

September 28, 2015

Council Member Bill Finney
Office of the City Council
15 West Kellogg Boulevard
Suite 320C, City Hall
St. Paul, MN 55102-1663

Re: Sun Ray Shopping Center and Gateway Corridor Station Area Plan and Rezoning

Dear Council Member Finney:

Thank you again for meeting with representatives of Brixmor Property Group, Inc., and me on August 26 to discuss the proposed Sun Ray Station Area Plan (the "Plan") and the rezoning of Sun Ray Shopping Center to accommodate the Plan. As you know, the City Council will vote on the Gold Line Station Area Plans Draft Report, including the Plan, and rezoning on October 7. We are writing now to clarify our position and to request your support of a modification of the proposed zoning amendment to protect Sun Ray Shopping Center from unintended consequences of the rezoning.

Rezoning of Sun Ray to T4, effective immediately, is inconsistent with the Plan. The Plan refers to the proposed redevelopment of Sun Ray Shopping Center as a "long-term concept for redevelopment" and recommends phased development. The June 25, 2015 Gateway Corridor DEIS, Task 2 – Station Area Market Analysis HR&A prepared for the Gateway Corridor Project Management Team concluded that, "In the near term, Sun Ray is unlikely to be redeveloped." HR&A recommended that the City "Work with owner(s) to plan for long-term phased redevelopment of Sun Ray." City Planning staff and you have both indicated that you understand that Sun Ray Shopping Center is likely to continue in substantially its current form until the market for higher density housing and mixed use development matures over the next ten to twenty years. The proposed rezoning is, however, effective immediately, renders most if not all of the existing Sun Ray improvements non-conforming, and does not accommodate incremental redevelopment.

The proposed rezoning will have an immediate and lasting effect on the ability of Sun Ray to thrive and survive over the next ten, twenty or more years until the market catches up with the higher density long term vision. Nonconforming use statutes and ordinances will allow Sun Ray to maintain itself in its current condition indefinitely. Sun Ray cannot, however, rely on its nonconforming use rights for the shorter term improvements required to maintain Sun Ray as a viable shopping center, or to transform incrementally into the higher density development the Plan envisions.

In fact, without the modifications we propose below, the proposed rezoning will only discourage the kind of incremental development the Plan envisions. As long as Sun Ray is successful, no developer will want to acquire it to replace the existing shopping center with something less profitable or more risky. If the existing structures are rendered nonconforming, state law and City ordinances will allow Brixmor and its successors to maintain Sun Ray as it is but will hinder if not prevent improvements that will bring Sun Ray into a denser configuration. The T4 design standards are unrealistic mandatory standards for the existing shopping center. In particular, floor area ratio minimums, maximum setbacks, emphasis on two-story buildings, mandates on the configuration of parking facilities, window coverage, and required materials on building facades would make all of Sun Ray nonconforming and inhibit any new development that would be compatible with the existing development and consistent with the higher density development the City envisions. In its present form, the Sun Ray Station Area Plan may be a plan for creating blight where none exists.

Sun Ray proposes two simple alternatives to immediately rezoning Sun Ray to T-4.

Our first, preferred, alternative is to simply postpone the effective date of the rezoning. Sun Ray is already guided in the Comprehensive Plan as a Mixed Use Corridor and Neighborhood Center. By adopting the Plan, the City will be committing itself to rezone to T-4 to accommodate any developer that is ready to undertake redevelopment of the site. The City does not need to take the additional step of rezoning the site ahead of the market to ensure that the site can be developed when the market is ready.

Our second, less preferred, alternative is to amend the Code of Ordinances to allow for the incremental redevelopment the Plan says is appropriate for the site by ensuring that the existing improvements do not become non-conforming. The amendment could be a very simple addition to Chapter 66:

66.346 Existing Retail Centers. The following design standards shall be applicable to modifications to retail centers existing as of the date of adoption of this ordinance, including additions to buildings and construction of new buildings within the existing retail center, as additions, exceptions or modifications of the requirements of Section 66.345, as noted:

- (1) Minimum Floor Area Ratio requirements shall not apply to proposed modifications to an existing retail center, provided the proposed modifications do not decrease the floor area ratio of entire retail center or increase the proportion of land area devoted to parking.
- (2) Requirements for building and parking placement and façade treatments relative to public streets and sidewalks shall be applied to interior drive aisles, provided the principle interior drive aisles and building facades shall be located in a manner consistent with future introduction of a street grid.

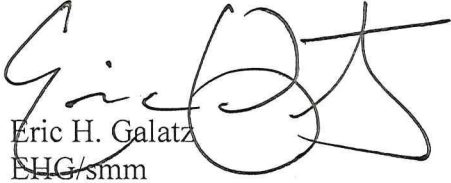
(3) Requirements for materials and detailing shall be deemed satisfied if the materials are consistent with materials on existing facades in the retail center and are otherwise permitted for use in other business districts.

(4) The proposed modifications will substantially advance other applicable standards of Section 66.345 for building placement, parking placement, streetscape enhancement, building design, building height, landscaping, and other related factors.

Brixmor welcomes the opportunity to work with the City in drafting zoning amendments that will allow Sun Ray to continue to thrive while fulfilling TOD objectives in the expansion of the Gold Line BRT in the Gateway Corridor.

Sincerely,

STINSON LEONARD STREET LLP



Eric H. Galatz
EHG/smm