



United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste. 105
St. Paul, Minnesota 55101-1256

IN REPLY REFER TO:

L3033

April 15th, 2015

City of Saint Paul Planning Commission
15 Kellogg Boulevard West
St. Paul, MN 55102

RE: Shepard Development LLC - Site Plan Review and Variances – Files #15-007994 and 15-022204

Dear Commission Members:

This letter is in regard to the site plan review and variance applications by the Shepard Development LLC for the former US Bank Site near Shepard Road and Davern Street. The proposal is entirely within the Mississippi National River and Recreation Area (MNRRA), a unit of the National Park Service, and the state Mississippi River Critical Area (MRCCA). The MNRRA was established in 1988 to protect and enhance the significant values of the Mississippi River corridor through the Twin Cities metropolitan area. The National Park Service has reviewed the site plan, variance requests, and zoning committee staff report.

We appreciate the thoughtful analysis and images provided by the developer regarding river corridor views, and find the proposed building design to be attractive. We agree that a dense mixed use development would provide many benefits to the city and the Mississippi River Corridor. Due to the 73' building height however, we feel that the proposal does not meet the necessary findings for site plan review or the variance requests.

Additionally we are concerned about the negative impacts the site plan and variance requests could have on the natural character and historical resources of the Mississippi River Corridor. The site is uniquely situated near the bluff overlooking the confluence of the Mississippi and Minnesota Rivers and across the river from Historic Fort Snelling. The area is highly sensitive, and much thought and effort has been spent developing and adopting plans and policies that allow for appropriate development within the sensitive context. Current river corridor zoning limits building heights to 40' and draft MRCCA rules would allow 65' (> with CUP). We have advocated that 45' (> with CUP) is more appropriate for this area and would allow for thoughtful dense development. After reviewing the developer's proposal, looking at existing buildings along Shepard Road, and analyzing potential impacted views, we feel as though a 55' building height would be acceptable. The character of the river corridor would not be impacted and the findings for the site plan review and the variance requests could be met.

Attached is our analysis.

If you have further questions please contact Rory Stierler of my staff at 651-293-8440.

Sincerely,

John O. Anfinson
Superintendent

NPS COMMENTS

PARCEL SIZE

The site plan under review is 3.98 acres. The developer owns and intends to develop an additional 17 acres for a total of 21. This project and the variances that have been applied for must be considered in context of the full 21 acres. By granting a variance on the 4 acre site, you are guaranteeing similar or even additional height for the rest of the 17 acres. A master plan seems necessary to fully understand the impacts of such a large project to the City of St. Paul and the river corridor.

ZONING

The parcel was rezoned earlier this year to T3. If the applicant knew they needed more height than is allowed in the T3 zone, why did they not apply for a different zone? The city may have provided guidance along this regard and suggested the T3 zone is most appropriate. Why subvert these well thought out decisions less than a year later?

BUILDING HEIGHT VS FLOORS

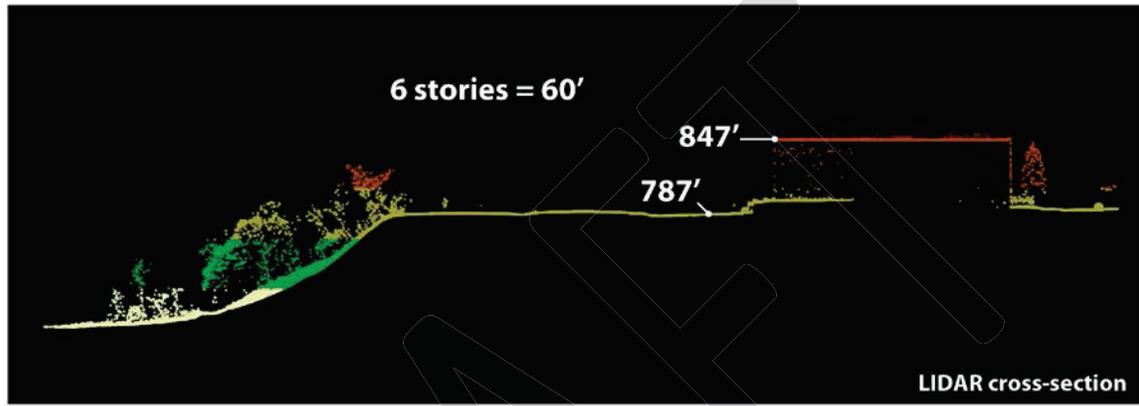
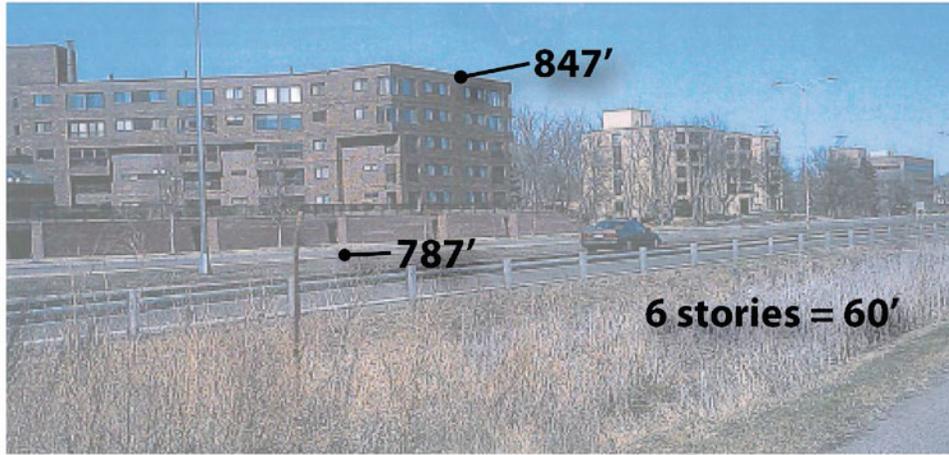
The staff report and variance request from the developer use building height and number of floors/stories interchangeably. This is confusing and misleading. The variance would not grant additional floors, it would grant additional height. Based on the developers drawings, the height of different floors within the building vary up to 30% (10'-14')! Other apartment buildings along Shepard Road are used to justify the height variance. The height of those buildings is never mentioned, but instead the number of floors is. The building height of these buildings should be compared, not the number of floors.

