



May 21, 2015

City of Saint Paul City Council
15 Kellogg Boulevard West
Saint Paul, MN 55102

Re: Appeal of April 24 decision of Planning Commission to approve a height variance for Shepard & Davern

Dear City Council Members:

MNDNR recommends that the City Council reconsider the Planning Commission's decision to approve a 33 foot height variance for this project. We are very concerned with the extent that this variance deviates from the City's ordinance and Executive Order 79-19. The 33 foot variance represents an 82% deviation from the requirement. The record does not demonstrate that the practical difficulties test has been met. In addition, the applicant has not demonstrated that the need for a variance has been minimized.

The reason that height restrictions are in place is to prevent structures from being visible from the river and from the bluffs. This portion of the river corridor, overlooking the confluence of the Mississippi and Minnesota Rivers, is particularly rich with history and unique geography. The Zoning Committee staff report states that the top of the building will be visible from Pike Island, from various locations within the City of Mendota (across the river), and from the Fort Snelling tower. These visual intrusions damage the character of the river corridor and conflict with the purpose of the City's River Overlay Corridor District to preserve and enhance the Saint Paul Mississippi River Corridor's aesthetic, cultural, scientific, and historic functions.

As with any variance, the applicant must demonstrate how the need for a variance has been minimized. The argument that the scale of this building is not out of character for Shepard Road does not resonate, when other nearby buildings are 55 to 60 feet in height. The proposed building would be 13.5 to 18.5 feet taller than these buildings. It is also incorrect to conclude that a height variance is justified because the shallow bedrock at the site is a hardship unique to this property – other properties along the river have the same development constraint. It appears that this "hardship" is simply being used to justify a request to exceed the height restriction.

No discussion is provided in the record as to how the applicant applied building techniques to minimize the perceived bulk of the proposed building, such as placing the long axis of the building perpendicular to the river, stepping back portions of the façade, and narrowing the profile of upper floors of the building.

MNDNR requests that the Council overturn the Planning Commission's decision and requests that the applicant redesign the building by taking into consideration these building techniques and coming back to the City with a plan that is more closely aligned with the City's ordinance.

MNDNR submitted comprehensive comments on this application on April 21 and recommended denial. Since the DNR was not notified about this project according to the provisions of the City's ordinance, our submitted comments were not presented to the Zoning Committee in time for review at the public hearing. The City is required to notify the DNR 30 days prior to taking action on a discretionary action. The City



notified the MNDNR of the height variance on April 1. This is 16 days before the public hearing at the Zoning Committee and 23 days before the Planning Commission's decision.

Sincerely,

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