



Legislation Text

File #: RES 21-1694, **Version:** 1

Memorializing the City's Council's denial of an appeal taken from a planning commission decision to grant a conditional use permit and dimensional and area variances requested by the owner of property at 695 Grand Avenue for the purpose of constructing a commercial and residential mixed use building.

WHEREAS, on June 14, 2021, Reuter Walton Development ("Applicant") applied to the Planning Commission ("Commission") for a Conditional Use Permit ("CUP") and a front-setback variance from the Zoning Code's height and dimensional standards applicable to T3 traditional neighborhood districts under Leg. Code § 66.331 and subsequently, on June 28, 2021, also applied to the Commission for additional variances from the strict application of the East Grand Avenue Overlay District's building height, footprint, and building size standards applicable under Leg. Code § 67.602 for the purpose of constructing a mixed commercial and residential use building on property commonly known as 695 Grand Avenue and legally described as Lots 25 - 30, Block 6, Summit Park Addition [Parcel Identification Number 02.28.23.41.0160]; and

WHEREAS, the Applicant's zoning requests were combined into Zoning File No. 21-269-061 and presented to the Commission for its consideration as follows:

1. Conditional Use Permit ("CUP"): Under Leg. Code § 66.331, maximum building height for mixed-use buildings in T3 districts is 55 feet. Leg. Code § 66.331(e) permits building heights to exceed the 55 ft. standard if the building is set back from side and rear setback lines a distance equal to the additional height, provided the building shall be no more than 25 ft. high at its side and rear property lines that abut RL-RT2 residential districts. Buildings may exceed this 25 ft. height limit if stepped back from the property line a distance equal to the additional height. The site's rear property line abuts an RT2 district. Applicant's proposed building was 59 ft. 10 in. and did not meet Leg. Code § 66.331(e)'s 25 ft. height and step-back standard along the rear property line abutting the RT2 district and Leg. Code § 66.331 (e)'s standard for 55 ft. plus additional height based on setbacks along the east property line. T3 districts also permit buildings up to 90 ft. with a CUP. Leg. Code § 66.331(g). Granting a building height CUP under Leg. Code § 66.331(g), would address Leg. Code § 66.331(e)'s height and setback standards.
2. Variances:
 - a. Front-yard setback from Grand Avenue for middle section of the building. Leg. Code § 66.331: 10 feet maximum permitted, 18 feet proposed for a variance of 8 feet.
 - b. Building footprint. Leg. Code § 67.602(b)(1): 25,000 sq. ft. maximum permitted, 30,500 sq. ft. proposed for a variance of 5,500 sq.ft.
 - c. Total above-ground building size (including parking areas). Leg. Code § 67.602(b)(2): 75,000 sq. ft. maximum permitted, 124,000 sq. ft. proposed for a variance of 49,000 sq.ft.
 - d. Building height. Leg. Code § 67.602(b)(3): 3-stories/36 ft. height maximum permitted, 5- stories/59 ft.10 in. height proposed.

WHEREAS, on July 15, 2021, the Commission's Zoning Committee ("Committee"), pursuant to Leg. Code § 61.303, duly conducted a public hearing on the Applicant's requests which, pursuant to Executive and Emergency Orders in effect at the time due to the Covid-19 pandemic, was conducted remotely as it had been previously 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 while the Applicant and 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, in addition, were also afforded the opportunity to audibly monitor the hearing proceedings and address the committee and present

verbal testimony via electronic means which was duly recorded and retained for the record; and

WHEREAS, at the close of the July 15, 2021 hearing, and based upon all the reports, evidence and testimony presented, the Committee moved to recommend approval of both the CUP and variance applications for the reasons stated in the Committee's record and in the Committee's staff report dated July 12, 2021 together with the conditions set forth therein; and

WHEREAS, On July 23, 2021, the Commission took up the recommendation of its Committee and, based upon the Committee's recommendation and the Commission's discussions of the recommendation, moved to approve the said applications upon the following findings set forth in Planning Commission Resolution No. 21-37 and incorporated by reference into this Resolution, subject to two (2) conditions:

1. The property is occupied by a surface parking lot and an existing one-story building that houses three restaurants. The applicant proposes to develop a five-story mixed-use building with four ground-floor commercial spaces, 80 market-rate apartment units, 80 secure bicycle parking spaces and 99 vehicular parking stalls within the building. Two of the commercial spaces are intended for existing restaurants on the site. The proposed mix of apartment units is 16 alcove, 21 one-bedroom, 17 one-bedroom + den, 16 two-bedroom, and 10 two-bedroom + den.

