



## Legislation Text

**File #:** RES 20-1124, **Version:** 1

Memorializing the City Council's decision denying an appeal from a decision of the Planning Commission approving a parking variance and a conditional use permit to construct a multi-family residential housing development at 337 West Seventh Street.

WHEREAS, on March 20, 2020, Northland Real Estate Group LLC ("Applicant"), in Zoning File No. 20-021-233, submitted three (3) zoning application to the Saint Paul Planning Commission ("Commission"): (1) a conditional use permit for a maximum building height of 85 feet; (2) a floor area variance to increase the maximum floor area ratio (FAR) from 3.0 to 4.1; and, (3) an off-street parking variance to reduce the required number of off-street parking spaces from 136 to 110 all under the provisions of Leg. Code §§ 61.501 and .601 for property commonly known as 337 7th St W, [PIN No.s 01.28.23.41.0021, 01.28.23.41.0012, and 01.28.23.41.0011] and legally described as EWING & CHUTES SUB OF L6-7B1&L EX ST LOTS 2 3 AND LOT 4 BLK 2; Lot 10 Block 2 of SAMUEL LEECHE'S ADDITION N 1/2 OF LOT 10 BLK 2; Lot 10 Block 2 of SAMUEL LEECHE'S ADDITION N 1/2 OF LOT 10 BLK 2; and

WHEREAS, on April 23, 2020, the Commission's Zoning Committee, pursuant to Leg. Code § 61.303, duly conducted a public hearing on Applicant's requests which, pursuant to the various Executive and Emergency Orders in effect at the time due to the Covid-19 pandemic, was conducted remotely as it was deemed neither practical nor prudent to conduct "in-person" hearings: accordingly, as provided by law, attending members of the Committee and Committee staff did so remotely as did the Applicant while members of the public were afforded the opportunity to submit, no later than noon of the said hearing date, written testimony for the Committee's consideration and inclusion in the hearing record and, further, were afforded an opportunity to audibly monitor the hearing proceedings; and

WHEREAS, following the close of the April 23, 2020 hearing and based upon all the reports and evidence presented, as substantially reflected in the Committee's hearing record and minutes, the Committee duly moved to recommend that the Applicant's three (3) applications be approved for the reasons set forth in the staff report dated April 14, 2020 together with the conditions set forth therein; and

WHEREAS, on May 1, 2020, the Commission took up the recommendation of its Zoning Committee and, based upon the Committee's recommendation and the Commission's discussions of the recommendation, moved to approve the said applications, subject to two (2) conditions, upon the following findings which are also set forth in Planning Commission Resolution No. 20-20 and incorporated by reference into this Resolution:

1. Zoning Code § 66.331(g) provides that a building height up to 90 feet may be permitted with a conditional use permit. The application is to allow an 85ft. tall (7-story), mixed-use development with 192 residential units and 1,800 square feet of retail fronting West 7th Street.
2. § 61.501 lists five standards that all conditional uses must satisfy:

*(a) The extent, location and intensity of the use will be in substantial compliance with the Saint Paul*

*Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. The proposed development is consistent with the 2030 Comprehensive Plan for the reasons listed in the application. The proposed development is also consistent with the 2040 Comprehensive Plan. This location is identified as Mixed-Use and a Neighborhood Node. The following policies are particularly applicable:

- *Policy LU-1. Encourage transit-supportive density and direct the majority of growth to areas with the highest existing or planned transit capacity.*
- *Policy LU-30. Focus growth at Neighborhood Nodes using the following principles:*
  1. *Increase density toward the center of the node and transition in scale to surrounding land uses.*
  2. *Prioritize pedestrian-friendly urban design and infrastructure that emphasizes pedestrian safety.*  
*create a vibrant critical mass.*
  3. *Improve access to jobs by prioritizing development with high job density.*
- *Policy LU-31. Invest in Neighborhood Nodes to achieve development that enables people to meet their daily needs within walking distance and improves equitable access to amenities, retail and services.*
- *Policy H-16. Increase housing choice across the city to support economically diverse neighborhoods by pursuing policies and practices that maximize housing and locational choices for residents of all income levels.*

The use is also supported by the following policies from the District 9 Area Plan:

- *12. Promote those stretches of West 7th between key nodes as the appropriate location for higher-density residential use, in order to add diversity to the housing stock while preserving the traditional neighborhood fabric and supporting existing and future transit investment.*
- *16. Support “nodes” of retail businesses at the intersections of West 7th and Kellogg, Smith, St. Clair, Jefferson, Randolph, and Montreal/Lexington, rather than a continuous strip of retail throughout the length of West 7th.*

(b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. Traffic egress/ingress is located off Smith Avenue, which has lower traffic than West 7th Street and has signalized intersections at either end of the block, which regulate traffic flow.