BUILDING HEIGHTS and RIVER CORRIDOR VIEWS

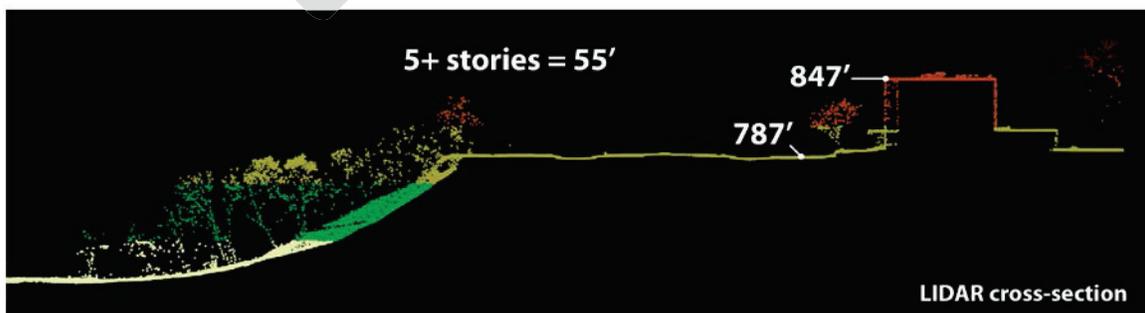
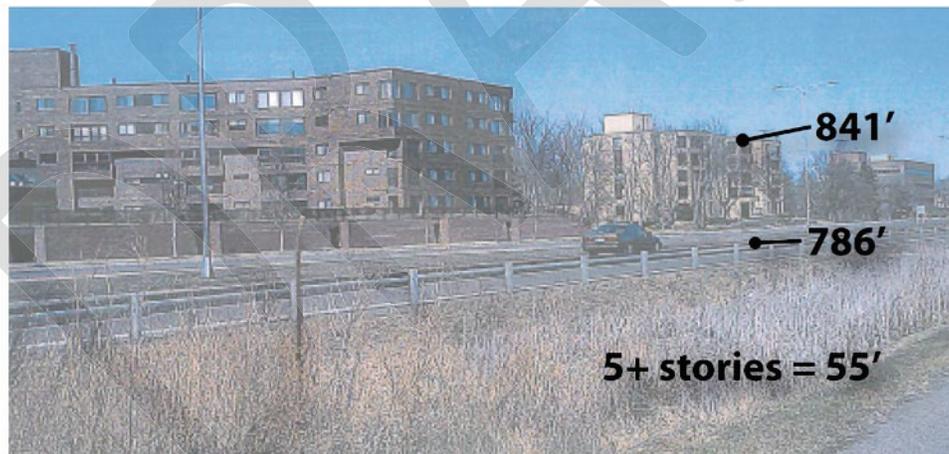
We appreciate the variance application and the time and resources devoted to understanding the potential impacts to the character of and views within the river corridor. The application included cross sections, sightlines, and identified other apartment buildings along Shepard Road for comparison.