The main pedestrian entrance for the apartments is proposed to be located along St. Albans Street. The primary pedestrian entrances for the commercial spaces are located along Grand Avenue, two of which are off of a proposed front patio area, and one located at the corner of Grand and St. Albans. The front patio along Grand is proposed to provide outdoor seating for the two restaurant spaces as well as public art and planters.

Vehicular access to the site is proposed to be from two curb cuts. The curb cut off Grand provides ingress-only for the retail customers to access the enclosed parking area on the ground floor for retail customers. The curb cut off St. Albans provides egress-only for the retail customers and ingress and egress for the apartment residents to access the residential parking area underground.

The site is in a mixed-use area along Grand Avenue that includes a mix of commercial and residential uses and a mix of housing types and sizes. Metro Transit operates Route 63 bus service along Grand Avenue and Route 65 bus service along Dale Street. There are bus stops located a block east of the property at Grand and Dale Street. The site is also located 0.6 miles south of the proposed Metro B Line, which has a station at Selby Avenue and Dale Street and is anticipated to run every 10 minutes during the day and most of the evening. The Summit Avenue Bikeway, part of the regional bicycle transportation network, is less than one block to the north.

2. The proposed new five-story mixed-use building would have a footprint of 30,500 sq. ft., a height of 59' 10", a total floor area of 108,000 sq. ft. (excluding parking), and a floor area ratio (FAR) of 3.0. The current B2 Community Business District allows a building height of 30 feet plus additional height based on setbacks and allows a maximum FAR of 2.0 (a total floor area of about 72,000 sq. ft. for this site). The current EG East Grand Avenue Overlay District restricts the maximum building footprint to 25,000 sq. ft., total building size above ground to 75,000 sq. ft. including parking (or 59,630 sq. ft. without parking) and building height to 36 feet for mixed commercial-residential mixed-use buildings, with no additional height based on setbacks allowed. The variance application includes variances of the height,

building footprint, and size restrictions of the EG East Grand Avenue Overlay District. The property owner has applied for rezoning from B2 Community Business District and EG East Grand Avenue Overlay District to T3 Traditional Neighborhood District without the EG East Grand Avenue Overlay District to provide for development of the proposed new five-story mixed-use building. The proposed T3 Traditional Neighborhood District allows a building height of 55 feet plus additional height based on setbacks (25 feet plus additional height at the rear property line if stepped back from the property line a distance equal to the additional height), allows additional height with a conditional use permit, and allows a maximum FAR of 3.0 (a total floor area of about 108,000 sq. ft. for this site).

3. Zoning Code Table 66.331 and §66.331(e) define mixed-use building height allowed by right in the T3 traditional neighborhood district: 55 feet plus additional height equal to the distance the portion of the building is stepped back from side and rear setback lines, provided that buildings shall be no more than 25 feet high alongside and rear property lines abutting RL- RT2 residential districts, and that buildings may exceed this 25 foot height limit if stepped back from the property line a distance equal to the additional height. 695 Grand abuts an RT2 townhouse residential district across the alley from the rear property line. § 66.331(g) provides for greater height with a conditional use permit.

The required side yard setback from the west property line is 6 feet. The proposed building wall on the first floor is set back 7 feet from the west property line and the upper floors are set back 11 feet. In the T3 district, at the 11-foot setback a building height of 60' (55' + 5') is allowed by right. The proposed 59' 10" height along the west property line is permitted by right in the T3 district.

There is no required side yard setback from the east property line. In the T3 district, the proposed building height or 59' 10" is permitted by right at a setback of 4' 10" from the east property line. Much of the proposed 5th floor of the building is set back more than this. Part of the 5th floor is set back 3 feet from the east property line. At the 3-foot setback a building height of 58 feet (55' + 3') is allowed by right in the T3 district. The conditional use permit application is for a 59' 10" height at the 3-foot setback along the east property line.

In the T3 district, building height allowed by right at the north property is limited to 25 feet because it abuts an RT2 townhouse residential district. This may be exceeded if stepped back from the rear property line a distance equal to the additional height. Toward the corners of the building, the first-fourth floors are set back 8' from the property line and the fifth floor is set back 18' from the property line. In the middle portion of the building, the first floor is set back 8' from the property line and the second-fifth floors are set back 18' from the property line. The building height allowed by right is 33' (25' + 8') at the 8-foot setback and 43' (25' + 18') at the 18-foot setback. The proposed building height is 47' at the 8-foot setback and 59' 10" at the 18-foot setback from the north property line. The conditional use permit application is for this additional height along the north property line.

