

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, April 16, 2015 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: Makarios, Merrigan, Nelson, Reveal, Wencil, and Wickiser  
EXCUSED: Edgerton and Padilla  
STAFF: Tom Beach, Josh Williams, Samantha Langer, Bill Dermody and Peter Warner

The meeting was chaired by Commissioner Nelson.

**Shepard Davern mixed use development - 15-007-994 - Site plan review for Shepard - Davern mixed use development (2,000 sq. ft. commercial space, 211 dwelling units), 1465 Davern, NW corner at Shepard Road**

**Shepard Davern mixed use development – 15-022-204 – variance of 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 4 inches at 1465 Davern Street, NW corner at Shepard Road**

Tom Beach and Josh Williams presented the staff report with a recommendation of approval with conditions for the site plan review and variances. They stated District 15 recommended denial as proposed, and there were 0 letters in support, and 11 letters in opposition.

Upon questions from the Commissioners, Mr. Beach stated that the building previously located on the site was a two story building and approximately 30 feet in height.

At questions from the Commissioners, Mr. Williams explained that the conditions listed are related to site plan approval. They are technical issues that need to be worked out through the process of administrative approval of the site plan and variances.

Upon inquiry from the Commissioners, Mr. Beach said it may be possible to reconfigure the building to reduce the height. The current configuration has advantages like masking the parking. He stated that because of the shallow bedrock they are unable to put the parking underground. Mr. Williams added that due to the shallow bedrock storm water is another challenge. Mr. Williams confirmed that in a T3 district, heights greater than 55 feet for mixed-use buildings are allowed through a conditional use permit (CUP), except in the River Corridor overlay district.

Mr. Beach showed a plan demonstrating that Wheeler Street is proposed to extend to Shepard Road. It leaves some set back between the building and the street. He also noted there is driveway to be used for trash removal. The development as proposed does not include the area west of the parking ramp. Mr. Beach stated that if the commercial space was removed and the proposed building was strictly multi-family, the maximum height allowed would be 45 feet instead of 55 feet in a T3 zone. Mr. Beach confirmed that the setback on Davern is 7 feet from the property line and a variance would be needed if they were to be setback further than 10 feet.

Mr. Williams confirmed that currently in the RC3 District the standard for bluff development is 40' landward of the bluff line. He noted that the updated DNR rules for the Mississippi River Corridor Critical Area (MRCCA) are expected to be published in June and would allow heights of up to 65' on the project site.

Michael Johnson, 1550 Edgecumbe Road, Saint Paul, stated that their family has lived in Saint Paul since the 1880's and have been property owners since the 1930's. Recently they built a new property, the Lyric, in 2010. They are excited for the opportunities of this particular property. They feel this project is something the City and community will be proud of for generations to come.

Todd Johnson, 2048 Lower St. Dennis Road, St. Paul, said he is a proud Saint Paul resident and business owner. They are looking forward to putting this high quality project together. They are looking to make the first phase of development to be of high quality in order to set the bar for the rest of the project. He asks for support for the variances and he believes this is the best use for the site.

Chris Palkowitsch, Architect, BKV Group, 222 N Second Street, Minneapolis, presented slides, also shown to the neighborhood group last week, that showed a little more of the site plan overall. He pointed out the main hardship of the site is the bedrock. The bedrock influences the design of the building in multiple ways. The bedrock is 3 to 4 feet below grade and doesn't allow them to bury the parking which would be ideal. It only allows them to bury the parking approximately 2 ½ feet. The shallow bedrock also makes the storm water management difficult. He noted cascading pieces included along the west side of the site, to focus on controlling storm water management, and to beautify and add green space to the neighborhood. It will also screen the parking that will be above grade at that point. The bedrock also makes adding the utilities very costly. He said there are benefits of the layout they are proposing, and they feel the benefits outweigh the additional height they are requesting. The benefits include the location of the building itself. By abutting it against the existing parking garage on the south side, it makes the best use of the area for future development, the neighbors, and for the view corridors. Currently there will not be a surface parking lot; they are providing two levels of enclosed parking. If the variance is denied surface parking is something they may need to include. The building is organized to focus on shielding the parking in general. Along Davern Street they have retail space, the main lobby, and a leasing office. Along Shepard and wrapping around to the future Wheeler extension piece they have walk up units. The west side includes a majority of the landscape terracing. The back corner will have a small service area that will be minimized as much as possible. It will be the main trash room for the building and be enclosed. The next building will share access. Enclosures would be around the trash for temporary holding and also around the mechanical space. Mr. Palkowitsch stated that along Davern Street they are looking to improve the landscape. Right now it is 10 to 16 feet of solid concrete with trees in the Boulevard. They are interested in beautifying the area. They will add a connection piece to draw people further down Davern and past the parking garage to connect them to the parkway below. They are currently in discussions with the City, as part of a potential future overall master plan, how future connections could improve the area. Along Shepard they will have a 25 foot setback that will include storm water management pieces and add green space. They want to beautify the area, to create a softer edge from the busy wide concrete road of Shepard, to the edge of the building. The storm water management piece is something they have taken very seriously, and have studied as to how it can become an amenity. They will have an underground tank system, but they would like to have native grasses and plants. He also noted they would include a landscape terrace for residents to use as a community space. The proposed retail space is something that would be a great improvement for the neighborhood. They will be improving the walkability and landscape throughout the neighborhood. They will be adding a sidewalk along Shepard Road and improving the sidewalk along Davern. He also noted they will be providing half of the Wheeler extension in Phase I and that will include a sidewalk on one side. As future buildings go in, Wheeler would be completed as well as the sidewalks. Bicycling is highly encouraged and they will be providing 149 bicycle stalls.

