and uses shall conform.

The height of the building and the tower element are intended to anchor the corner and to be the gateway to the larger redevelopment site from Ford Pkwy. and Cretin Ave. The requested variances to allow the proposed 75' tall building and the 90' tower element align with the intent of Sec. 60.103 of the zoning code to promote and to protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community. Additionally, Ford Section 66.903(d) exempts the height of corner portions of the building facing the Civic Square identified in the Ford Site Zoning and Public Realm Master Plan, Chapter 8. The Master Plan references the parcel at the southwest corner of Ford Pkwy and Cretin Ave as the *Civic Plaza*, whereas the Plat and Ford Site Redevelopment Agreement both refer to this Outlot B as the *Civic Square*. The intent of the code language applies to both the Civic Plaza and Civic Square (Civic Areas). The other portions of the building meet the setback requirement resulting in overall building height of 75' with setbacks.

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The requested variance from the lot coverage requirement for the building is intended to create a structure that will accommodate a large retail space on the first floor and the required off-space parking while still providing landscaping around the perimeter and a outdoor amenity deck and green roof for additional open space. This variance request aligns with the intent of Sec. 60.103 of the zoning code to regulate the location, construction, reconstruction, alteration and use of buildings, structures and land, and to lessen congestion in the public streets by providing for off-street parking of motor vehicles and for off-street loading and unloading of commercial vehicle. Furthermore, the lot coverage calculation does not include the private alley (Outlot A), which if the alley were public, then Sec. 63.101 includes one-half the width of an alley adjoining the lot to be considered as part of such lot.

The Ford Redevelopment Site is intended to be pedestrian friendly, which explains a reduced parking requirement compared to the rest of the city. Although the applicant is requesting a variance from the car-share parking requirement, the applicant and City are pursuing implementation of shared mobility hub(s) to service the site. As well, the applicant plans to include at least eight (8) dedicated spots on the lot for scooter-sharing as an alternative to the car share spaces. This variance request aligns with the intent of Sec. 60.103 of the zoning code to provide for safe and efficient circulation of all modes of transportation.

This finding is met for all variance requests.

2. The variance is consistent with the comprehensive plan.

This property is subject to the Urban Center Frontage Type in Chapter 5: Design Guidelines for the *Ford Site Zoning and Public Realm Master (Ford Site MP) Plan*. The intent of the Urban Center frontage type is to ensure that the Urban Plaza, Diagonal Way and Civic Square spaces are vibrant and active, that building facades provide an edge to and define the public realm, and that public activity in the plaza and square does not negatively impact activity in the private development and vice-versa. This building will be the entryway to the development for those entering the site from Ford. Pkwy. and Cretin Ave. While the proposed building doesn't meet the required glazing requirement, the amount of glazing proposed will contribute to a vibrant and active space that allows pedestrians to see into the spaces within the building and the activity therein. The variance request from the glazing requirement is consistent with the Ford MP 5.2 Design Standard G16. Windows shall be designed with punched and recessed openings or other window installations that create a strong rhythm of light and shadow. Glass on windows and doors shall be clear or slightly tinted, and allow views into and out of the interior.

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The height variance for three sections of the building (northeast, southeast, and southwest corners) conform to the Ford Site MP, as the variance is for the 10' setback along portions of the building that are interior property lines and not next to rights-of-way with a large volume of pedestrian traffic. The additional height aligns with the intent of the scale of the building in the Ford Site MP since it is expected that as the proportion of lot space used for landscaping, parking, services, or amenities goes up, the height of the building will increase to create an overall sense of massing consistent with the urban, neighborhood context. These requested height variances align with intentions of the building scale and design standards of the Ford MP including G11. the lower twenty-five (25) feet of buildings shall include elements that relates to the human scale at grade, and G14. to require new buildings on corner lots to be oriented to the corner and both public streets.