4. Zoning Code §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. The extent, location and intensity of the proposed use will be in substantial compliance with the Saint Paul Comprehensive Plan.*

The 2040 Comprehensive Plan designates future land use of this area along Grand Avenue as a mixed-use area: "Mixed-Use areas are primarily along thoroughfares well-served by transit. The main distinguishing characteristic is a balance of jobs and housing within walking distance of one another. Historically, these areas developed in easily-accessible locations, and they will continue to be the most dynamic areas of Saint Paul. These areas are vital for the ongoing growth and

economic development of the city by providing the highest densities outside of downtown.”

Policy LU-1 of the Land Use Chapter of the Comprehensive Plan states: “Encourage transit-supportive density and direct the majority of growth to areas with the highest existing or planned transit capacity.”

The proposed height provides for a higher-density mixed-use development that supports existing transit on Grand Avenue and Dale Street, as well as the additional planned transit capacity of the Metro B Line on nearby Selby Avenue.

Policy LU-29 of the Land Use Chapter of the Comprehensive Plan states: “Ensure that building massing, height, scale and design transition to those permitted in adjoining districts.”

While the EG East Grand Avenue Overlay District limits building heights to 30’ for commercial buildings, 36’ for mixed use buildings, and 40’ for residential or institutional buildings, the adjoining RM2 district otherwise permits taller buildings, many of the existing buildings surrounding the site range from 39’ - 50’ and there is a 65’ high multi-family building one block west. The proposed building has been designed with setbacks and stepbacks to minimize the perception of height and bulk and provide transition to adjacent properties. Greater setbacks in the middle portion of the building for floors 2-4 break up the scale and mass of the building. The fifth floor is stepped back 18’ feet from the north property line (an additional 10’ from the 4th floor setback) and 18’ from the south property line (an additional 15’ from the 4th floor setback) to reduce the perceived height of the building. Along St. Albans Street, a portion of the building is set back 15’ from the east property line to help provide a transition to the existing buildings north of the alley.

Policy H-46 of the Housing Chapter of the Comprehensive Plan states: “Support the development of new housing, particularly in areas identified as Mixed Use, Urban Neighborhoods, and/or in areas with the highest existing or planned transit service, to meet market demand for living in walkable, transit-accessible, urban neighborhoods.”

The additional height allowed by the proposed conditional use permit supports the development of new housing in a mixed-use area to allow more residents to live in the walkable, transit-accessible, urban neighborhood along the Grand Avenue corridor.

Policy H9 Mixed-Use Buildings (Commercial Plus Residential) of the 2006 Summit Hill/District 16 Neighborhood Plan states: “Ensure that new and renovated mixed-use buildings on Grand Avenue respect the historic nature and character of the neighborhood, as well as providing dedicated off-street or underground parking for residents and tenants.”

The proposed building respects the historic character of the neighborhood through its use of stone, masonry, decorative metal, design that breaks up the scale and mass of the building, and stepbacks to reduce the perceived building height. It provides dedicated enclosed and underground parking for building residents and commercial customers.

Policy H7 Housing Density of the 2006 Summit Hill/District 16 Neighborhood Plan states: “Ensure that the impact of any increased density conforms to zoning and building requirements, and that the City considers the development’s adverse impact on existing municipal services including, but not limited to, traffic and parking.”

With requested variances and rezoning to T3, the impact of the proposed increased density conforms to zoning and building requirements. The proposed project includes sufficient parking to meet zoning code parking requirements, and the applicant submitted a trip generation analysis that

concludes that the proposed project is not anticipated to noticeably impact traffic operations in the area. As of the date of this staff report, Public Works Traffic has not reviewed the trip generation analysis. The parking access strategy was designed in consultation with staff from the Department of Planning and Economic Development and Public Works Traffic.

Policy G3 Design Standards of the 2006 Summit Hill/District 16 Neighborhood Plan states: "Adopt TN2 design standards for East Grand in an overlay district. These design standards reinforce human-scale building characteristics, promote quality in architectural materials, reinforce a pedestrian-focused streetscape, promote underground parking for mixed use developments, and visually-screened surface parking for smaller, single-use developments, and promote signage that is consistent with building architecture and business function, and complements the eclectic nature of the avenue."