Mr. Palkowitsch also spoke about the height variances. The main roof of the building is approximately 69 feet 4 inches. There is a bump up of 4 feet to the 73 feet 4 inches that the building is currently at right now. To compare to some of the neighboring buildings across Norfolk to the north, the building is approximately 54 feet to the roof height, and 64 feet to the high points of architectural features. It ends up being about a 10 foot difference at the main architectural feature point. The existing parking garage is 44 feet in height. He showed a few exhibits in regards to how the proposed building will affect the views of neighboring buildings. The views would be impacted regardless of the height variance, but the additional height really provides the additional benefits. They will be able to beautify the site and also capture the T3 guidelines. They want to provide a quality level to be followed by the future buildings in the master plan.

Upon questions from the Commissioners, Mr. Palkowitsch stated that the existing parking garage will remain for Phase I and be used as airport parking. They are considering using it for future development. Mr. Palkowitsch explained the new grade plane, Saint Paul datum 107.8 that was noted on the plan. The grade plane by the City of Saint Paul is determined by reviewing the elevations around the site and creating an average. It states you can't inherently build grade plane to gain extra height. That is not their intent. Their grade plane does come up a couple of extra feet because they are terracing up the landscape to the courtyard deck, but feel that is an offset amenity providing it covers the parking as well. The newly established grade plane is approximately 103 to 104 in the front and 106 to 107 on the rear of the site.

Tia Anderson, 2091 Pinehurst Avenue, Saint Paul, spoke on behalf of the Highland District Council (HDC). She stated that while HDC supports some of the positive aspects of the proposed development, they do not support the height variance. See attached letter.

Laura Nichols, 1754 Field Avenue Saint Paul, stated that while she supports the development of the former US Bank building site, the developer's request for height variances on the first of the buildings that they intend on that site should be denied. The Shepard Davern Task Force has worked on developing new T zoning for this area over a period of 1 ½ years. The City Council finalized their recommendations three months ago. In determining these zoning classifications they considered every constituency within the Shepard Davern neighborhood, including the possible development of the Johnson Brothers property. This is the first proposal for building since the rezoning requirements were officially in place. If this significant height variance passes, why did they go through the lengthy process of creating zoning for the neighborhood at all? Their neighborhood craves amenities. The Johnson Brothers proposes to bring in 210 new families and increased density, but does not provide the neighborhood with the amenities that will be required to sustain a greater population. The limited commercial space for the project seems to be a method of skirting the 45 foot height limitation for purely residential structures in T3 zoning districts. If the meager 1,200 square feet of retail space was not included, the variance for part of this proposed structure would not be 18.5 feet, it would be 28 feet. While the designation of mixed use for the property may be within the letter of the law, it certainly doesn't fit within the spirit of the law. While it is unfortunate that the developer cannot create underground parking, they should have researched this before purchase to make that determination. The public should not have to bear the cost in variances because of the developer's missteps. This is a large property within the scope of 21 acres; Johnson Brothers can build out rather than up and not harm the neighborhood. With this abundance of land they shouldn't need to secure a significant exception to the current zoning requirements. Ms. Nichols said she recently received an email from Rory Stierler, a Planning and GIS Specialist, from the National Park Service. She asked that the Committee consider reading what he has to say before making a final decision.