(c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. There are a variety of existing and permitted heights in close proximity to the site including:

- The use abuts a new hotel of 100 rooms and 55 ft. height;
- RM2 zoning is located directly across West 7th Street allows for 50 ft. height;
- B5 zoning, 220 ft. north of the site along Smith allows for unlimited height; and
- Irvine Park Towers, which is 600 ft. west of the site along West 7th Street is a 15- story tall primarily residential, mixed-use building.

Additionally, there are other small-scaled commercial uses on Leech Street and West 7th Street that would be compatible. The use will not endanger public health, safety or general welfare.

(d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The use is consistent with the

general scale of development of the area, which has evolved over time but has consistently remained many uses and scales close together. Higher density uses have generally been concentrated along West 7th Street and Smith Avenue (north of West 7th Street). The site's proximity to transit, and downtown and hospital jobs make it an appropriate location for multifamily housing.

- (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition may be met subject to approval of variances for FAR and off-street parking spaces.
3. Zoning Code §66.331 limits the floor area ratio (FAR) in T3 zones to 3.0. The application requests a variance to allow a FAR of 4.1. Section 61.601 states that the Planning Commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:
- (a) *The variance is in harmony with the general purposes and intent of the zoning code.* This finding is met. The intent of the T3 zoning district is to provide for higher-density pedestrian- and transit-oriented mixed-use development. A variance from the maximum FAR to allow greater density in this area is in harmony with the purpose and intent of the zoning code.
- (b) *The variance is consistent with the comprehensive plan.* This finding is met. As noted in finding 2.a., the proposed mixed-use building is consistent with the 2030 Comprehensive Plan, which calls for increased density along Mixed-Use Corridors, and with the 2040 Comprehensive Plan, which calls for increasing density in Mixed Use areas, Neighborhood Nodes and along transit corridors.
- (c) *The applicant has established that there are practical difficulties in complying with the provision; 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.* This finding is met. The Comprehensive Plan and the District 9 Plan support higher-density mixed-use at this location. Providing a mixed-use building at the scale envisioned in the Comprehensive Plan requires more floor area than would be needed for a single-use building. The long, narrow shape of the parcel also provides fewer options for building configuration and site design.
- (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.* This finding is met. Generally, a project on a property that is zoned T3, where increased height and density are encouraged by the Comprehensive Plan, can apply for a CUP to allow for additional height but there is no corresponding provision in the Zoning Code to account for the corresponding likelihood of a FAR increase.
- (e) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.* This finding is met. The proposed mixed-use building and future uses are allowed in the T3 zoning district.
- (f) *The variance will not alter the essential character of the surrounding area.* This finding is met. The proposed mixed-use building is consistent with the development in the surrounding area and the type of development the 2030 Comprehensive Plan and 2040 Comprehensive Plan supports.
4. Zoning Code § 63.207 requires 136 parking spaces for the proposed building. The application requests a variance to reduce the off-street parking requirement from 136 to 110 spaces. Section 61.601 states