The building is proposed to be constructed of quality materials such as stone, brick and decorative metal, and includes doors, windows, texture, projections, and upper-floor step backs to reinforce its human scale. The building design includes greater setbacks in the middle portion of the building that break up the scale and mass of the building, and the upper floor stepbacks reduce the perceived building height and provide transitions to adjacent properties. The proposed front patio along Grand with outdoor seating for the restaurants in the building as well as public art and planters, reinforces a pedestrian-focused streetscape. All of the proposed parking is within the building, and most is underground.

Policy G10 Scale and Height Limits of the 2006 Summit Hill/District 16 Neighborhood Plan states: "Adopt limitations of the height and scale on new buildings on East Grand Avenue in an overlay district, as follows: 1. Limit new buildings to a footprint of 25,000 square feet or less. 2. Limit new building total size, above ground, to 75,000 square feet or less, including parking. 3. Limit building height to three (3) stories, or to thirty feet (30') for commercial projects and to thirty-six feet (36') for mixed commercial and residential projects, whichever is lower. No additional height will be allowed, even with setbacks."

While the Summit Hill Association is currently in the process of updating the Summit Hill/District 16 Neighborhood Plan and considering potential changes to the EG East Grand Avenue Overlay District, the language in the 2006 Summit Hill/District 16 Neighborhood Plan is currently in effect. In their June 29, 2021, letter supporting the conditional use permit application and the proposed building as designed, the Summit Hill Association (SHA) noted the general purposes of the building size limitations to retain human scale and walkability, foster local ownership, and discourage big box chain store tenants, which the proposed development does. The SHA letter notes the need for investment, increased density, and redevelopment along Grand Avenue and on this site; the need for the type of apartments proposed here, currently lacking in the neighborhood, for residents to downsize out of larger Victorian homes and stay in the neighborhood; and that the look, visual impact and height of the proposed building is in line with surrounding buildings.

- b. The use will provide adequate ingress and egress to minimize traffic congestion in the public streets. The proposed use will provide adequate ingress and egress to minimize traffic congestion in the public streets.*

The curb cut to Grand Avenue is ingress-only for retail customers only to enter the enclosed customer parking area. This substantially limits the amount of traffic crossing the sidewalk on Grand and mid-block turning from or onto Grand. The curb cut to St. Albans Street is egress-only for retail customers and provides ingress and egress for residents to access the underground resident parking area. This restricts egress from the site to St. Albans Street, a one-way southbound street. This access strategy was designed in consultation with staff from the Department of Planning and

Economic Development and Public Works Traffic. A trip generation analysis completed by a professional Engineer was submitted by the applicant; it concludes that the addition of the proposed development is not anticipated to noticeably impact traffic operations in the area. As of the date of this staff report, Public Works Traffic has not reviewed the trip generation analysis. The proposed project is supplying sufficient parking to meet the anticipated demand and the minimum requirements of the zoning code.

- 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. The proposed project will not be detrimental to the existing character of the development in the immediate neighborhood or endanger health, safety, or general welfare.*

The proposed height of 59'10" is compatible with the surrounding context given there is a six-story, approximately 65-foot (as measured in Google Earth) condominium building located one block to the west, and many neighboring buildings range from 39' to 50' (as measured in Google Earth). The building has been designed with multiple setbacks and step backs to help minimize the perception of height and bulk, and to reduce shadowing on adjacent buildings. Along St. Albans Street, the northeast corner of the building is set back 15' from the property line to help provide a transition to the existing buildings north of the alley. The fifth story is stepped back from Grand Avenue and the alley, helping to minimize shadowing. The 20-foot-wide alley between the project site and the townhomes to the north, along with an 8-foot building setback along the alley, also mitigates the effect of shadowing. The proposed building was designed to fit in with the surrounding historic neighborhood character with its use of stone, masonry, decorative metal, design that breaks up the scale and mass of the building, and upper floor stepbacks that reduce the perceived building height and provide transitions to adjacent properties.

- d. *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

The proposed mixed-use building and proposed height are consistent with and complementary to existing development in the area, which is fully developed. The proposed height will not prevent future development and improvement of the surrounding property that is consistent with the Comprehensive Plan and existing zoning.

- e. *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.*

This standard can be met subject to requested variances and rezoning to T3 Traditional Neighborhood District.

