

Dear Councilperson Tolbert,

I am writing you in support of the appeal filed by the Friends of the Mississippi River (FMR), arguing against the height variances granted by both the zoning committee and the Planning Commission to Johnson Brothers Development (JBD) for 1465 Davern St. Both the city of St. Paul and Shepard Davern (SD) need development; I understand that and am certainly in favor of increased density and commercial entities in this area, but not at the neighborhood cost that this particular building may bring. There is a middle ground to be found here with a real mixed-use building (not one with less than 1% of the building designated as commercial space); one that still offers JBD a substantial profit and allows the neighborhood a height that respects the neighbors, the neighboring buildings and the river.

Our neighborhood needs development and amenities, but in moderation, with a nod toward preserving the river and its views and toward integrating new development with the rest of SD. The Shepard Davern Task Force developed new T zoning for this area over a period of 1.5 years. The City Council finalized their recommendations just 3 months ago. In determining zoning classifications, the Task Force considered every constituency within the SD neighborhood, including the possible development of the 1465 Davern St. property. JBD had a representative at each of the Task Force meetings. Both he and the city staff had multiple opportunities to discuss the problematic height limitations in Shepard Davern Task Force meetings and were silent. Now both parties seem to want to violate the height requirements of this zoning. This is the first proposal for construction since these new zoning requirements have been officially in place, and city staff is ignoring the height limitation. Why did the city spend a year and a half with neighbors to develop this zoning if it isn't going to be followed? Why did you and the City Council pass the Shepard Davern Plan if all you intend to do is to not follow the guidelines?

The Shepard-Davern Area Plan calls for redevelopment of the area's under-utilized land with 3-5 story mixed use development. The proposed Phase 1 building at 1465 Davern St. is 6 stories. Three to five stories does not equal six, but it does so in the city staff report. An additional argument in the city staff report, is that there are other buildings on Shepard Road that are similar to the proposed new development. This is not comparing apples to apples. The buildings that city staff used in their measurement as comparables are 55' high and the structures that city staff have used as analogous are outside of the Mississippi River Critical Corridor Area (MRCCA). The new proposed development height at 1465 Davern St. is 73.5,' (18.5' over the T3 zoning), within the MRCCA (where the height is currently capped at 40') and therefore, much closer to the river. It will affect river views.

JBD states that the shallow bedrock at 1465 Davern St. creates a difficulty that cannot be addressed unless they build to 73.5.' The Johnson brothers are intelligent businessmen. I have a hard time believing that they did not know about this problem before they bought this property, but even if they did not, every building in this area has had to deal with that problem. Other developers have built within the city zonings' height limitations and have done so without asking for a substantial variance. This developer has the added security of having purchased 21 acres and this new proposed building sits on only four acres of those twenty-one. Within the scope of their 21 acres, JBD can build out rather than up and not harm the neighbors, the river views, the river or the neighborhood. With this abundance of land, JBD can still make a substantial profit and should not need to secure a significant exception to the current zoning requirements. **Economic considerations alone do not constitute practical difficulties.**

The Planning Commission approved 1465 Davern St. as a mixed-use development, but only 1,200 square feet of the building will be used for a commercial space out of a total of 218,000 square feet. Additionally, there is an 800 square foot office for Shepard Development, and the rest is residential. No other retail is currently planned, as Johnson Brothers Development has not released a plan for the entire 21-acre site and states that they do not have such a plan. The "commercial" space for this project is so limited (less than 1% of the building will be commercial) that it seems to be a method of skirting the 45' height limitation for purely residential structures in T3 zoning. With this limited commercial space, which may satisfy the letter of the law, but certainly not the spirit, the "true" T zoning variance could be construed as being 28.5,' not 18.5.'

Because city staff gave the public only 10 days in which to respond to this exception, there was limited public response that the zoning committee and the Planning Commission could employ in their decision-making. Their largest source of information was provided by the city staff report, and that document has been found to use inaccuracies in its conclusions (see above).

In the meantime, the Highland District Council, the United States Park Service, the Friends of the Mississippi, the Friends of Shepard Davern, countless neighbors, environmentalists, river and park enthusiasts and citizens have rallied to the river and the neighbors' defense in support of this appeal. I urge you to do the same. Be the vanguard in finding a more measured and responsible solution that benefits everyone. I think this is possible, but at the very least, it will offer your constituents a practical examination of your leadership abilities.

Most Sincerely,

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