We do not find the other apartments identified along Shepard Road to be comparable to this proposal however. Number of stories, not building height, is used to justify the comparisons which can be misleading. We analyzed the building heights of the compared buildings based on available LIDAR data. That analysis is below.

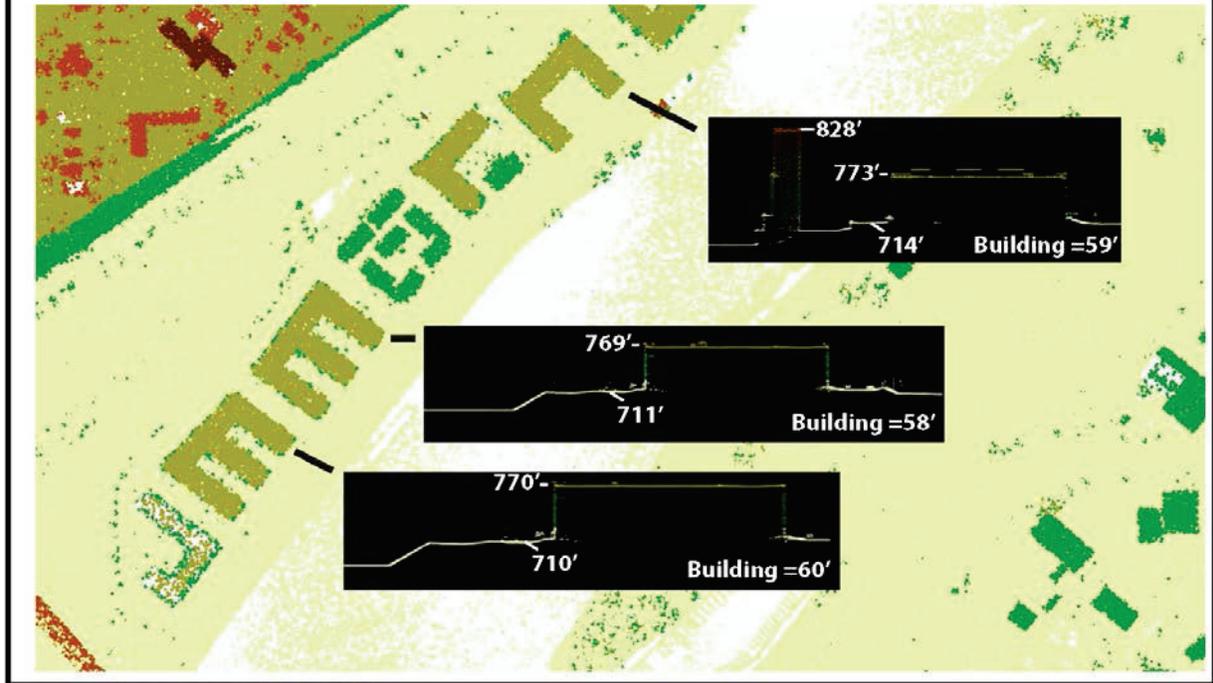
BUILDING 1



BUILDING 2



UPPER LANDING



The proposed 73' building is up to 25% larger than the apartments that are used to justify the additional height. That is not comparable. This again emphasizes how the use of floors/stories is misleading.

The staff report recognizes that the top floors of the building will be visible from Pike Island, Fort Snelling and across the river in Mendota. This is the reason height limits within the river corridor have been established. The staff report describes these visual intrusions as “ribbons,” but we view them as cuts, individual and incremental cuts to the character of the river valley. Each cut degrades the Mississippi River Corridor and threatens the special character it brings to the City of St. Paul. Incremental decision making and variances are a severe threat.

The staff report states that “larger buildings are appropriate given the sweep of their river setting, the size of the land parcels and the speed of Shepard Road traffic.” We strongly disagree with this. The river setting is the exact reason the proposed 73' building height is inappropriate.

SITE PLAN REVIEW

In order to pass site plan review, the proposal must be found consistent with:

1. *The City's adopted comprehensive plan and development or project plans for sub-areas of the city.*

We argue that this finding is not met. The Shepard Davern Area Plan, which was adopted earlier this year, calls for redevelopment of the area's under-utilized land with 3-5 story mixed-use development. The proposed site plan details a 6-story building that is 73' tall. Three, four, and five do not equal six. A 73' building is taller than the comparable 6 story buildings on Shepard Road.

The staff report never mentions the Great River Passage or Mississippi River Corridor Plan which are adopted elements of the Comprehensive Plan. The city should be proud of those documents as a lot of hard work and thoughtful discussion went into the crafting of them. We would consider the site plan and variance reviews incomplete.