that the Planning Commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

- (a) *The variance is in harmony with the general purposes and intent of the zoning code.* This finding is met. By reducing the parking requirement in an area of the city that is well-served by transit and proximate to concentrations of employment within walking distance, the variance is in harmony with the following general purposes in Zoning Code § 60.103:
- To provide for safe and efficient circulation of all modes of transportation, including transit, pedestrian and bicycle traffic;
  - To encourage a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul's existing traditional neighborhoods;
  - To provide housing choice and housing affordability;
- (b) *The variance is consistent with the comprehensive plan.* This finding is met. The parking variance is supported by the following policies from the Transportation Chapter of the 2030 Comprehensive Plan:
- *2.1 Create true transportation choices for residents, workers, and visitors in every part of the city. A more balanced transportation system should improve access to a range of travel modes and facilities, as well as increase the capacity of the regional transportation system. The City should create places to live, work, play, and conduct business that do not depend principally on the automobile for access, but rather accommodate all modes of transportation.*
  - *2.2 Support transit-oriented design through zoning and design guidelines. Compact, street-oriented design should be emphasized to promote walkability and transit use, especially in commercial corridors. Standards for building placement and design based primarily on the needs of the pedestrian should be enforced and expanded.*
- The variance is supported by following policies from the 2040 Comprehensive Plan:
- *Policy LU-14. Reduce the amount of land devoted to off-street parking in order to use land more efficiently, accommodate increases in density on valuable urban land, and promote the use of transit and other non-car mobility modes.*
  - *Policy LU-15. Ensure that stand-alone parking uses are limited, and that structured parking is mixed-use and/or convertible to other uses.*
- (c) *The applicant has established that there are practical difficulties in complying with the provision; 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.* This finding is met. The site is located above shallow bedrock, which makes underground parking impractical. The long, narrow shape of the parcel also limits options for configuring parking. As a result, the proposed building will organize parking in a very efficient semi-automated system enclosed within the first floor. The applicant will also submit a traffic demand management plan (TDMP) as part of site plan review to ensure the project takes advantage of the site's excellent transit access and proximity to downtown.
- (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.* This finding is met. The shallow bedrock at this location is unique to this location and has an impact to the design flexibility of the site.
- (e) *The variance will not permit any use that is not allowed in the zoning district where the affected land*

*is located.* This finding is met. The proposed mixed-use building and future uses are allowed in the T3 zoning district.

- (f) *The variance will not alter the essential character of the surrounding area.* This finding is met. The proposed mixed-use building is consistent with the development in the surrounding area and the type of development the 2030 Comprehensive Plan and 2040 Comprehensive Plan supports.”

AND, WHEREAS, the said conditions imposed by the Commission in Planning Commission Resolution 20-20 were as follows:

“1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application; and

2. The alley vacation is approved by the Saint Paul City Council.”

AND, WHEREAS, on May 10, 2020, Elyse Jensen (“Appellant”), pursuant to Leg. Code § 61.702(a), duly filed an appeal from the Commission’s May 1, 2020 decision alleging errors on the part of the Commission in granting the Applicant’s parking variance request and the conditional use permit for building height and it’s consistency with the comprehensive plan and requested a public hearing before the City Council; and

WHEREAS, the said appeal was assigned Council File No. APC 20-3 and set on for a public hearing before the Council on June 3, 2020; and

WHEREAS, on June 3, 2020, the City Council, pursuant to Leg. Code § 61.702(b), duly conducted a public hearing on Appellant’s appeal which, pursuant to various Executive and Emergency Orders in effect at the time due to the Covid-19 pandemic, was conducted remotely as it was deemed neither practical nor prudent to conduct “in-person” hearings: accordingly, as provided by law, Council members and City staff attending the hearing did so remotely with City Staff presenting the matter to the Council and the Appellant and all members of the public desiring to do so being afforded the opportunity to submit, no later than noon the day before the said hearing date, written testimony for the hearing record and the Council’s consideration and, further, were also afforded the opportunity to audibly monitor the Council’s hearing proceedings; and

WHEREAS, following the conclusion of the June 3, 2020 public hearing and having deliberated on the matter, the Council, based upon all the files, records and testimony produced in this matter; does hereby

RESOLVE, that the Council of the City of Saint Paul hereby denies Appellant’s appeal as the Council finds that Appellant has not demonstrated that the Commission erred in its facts, findings or procedures when it granted the Applicant’s parking variance and a conditional use permit for height applications on May 1, 2020 for the reasons more fully articulated in the Council’s June 3, 2020 meeting minutes which are incorporated herein by reference; and

BE IT FURTHER RESOLVED, in denying the said appeal and in addition to the reasoning set forth in the Council’s meeting minutes, the Council also adopts as its own in support of this decision, the facts and findings set forth in Planning Commission Resolution No. 20-20 together with the conditions imposed by the Commission in the said Resolution; and

BE IT FINALLY RESOLVED, that a copy of this adopted Memorialization Resolution shall be provided to the Appellant, the Applicant, the Zoning and Planning Administrators and to the Planning Commission.