5. Zoning Code § 67.602 restricts the maximum building footprint to 25,000 sq. ft, the total building size (above ground, including parking) to 75,000 sq. ft., and the maximum building height to three stories and 36 feet for mixed commercial-residential buildings within the EG East Grand Avenue Overlay District. The application requests variances to increase the building footprint to 30,500 sq. ft., increase the total building size to 124,000 sq. ft., and increase the building height to five stories and 59'10". § 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.*

The proposed variances from the EG East Grand Avenue Overlay District regulations for building height, footprint, and overall size are in harmony with the general intent and purposes of the zoning

code, including the following: to protect and promote the public health, safety and general welfare; to provide for the orderly and economic development of land; to implement the policies of the comprehensive plan; to ensure adequate light, air, privacy, and convenience of access to property; to provide housing choice and housing affordability; and 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.

The variances are in harmony with the intent of the T3 zoning district, which is to provide for higher-density pedestrian- and transit-oriented mixed-use development. T3 also has traditional neighborhood district design standards (§ 66.343) that call for land use diversity, transitions to lower-density neighborhoods, building facade continuity, and other standards, which the proposed building meets. The variances provide for a higher-density mixed-use development that supports the existing transit on Grand Avenue and provides a rental housing choice with modern amenities and larger unit sizes. The Summit Hill Association has stated that the neighborhood needs this type of housing option, currently lacking in the neighborhood, for area residents wanting to downsize and stay in the neighborhood.

In their June 29, 2021, letter supporting the conditional use permit application and the proposed building as designed, the Summit Hill Association noted the general purposes of the building size limitations to retain human scale and walkability, foster local ownership, and discourage big box chain store tenants, which the proposed development does.

b. The variance is consistent with the comprehensive plan.

The proposed variances from the EG East Grand Avenue Overlay District regulations for building height, footprint, and overall size are substantially consistent with the Saint Paul Comprehensive Plan.

The 2040 Comprehensive Plan designates the future land use of the subject property along Grand Avenue as a mixed-use area: "Mixed-Use areas are primarily along thoroughfares well-served by transit. The main distinguishing characteristic is a balance of jobs and housing within walking distance of one another. Historically, these areas developed in easily-accessible locations, and they will continue to be the most dynamic areas of Saint Paul. These areas are vital for the ongoing growth and economic development of the city by providing the highest densities outside of downtown." The variances allow for a dynamic, higher-density mixed-use development that will bring more residents and street-level activity to Grand Avenue.

Policy LU-1 of the Land Use Chapter of the Comprehensive Plan states: "Encourage transit-supportive density and direct the majority of growth to areas with the highest existing or planned transit capacity."

The proposed variances allow for a higher-density mixed-use development that supports existing transit on Grand Avenue and Dale Street, as well as the additional planned transit capacity of the Metro B Line on nearby Selby Avenue.

Policy LU-6 of the Land Use Chapter of the Comprehensive Plan states: "Foster equitable and sustainable economic growth by facilitating business creation, attraction, retention and expansion."

The proposed variances provide for a building that retains existing local businesses and facilitates business creation with the development new commercial spaces.

Policy LU-14 of the Land Use Chapter of the Comprehensive Plan states: "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."

The existing site is currently underutilized, with a one-story commercial building and large surface parking lot covering half the site. The proposed variances provide for higher- density, mixed-use development, in an area that is well-served by transit and highly walkable and bikeable, that will use the land much more efficiently.

Policy LU-29 of the Land Use Chapter of the Comprehensive Plan states: "Ensure that building massing, height, scale and design transition to those permitted in adjoining districts."

The proposed building has been designed with setbacks and stepbacks to help minimize the perception of height and bulk and provide transition to adjacent properties. Along St. Albans Street, the northeast corner of the building is set back 15' from the property line to help provide a transition to the existing buildings north of the alley. The 20-foot-wide alley between the project site and the townhomes to the north, along with an 8-foot building setback along the alley, also helps to provide transition to the height and scale of buildings north of the alley.

Policy LU-35 of the Land Use Chapter of the Comprehensive Plan states: "Provide for multi-family housing along arterial and collector streets, and in employment centers to facilitate walking and leverage the use of public transportation."

The variances provide for the development of multi-family housing in a mixed-use building along Grand Avenue, a roadway designated as an arterial street in the Transportation Plan.