2. *Applicable ordinances of the City of St. Paul.*

PARKING – The site plan proposes 287 off-street vehicle parking spaces. The requirement is 203 spaces. There are 30% (84) more vehicular parking spaces than required. The applicant claims that the height variance is necessary due to shallow bedrock on the site and the inability to create underground parking. Perhaps limiting the number of parking spaces would alleviate some of the perceived “need/hardship”.

3. *Preservation of unique geologic, geographic or historically significant characteristics of the city and environmentally sensitive areas.*

This site is uniquely situated near the bluffs overlooking the confluence of the Mississippi and Minnesota Rivers, and Fort Snelling. The staff report only considers historical impacts to Fort Snelling in the context of on-site building remnants. It does not consider the impact to the unique geographic and historic characteristics of the river valley, bluffs, or Fort Snelling from a city-wide or even neighborhood perspective. The character of the river valley, bluff line, and historic Fort Snelling will most definitely be impacted by the proposed 73' building and one could easily argue they are not being preserved.

VARIANCE

To approve a variance, the Planning Commission must find that the proposal meets the following findings:

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

We argue that this is not met. We have already detailed how the proposed 73' building height will introduce another “cut” to the river valley and negatively impact the aesthetic and historic values of it. Sec. 68.101 of the zoning code details the intent of the River Corridor Overlay Districts (which was not mentioned in the staff report). Item (b) states:

It is the purpose of this chapter:

- (1) To protect and preserve the Mississippi River Corridor as a unique and valuable resource for the benefit of the health, safety and welfare of the citizens of the city and the state;
 - **The variance negatively impacts the unique and valuable Mississippi River Corridor.**
- (2) To prevent and mitigate irreversible damage to the Mississippi River Corridor;
 - **Allowing the 73' building height not only introduces irreversible damage at this site, but sets a precedent that threatens the entire corridor.**
- (3) To protect and preserve the Mississippi River Corridor as an essential element in the federal, state, regional and local recreation, transportation, sewer and water systems;
- (4) To maintain the river corridor's value and utility for residential, commercial, industrial and public purposes;
- (5) To protect and preserve the Saint Paul Mississippi River Corridor's biological and ecological functions;
- (6) To preserve and enhance the Saint Paul Mississippi River Corridor's aesthetic, cultural, scientific and historic functions;
 - **The variance will negatively impact the aesthetics, historic functions, and character of the Saint Paul Mississippi River Corridor.**
- (7) To guide development of the floodplain so as to minimize loss of life, threats to health, and private and public economic loss caused by flooding; and
- (8) To guide floodplain development in order to lessen the adverse effects of floods, but not to reduce or eliminate flooding.

The staff report says that, "In the T3 district, heights greater than 55' are allowed through either increased setbacks or conditional use permits, except in the river corridor (MRCCA) overlay district." This project is within the river corridor (MRCCA) overlay district. The fact that heights greater than 55' are allowed under certain provisions outside of the MRCCA is irrelevant and perhaps justifies further how the variance is not in harmony with the zoning code.

2. *The variance is consistent with the Comprehensive Plan*

We argue that this finding is not met. The Shepard Davern Area Plan, which was adopted earlier this year, calls for redevelopment of the area's under-utilized land with 3-5 story mixed-use development. The proposed site plan details a 6-story building that is 73' tall. Three, four, and five do not equal six. A 73' building is taller than the comparable 6 story buildings on Shepard Road.

The staff report justifies the additional story based on other buildings along Shepard Road or that are within a half mile. We showed previously that these buildings are not 73' and are not comparable. We would argue further that even if they were, two wrongs do not make a right. Also, if a building is a half mile but located outside of the river corridor, the river corridor building height variance would not be applicable.

The staff report never mentions the Great River Passage or Mississippi River Corridor Plan which are adopted elements of the Comprehensive Plan. The city should be proud of those documents as a lot of hard work and thoughtful discussion went into the crafting of them. We would consider the site plan and variance reviews incomplete.

3. *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.*

The staff report states that, "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-ground parking garage." The residential potential of the site is what is allowed under currently adopted plans and ordinances. No residential potential is being displaced. The applicant only desires more than is currently allowed. Numerous other buildings have been built at heights of 55' and lower on the same shallow bedrock. The applicant has changed the land use and zoning within the last year and should have been fully aware of what the current adopted plans and ordinances allow.

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

The landowner did not create the shallow bedrock. They chose to invest in a site on top of it however changing the use and zoning of it. We would argue that by making these changes, the landowner has created their own plight.

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

We have already detailed how the variance will degrade the essential character of the river corridor and how the proposed building height is inconsistent with existing buildings along Shepard Road.