The proposed building with a tower as an architectural element constitutes a landmark for this site. This building abuts a civic space across Cretin Ave, which is the "front door" of the development and one of the most visible sites in the neighborhood. The entrance and identity of the site hinges on the civic square and plaza, where new buildings must be oriented towards the corner of both streets. According to the applicant, the intent of both height variance requests is to add character to the building to create a better aesthetic appearance and pedestrian experience for the surrounding area and is designed to hold the corner. Additionally, the intent of Section 66.903 (d) was to exempt corner portions of the building facing the civic square identified in the Ford Site Zoning and Public Realm Master Plan, Chapter 8. The Ford Site MP refers to this parcel as the Civic Plaza and not the square, but the intent of the code language applied to both Civic Areas. These requested height variances align with intentions of the building scale and design standard G14 of the Ford MP to require new buildings on corner lots to be oriented to the corner and both public streets.

The proposed building will cover 90.3% of the lot instead of the maximum allowed 70%. This property is in the F5 zoning district, which is intended to provide for a variety of retail stores, dining, office buildings and service establishments. Buildings will orient to public rights-of-way, and portions of the Civic Areas, which will provide dynamic, ground floor activity that transitions between the outdoor public spaces and the building uses. Exterior edges will provide attractive vegetation, patios, amenities and public art that enlivens the public realm. The proposed building will accommodate a 51,000 square foot grocery store on the first floor, 436-parking stalls within the building as opposed to surface parking, and 230 residential units on the upper floors. The proposed building complies with the current 25% open space requirement with ground level landscaping and a 22,000 square foot outdoor amenity deck and green roof. The requested variance from the maximum lot coverage requirement will allow the construction of a building that aligns with the intent of the F5 zoning district as stated above.

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The City and Ryan Co. are working on provisions for a public car-share hub to be provided in another location in the Ford Site, which better support the Hour-Car business model and by extension Hour-Car client demand. The variance request to not include car-share parking spaces but provide shared scooter stalls exterior to the site and the required 240 bicycle parking spaces serve as an alternative that aligns with Sec. 1.1 of the Master Plan for accommodating transportation that will focus on all modes of travel - walking, biking, public transit and personal vehicles. This development will be designed to balance movement with safety and encourage trips to be made to, from and around the site without a car. Vehicles will be accommodated with streets and parking, but not given priority over other forms of travel, safety and livability. All elements together provide a site that is environmentally, socially and economically sustainable.

This finding is met for all variance requests.

3. The applicant has established that there are practical difficulties in complying with the provision, 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.

The topography of the lot characterized by slopes from the northeast corner down to the southwest corner of this lot creates challenges to meet the glazing requirement for the bottom 12' of the building. The applicant proposes to provide a reasonable number of openings given these grade changes providing views into and out of the ground floor use. **This finding is met for the glazing variance request.**

The variance for the height/setbacks for interior lot lines applies to three segments of the building - the northeast, southeast, and southwest portions pictured below. The rest of the building meets the Section 66.931 (d) which allows a height of 75' with a minimum of 10' setback from all minimum setback lines above 30'. The intent of the 75' setback is to enhance the pedestrian experience when next to a large building. The east interior lot line adjoins a private alley (Outlot A) to be developed and maintained by the applicant. If Outlot A were owned by the applicant, then the additional 10' setback for height would be met. The private alley (Outlot A) will not have a significant amount of pedestrian traffic. Pedestrians will typically travel along Ford Pkwy and Cretin Avenue, where the building meets the stepback requirement for added height. The southwest portion of the building also faces an interior lot line and will have limited pedestrian use. From the Cretin Avenue pedestrian experience, the building will have more symmetry and visual interest when the building holds the southwest corner from the ground to the top of the housing portion above. Additionally, the added height allows for the location of the emergency egress to the property line to be easily seen and accessible by individuals inside the building in case of an emergency such as a fire. There are practical difficulties in complying with the provision requiring a 10' setback above 30' in height for these segments of the building, and the applicant is proposing to develop the site in a reasonable manner as a mixed-use building with structured parking.