Policy H-46 of the Housing Chapter of the Comprehensive Plan states: "Support the development of new housing, particularly in areas identified as Mixed Use, Urban Neighborhoods, and/or in areas with the highest existing or planned transit service, to meet market demand for living in walkable, transit-accessible, urban neighborhoods."

The proposed variances support the development of new housing in a mixed-use area to allow more residents to live in the walkable, transit-accessible, urban neighborhood along the Grand Avenue corridor.

Policy G1 Corridor Continuity of the 2006 Summit Hill/District 16 Neighborhood Plan states: "Maintain Grand Avenue as a continuous neighborhood retail and residential corridor and contain commercial uses and accessory parking within existing boundaries."

The proposed variances help to maintain Grand Avenue as a continuous retail and residential corridor with an active mixed-use commercial and residential building that contains the proposed development and parking within the existing boundaries of the site. The proposed development provides continuous street frontage at the corner of Grand and St. Albans.

Policy G3 Design Standards of the 2006 Summit Hill/District 16 Neighborhood Plan states: "Adopt TN2 design standards for East Grand in an overlay district. These design standards reinforce human-scale building characteristics, promote quality in architectural materials, reinforce a pedestrian-focused streetscape, promote underground parking for mixed use developments, and visually-screened surface parking for smaller, single-use developments, and promote signage that is consistent with building architecture and business function, and complements the eclectic nature of the avenue."

The proposed project follows traditional neighborhood design standards that apply to properties within the EG East Grand Avenue Overlay District.

Policy G7 Locally-Owned Businesses of the 2006 Summit Hill/District 16 Neighborhood Plan Locally-Owned Businesses states: "SHA recommends implementing mechanisms for supporting and retaining small, locally-owned businesses."

The proposed variances support local business owner efforts to maintain and expand their business and facilitate local business creation with the development of new commercial spaces for small businesses.

Policy G6 Commercial Spillover of the 2006 Summit Hill/District 16 Neighborhood Plan states: "Rezoning and variances are opposed by SHA in those areas where parking and traffic problems create undue hardship for neighboring businesses, residents, and visitors. To help reduce commercial spillover effects on nearby property owners, the approval of site plans and licenses will include efforts to mitigate parking and traffic problems that are of serious concern to immediately affected businesses and residents."

The proposed project includes sufficient parking to meet zoning code requirements, and the applicant submitted a trip generation analysis that concludes that the addition of the proposed 695 Grand Avenue development is not anticipated to noticeably impact traffic operations in the area.

Policy H7 Housing Density of the 2006 Summit Hill/District 16 Neighborhood Plan states: "Ensure that the impact of any increased density conforms to zoning and building requirements, and that the City considers the development's adverse impact on existing municipal services including, but not limited to, traffic and parking."

With requested variances and rezoning to T3, the impact of the proposed increased density conforms to zoning and building requirements. The proposed project includes sufficient parking to meet zoning code parking requirements, and the applicant submitted a trip generation analysis that concludes that the proposed project is not anticipated to noticeably impact traffic operations in the area.

Policy G10 Scale and Height Limits of the 2006 Summit Hill/District 16 Neighborhood Plan states, "Adopt limitations of the height and scale on new buildings on East Grand Avenue in an overlay district, as follows: 1. Limit new buildings to a footprint of 25,000 square feet or less. 2. Limit new building total size, above ground, to 75,000 square feet or less, including parking. 3. Limit building height to three (3) stories, or to thirty feet (30') for commercial projects and to thirty-six feet (36') for mixed commercial and residential projects, whichever is lower. No additional height will be allowed, even with setbacks."

While the Summit Hill Association is currently in the process of updating the Summit Hill/District 16 Neighborhood Plan and considering potential changes to the EG East Grand Avenue Overlay District, the language in the 2006 Summit Hill/District 16 Neighborhood Plan is currently in effect. In their June 29, 2021, letter supporting the conditional use permit application and the proposed building as designed, the Summit Hill Association (SHA) noted the general purposes of the building size limitations to retain human scale and walkability, foster local ownership, and discourage big box chain store tenants, which the proposed development does. The SHA letter notes the need for investment, increased density, and redevelopment along Grand Avenue and on this site; the need for the type of apartments proposed here, currently lacking in the neighborhood, for residents to downsize out of larger Victorian homes and stay in the neighborhood; and that the look, visual

impact, and height of the proposed building is in line with surrounding buildings.