Aurthur Kourajian, 1800 Graham Avenue, Saint Paul, spoke in opposition. He is concerned that an already dense area will increase even more with the number of apartments and condos being proposed at this site. He is concerned about the added traffic congestion. He has heard about how beautiful the building will be, but that is not the concern. He is not against development of the site, but he is concerned with the height of the proposed building. He has heard about the hardships, due to the shallow bedrock at the site, but that is not in question either. That should have been planned and thought of before they bought the site, and when they designed the buildings. If they make the building higher those hardships will not go away. Their plan to have the building shield the parking ramp, and that the height is somehow going to fix this, isn't true either. The parking will be shielded by the first and second floors of the building. He agrees that they should build out rather than up. Building up will block their view from across the street making it a concrete corridor. It will also bring additional congestion and pollution to their neighborhood. The neighborhood is all for having the area enhanced, but he is very opposed to the height of the building. It will be an unattractive addition to the River Corridor. He said he submitted a petition of over 200 names, to the City Council and Mayor, of people who support his statements. He does not object to the number of units proposed, but he does want to see them build out and not up.

Connie Barry, 1800 Graham Avenue, Saint Paul, spoke in opposition. She stated she agrees with Mr. Kourajian's statements. She is excited about having luxury apartments on the site and in favor of the Johnson Brothers developing in the area, but does not support the variance. She would like to clarify that this property is not in the T3 zoning district, but it is in the RC3 zoning district. The height restriction is 40 feet. In the River Corridor Study [sic], currently being reviewed, they are proposing that it will be 65 feet, however that has not been approved. It's her understanding that each of the municipalities along the River Corridor has to review that before it is passed, and Saint Paul hasn't had the opportunity to do that yet. That could take as much as a year to get approved. The current development should adhere to the current zoning. Johnson Brothers stated that this location has minimal impact on the neighboring properties views because of the existing parking structure, but that is only 44 feet in height. The proposed Phase 1 building is almost 30 feet higher, and that would certainly have an impact on the neighborhood. She is asking that the Committee take this into consideration because she is assuming that whatever is decided will set a precedent for the rest of the development.

Vinni Capra, 1800 Graham Avenue, Saint Paul spoke in opposition. He said that everyone has already touched on what he wanted to bring up, however he wanted to speak to the last statement, which is setting precedence for the rest of the phases. He said that there are four phases to this development that will encompass the entire area. If precedence is set for the first phase of a building height at 73 feet, be aware that there are three other phases following behind, which will encompass all of the green space that was shown on the diagrams.

Rory Stierler, National Park Service, 111 E Kellogg Blvd. Suite 105, Saint Paul wanted to make a clarification. Ms. Nichols mentioned that he drafted comments, but they have not been distributed for public record at this point. He has not done his due diligence, and has not had a chance to talk to staff on the project. Before submitting public record he wants to make sure they fully understand the project at hand, and are not prepared to do so at this point.

Michael Krych, BKV Group, 222 N. 2<sup>nd</sup> Street, Minneapolis, responded to testimony. Mr. Krych said that there are other scenarios for this site, but the one being proposed is the most conducive to

creating a great neighborhood that would add to the current residential components of the area. There is a cause and effect to what they are asking. There are fixed economics that they need to be able to meet to make this project happen. If they push the height down it will force the development to spread out and that would eliminate some of the amenities that the height variance will allow. The height allows them to be able to bury the parking and have green space around the building and within the courtyard. It provides for more walkable areas and setbacks. It also allows for the storm water system to be an amenity to the entire area. They will lose some of the green space and landscape features if they build out rather than up. They feel the proposed design is the best for the site.

No one spoke in support. The public hearing was closed.

Upon questions from the Commissioners, Mr. Williams explained that there has been some informal input regarding the RC3 rules. The Planning Commission has held a public hearing regarding the RC3 rules to gather input from residents and other stakeholders that will be taken into consideration when the City submits their official comments to the DNR. The entire process will most likely take over a year before new rules for Saint Paul are adopted.

Commissioner Kyle Makarios moved approval with conditions of the variance. Commissioner Paula Merrigan seconded the motion.

The motion passed by a vote of 6-0-0.