According to the applicant, the requested variances for the height of the building and the tower element are intended to design a building that will “hold the corner,” “create an architectural presence,” and to be an “iconic gateway feature.” These desired features and intended purposes cannot be achieved with a 65’ tall building allowed under the code. For the tower element to be an “iconic gateway feature” it needs to be taller than the 65’ currently allowed in the zoning code, and the intent of Section 66.903 (d) was to exempt corner portions of the building facing the Civic Areas. There was always the intent to have a corner element on Ford Parkway and Cretin Avenue exceed the maximum 75’ allowed in the F5 District. This is a practical difficulty of the language in the code not aligning with the underlying intent. **This finding is met for the building height and tower element height variance requests.**

The applicant has not established any practical difficulties in complying with zoning and Master Plan requirements for building lot coverage and car-share requirements. **This finding is not met for the building lot coverage and the car-share variance requests.**

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

The change in grade throughout the lot makes it challenging to provide the required amount of glazing since the building has to provide space for structural integrity in its walls. This is a unique circumstance to the property not created by the landowner. **This finding is met for the glazing variance request.**

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The variance for the height and additional setback requirements are unique to the property. The portions of the building that the applicant is requesting (northeast, southeast, and southwest) do not face the public right-of-way and will not have the level of pedestrian traffic expected on Cretin Avenue and Ford Parkway. The east interior lot line adjoins a private alley (Outlot A) to be developed and maintained by the applicant through an easement agreement with the City. If Outlot A were also owned by the applicant, then the setback created by the span of private alley would allow for 75' height by right on the east side of the building. The southwest segment of the proposed building is set back 6' from the interior property line and adjoins a proposed surface parking lot, which together provides a 49' buffer between this building and the one to the south. The intent of the 75' increase in height with the set back is to enhance the pedestrian experience. There will be very little pedestrian traffic on these portions of the building, the adjacent buildings are located a reasonable distance apart, and the height is needed to maintain life and safety requirements as well as maintain the number of units in the building. **This finding is met for the building height variance request.**

For the tower element to be an "iconic gateway feature" it needs to be taller than the 65' currently allowed in the zoning code, and the intent of Section 66.903 (d) was to exempt corner portions of the building facing the Civic Areas. There was always the intent to have a corner element on Ford Parkway and Cretin Avenue exceed the maximum 75' allowed in the F5 District. The plight of the land-owner is due to the code language not meeting the intent, which was always to have a corner element exceeding the 75' allowed in the F5 District. **This finding is met for the tower element height variance request.**

The applicant has not established any unique circumstances to the lot regarding the building lot coverage variance request. The plight is self-created. **This finding is not met for the building lot coverage variance request.**

Based on the applicant's correspondence with Hour Car, it was discovered that Hour Car's business model is more intended for larger, public car-share hubs and not smaller hubs on private property disbursed throughout the site. Additionally, Hour Car is working with the City to establish an electric vehicle car sharing system and Ryan is working with the City and Hour Car to establish a hub on the Ford Site.

As the applicant stated, Hour Car is one of the only ride-share programs active in the area. The applicant also reached out to Zip Car and was told that the Ford Site is out of the Zip Car service areas. Given that there is no operable car share provider in the area this is a unique circumstance to this property. **This finding is met for the car-share variance request.**

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

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The requested variances will not allow a use that is not permitted in this zoning district. The requested variances will allow a mixed commercial/residential building to be constructed that does not meet the dimensional and design standards and car-sharing requirements in the current zoning code and Master Plan. **This finding is met for all variance requests.**

6. The variance will not alter the essential character of the surrounding area.

The requested variance from the glazing requirement will not alter the surrounding area since the proposed building will provide a considerable number of openings in its facades, which aligns with the essential character of the existing buildings on Ford Pkwy.