- 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.*

The property owner proposes to use the property for a mixed-use commercial-residential development consistent with the type, scale and density called for in the 2040 Saint Paul Comprehensive Plan, a reasonable use for the property. The applicant notes that since the EG East Grand Avenue Overlay District was established in 2006, no mixed-use developments like this have occurred, substantially due to practical difficulties created for such development by the restrictive height and density limits of the overlay district. The applicant notes that the project site is one of the largest on Grand Avenue at 0.83 acres (the majority of lots are less than 0.25 acres) and the relatively large size of the site exacerbates the impact of the restrictive height and bulk limits of the overlay district and contributes to a greater conflict between the development density sought per the 2040 Comprehensive Plan and the development capacity of the site under the comparably older regulations of the EG East Grand Avenue Overlay district.

The mixed-use future land use designation calls for new housing development at a 20-75 units/acre base range (though individual projects may be less than or exceed targeted goals; this project proposes a residential density of 96 units/acre) and an employment-generating land use density range of 0.3-6.0 Floor Area Ratio that includes parking (this project proposes an employment density range of 0.3 FAR).

The applicant has stated that reducing the building in height to four stories would result in changes to the building which could reduce the proposed project's neighborhood benefits. It could also reduce its compliance with existing adopted plans and Traditional Neighborhood design standards. For example, the height reduction could result in a combination of residential units replacing the retail space and street-level activity (resulting in the building no longer being mixed-use), fewer building setbacks on all sides, the removal of the outdoor seating space along Grand Avenue, partially exposed parking, reduced quality of facade materials, reconfiguration of the building massing, and a greater number of smaller unit sizes like studios and alcoves. The variances support development of a mixed-use building with setbacks and broken up massing that provides a transition to the surrounding properties, larger residential unit sizes, space for existing neighborhood restaurants and new retail spaces that provides street-level activity and a pedestrian-friendly patio, and high quality facade materials that fit with the neighborhood's character.

The EG East Grand Avenue Overlay District regulations for building height, footprint, and overall size create practical difficulties for the project's design (its ability to sensitively transition to adjacent properties - i.e., stepbacks and massing) and limit its overall ability to respond holistically to adopted plan policies (e.g., housing type sizes and mix; mix of uses, incorporation of business spaces; enclosure of parking; etc.). The fact that no mixed-use developments like this have occurred over the last 15 years since the overlay was adopted is evidence of practical difficulties for use of the property in a reasonable manner consistent with the 2040 Comprehensive Plan.

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

The property is unique in that it is on a prominent corner lot that is substantially larger than the majority of other lots within the EG East Grand Avenue Overlay District, which exacerbates the impact of the restrictive height and bulk limits of the overlay district and contributes to a greater conflict between the development density sought per the 2040 Comprehensive Plan and the

development capacity of the site under the comparably older regulations of the EG East Grand Avenue Overlay district, a circumstance not created by the landowner.

- e. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

Mixed residential and commercial use is a permitted use in the current B2 Community Business district and proposed T3 Traditional Neighborhood district.

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

The variances for the proposed 59'10" height, 30,500 sq. ft. footprint, and 124,000 sq. ft. building size will not alter the essential character of the surrounding area. This part of Grand Avenue is a mixed-use transit street in with a mix of housing types and densities, small-scale shops, larger retail stores, restaurants, and services. There is a six-story, 65- foot (as measured in Google Earth) condominium building located at 745 Grand Avenue that is one block to the west, and most neighboring buildings range from 39 to 50 ft (as measured in Google Earth). The proposed building has design features that break up the scale and mass of the building, reduce the perceived height of the building, and provide transition to the surrounding area.

- 6. Zoning Code § 66.331 requires a maximum front yard setback of 10 feet. The application requests a variance to increase the front yard setback to 18 feet for the middle section of the building to allow for an outdoor patio space. § 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.*

The proposed variance to increase the front yard setback to 18 feet for the middle section of the building to allow for an outdoor patio space is in harmony with the general intent and purposes of the zoning code, include the following: to protect and promote the public health, safety and general welfare; to provide for the orderly, economic development of land; to implement the policies of the comprehensive plan; to ensure adequate light, air, privacy, and convenience of access to property; and to encourage a compatible mix of land uses that reflect the scale, character and urban design of Saint Paul's existing traditional neighborhoods.