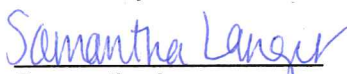
Adopted                      Yeas - 6              Nays - 0              Abstained - 0

Commissioner Kyle Makarios moved approval with conditions of the site plan review. Commissioner Elizabeth Reveal seconded the motion.

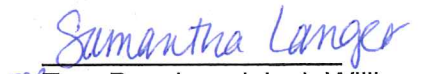
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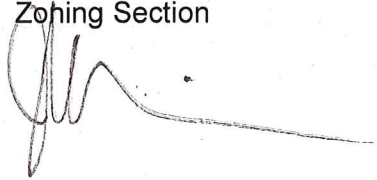
Adopted                      Yeas - 6              Nays - 0              Abstained - 0

Drafted by:

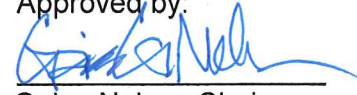
  
Samantha Langer  
Recording Secretary

Submitted by:

  
FOR Tom Beach and Josh Williams  
Zoning Section



Approved by:

  
Gaius Nelson Chair



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2F # 15-022-204  
15-D 07-994  
Shepard Davern

***Building a More Vibrant, Welcoming, and Safe Neighborhood***

**Resolution Regarding Shepard Davern Mixed-Use Development Phase 1**

WHEREAS, the *Saint Paul Comprehensive Plan* adopted in 2009, designates Highland Park as a Neighborhood Center, an area with compact, mixed-use development that provide services and employment close to residences; and,

WHEREAS, the *District 15 Highland Park Neighborhood Plan Summary*, adopted by the Saint Paul City Council in 2007, included an action to "initiate a TN3 Master Plan to evaluate potential rezonings and implementation of TN design guidelines to replace the design guidelines in the Shepard-Davern Overlay area;" and,

WHEREAS, in the Fall of 2011, the Highland District Council (HDC) requested the City of Saint Paul complete a review of the Shepard Davern small area plan and conduct a zoning study; and,

WHEREAS, based on the work of a community-based Shepard Davern Taskforce, in January, 2015, the Saint Paul City Council approved updates to the *District 15 Highland Park Neighborhood Plan Summary* to reflect a future vision for the Shepard Davern area and Traditional Neighborhood zoning for a majority of Shepard Davern properties, including 1475 Davern Street; and,

WHEREAS, the *District 15 Highland Park Neighborhood Plan Summary*, includes an action to "strictly enforce height limits within the Mississippi River Critical Area;" and,

WHEREAS, 1475 Davern Street is located within the Mississippi Riverview Corridor, which has height requirements and other development guidelines that are currently under review by the Minnesota DNR and City of Saint Paul; and,

WHEREAS, the HDC's Community Development Committee hosted a public meeting on January 27, 2015, with Shepard Development LLC's representatives and numerous residents on a proposed 6-story, mixed-use development at 1475 Davern Street where concerns were voiced regarding:

- Height and mass of the building in proportion to neighboring properties and within the Riverview Corridor
- Obstruction of natural light and river views particularly for neighboring properties
- Anticipated increase in traffic on an already busy corridor
- Expected increase in demand for on-street parking on neighboring streets
- Uncertainty of neighborhood impact from future development phases
- Future of roadways through the neighborhood including Shepard Road and Mississippi River Boulevard; and,



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WHEREAS, in February, 2015, Shepard Development LLC submitted to the City of Saint Paul a site plan and variance requests from the Riverview Corridor and T3 Zoning for a proposed development at 1475 Davern Street; and,

WHEREAS, the HDC heard these same concerns regarding building height, views, traffic, and future phases at a second public meeting to discuss the proposed 1475 Davern Street development on April 9, 2015, with Shepard Development LLC's representatives, City of Saint Paul PED, and the community; therefore,

BE IT RESOLVED, that the HDC supports positive aspects of the proposed development for 1475 Davern Street including:

- Landscaping and stormwater management around the property
- Improved pedestrian access and walkability for the neighborhood with the addition of sidewalks and future street connections
- Use of quality building materials
- Completely hidden off-street parking, and

BE IT FURTHER RESOLVED, that the Highland District Council does not support the height variance as proposed in the Riverview Corridor nor T3 Zoning for 1475 Davern Street, and

BE IT FURTHER RESOLVED, that the HDC would consider supporting a height variance of a lesser extent for 1475 Davern Street.

Approved April 9, 2015  
By the Highland District Council Board of Directors