The Ford MP provides a variety of building types throughout the site. One of the principles, is to create a "range of housing types and affordability that expand choices in the area and in the city." As such, the zoning districts have a range of maximum height allowed, with lower heights near the Mississippi River (maximum height of 48') with a maximum height of 75' with a set back to the east of the site. The variance 75' on select portions of the building will not alter the essential character of the surrounding area because the height variance only applies to *interior* portions of the building, be buffered by the private alley and adjoining parking lot, will have limited pedestrian traffic, and the height will provide a consistent façade with 75'.

Additionally, the intent of Section 66.903 (d) was to exempt corner portions of the building facing the Civic Areas. On Ford Pkwy. and Cretin Ave., *only* the tower element will exceed the 75' currently allowed in the F5 District, which is the intent of 66.903 (d) to include this parcel.

Although the footprint of the building would be larger, it is proportional to the size of this unique development site. The requested lot coverage variance will not change the character of the area.

The requested variance from the car-share space requirement will not alter the essential character of the surrounding area.

This finding is met for all variance requests.

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NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 66.931 pertaining to building height and tower element height requirements in the Ford district dimensional standards and 66.945 pertaining to the Ford district general development standards of the Saint Paul Legislative Code along with requirements in the Ford Site Public Realm Master Plan pertaining to the glazing in order to construct a six-story mixed-use building consisting of approximately 51,000 square feet of retail (grocery) space, 227 market rate apartment units, 436 structured parking spaces and 240 bicycle parking spaces on property located at 2170 Ford Pkwy.; and legally described as Lot 1, Block 3 in FORD, according to the recorded plat thereof, Ramsey County, Minnesota; in accordance with the application for variance and the site plan on file with the Zoning Administrator, is **HEREBY APPROVED, the building height is subject to the condition only for the building frontage on the eastern portion facing the alley; the two portions of the eastern part facing the alley and on the rear, which is the southwest corner of the building (those areas are indicated with the green lines shown in today's presentation and to which Commissioner Clarksen based his motion for approval on). The tower element height and glazing variance requests are approved with no conditions.**

MOVED BY: Maddox
SECONDED BY: Clarksen
IN FAVOR: 5
AGAINST: 0

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions Section 66.945 pertaining to the Ford district general development standards of the Saint Paul Legislative Code along with requirements in the Ford Site Public Realm Master Plan pertaining to the general standards related to special parking facilities (car-share) in order to construct a six-story mixed-use building consisting of approximately 51,000 square feet of retail (grocery) space, 227 market rate apartment units, 436 structured parking spaces and 240 bicycle parking spaces on property located at 2170 Ford Pkwy.; and legally described as Lot 1, Block 3 in FORD, according to the recorded plat thereof, Ramsey County, Minnesota; in accordance with the application for variance and the site plan on file with the Zoning Administrator, is **HEREBY DENIED.**

MOVED BY: Trout-Oertel
SECONDED BY: Clarksen
IN FAVOR: 4
AGAINST: 1

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NOW, THEREFORE, BE IT EVEN FURTHER RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 66.931 pertaining to the Ford district dimensional standards for lot coverage for buildings in order to construct a six-story mixed-use building consisting of approximately 51,000 square feet of retail (grocery) space, 227 market rate apartment units, 436 structured parking spaces and 240 bicycle parking spaces on property located at 2170 Ford Pkwy.; and legally described as Lot 1, Block 3 in FORD, according to the recorded plat thereof, Ramsey County, Minnesota; in accordance with the application for variance and the site plan on file with the Zoning Administrator, is **HEREBY DENIED.**

MOVED BY: Morales
SECONDED BY: Clarksen
IN FAVOR: 5
AGAINST: 0

MAILED:

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TIME LIMIT: No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the zoning or planning administrator grants an extension not to exceed one (1) year.

APPEAL: Decisions of the Board of Zoning Appeals are final subject to appeal to the City Council within 10 days by anyone affected by the decision. Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the City Council has made a final determination of the appeal.

CERTIFICATION: I, the undersigned Secretary to the Board of Zoning Appeals for the City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on approved minutes of the Saint Paul Board of Zoning Appeals meeting held on June 29, 2020 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS

**Maxine Linston
Secretary to the Board**

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