The variance is in harmony with the intent of the T3 zoning district to provide for higher- density pedestrian- and transit-oriented mixed-use development. T3 also has traditional neighborhood district design standards (§ 66.343) that call for buildings that anchor the corner, front yard landscaping, and building facade continuity. The proposed building anchors the corner with a corner entrance at Grand and St. Albans. The variance for an 18' setback to allow for an outdoor patio space complies with the standard for established building facade lines, which states that portions of the facade may be set back a greater distance to emphasize entries or create outdoor seating and gathering areas. The variance also complies with the standard for front yard landscaping, which states that hard surfaced front yard areas should include amenities such as benches, tables, and planters, and the design standard for building facade continuity, which states that where breaks occur, the street edge shall be continued through the use of fencing, low walls and/or landscaping. The proposed outdoor patio space will provide an adequately sized outdoor seating area with staff and patron circulation and tables and chairs and public art, low landscaped planters that continue the building's sidewalk edge, and an enhanced pedestrian experience.

- b. *The variance is consistent with the comprehensive plan.*

The proposed variance to increase the front yard setback to 18 feet for the middle section of the building to allow for an outdoor patio space is consistent with several policies in the 2040 Comprehensive Plan.

Policy LU-9 states: "Promote high-quality urban design that supports pedestrian friendliness and... enhances the public realm."

Policy LU-28 states: "Support pedestrian-friendly streetscapes and visual interest through commercial building design."

The variance provides for an outdoor patio that provides a pedestrian-friendly streetscape that enhances the public realm with seating, public art, landscaped planters, and pedestrian- scale lighting.

The variance is also consistent with the 2006 Summit Hill/District 16 Neighborhood Plan, whose vision states: "Grand Avenue shall continue to be a mix of buildings that respect the historic character of the avenue and neighborhood and that relate closely to the sidewalk and encourage pedestrian activity at the street level. Beautification efforts on Grand Avenue continue with attention to trees, planters, bench gardens, and historical lighting."

Policy G3 Design Standards states: "Adopt TN2 design standards for East Grand in an overlay district. These design standards reinforce human-scale building characteristics, promote quality in architectural materials, reinforce a pedestrian-focused streetscape, promote underground parking for mixed use developments, and visually-screened surface parking for smaller, single-use developments, and promote signage that is consistent with building architecture and business function, and complements the eclectic nature of the avenue."

The variance provides for an adequately sized outdoor patio that relates to the sidewalk, encourages pedestrian street-level activity, and provides seating, landscaping, and public art to reinforce a pedestrian-focused streetscape and enhance the pedestrian experience. The variance is also consistent with the historic development pattern, as many of the multi- family apartment buildings along Grand Avenue are substantially set back from the street.

Policy P2 Specific Safety Measures states: "Improve pedestrian safety and improve the quality of the pedestrian and bicyclist experience."

The proposed variance improves the quality of the pedestrian and bicyclist experience with human-scale design and street-level activity.

- 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.*

The proposed outdoor seating area is a reasonable use, consistent with the comprehensive plan, that could not be sufficiently accommodated within a 10-foot setback. The 18-foot setback allows for an adequately sized outdoor seating area with staff and patron circulation space as well as an enhanced pedestrian experience.

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

The building design includes a prominent entrance to anchor the corner of this unique site, consistent with traditional neighborhood district design standards. The outdoor patio is placed in the center of the building facade, the best place to provide for pedestrian-focused street-level activity, exceeding the 10' setback maximum in order to allow for an adequately-sized outdoor seating area with sufficient staff and patron circulation space.

- e. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

The variance will not permit any use that is not allowed in the zoning district where the affected land is located.

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

This finding is met. The variance is to provide for an adequately sized outdoor seating area that will enhance the pedestrian experience with seating, public art, and landscaped planters to continue the line of the building facade. Many outdoor patios exist along Grand Avenue, including the many restaurants a block west of the proposed project. The variance is also consistent with the historic development pattern, as many multi-family apartment buildings along Grand Avenue are set back from the street. Active uses are commonly located at the sidewalk frontage in the retail and restaurant spaces and residential ground-floor active amenity spaces.”

AND, WHEREAS, on August 2, 2021, Friends of A Better Way St. Paul, LLC, (“Appellants”) pursuant to Leg. Code § 61.701(c), duly filed an appeal from the Commission’s July 23, 2021 decision alleging that the Commission’s decisions approving the CUP and variance applications were in error because the approvals were based on conclusory, incorrect, and inadequate findings and that the CUP and variance requests should have been denied because the requests did not satisfy the zoning code’s criteria. Accordingly, the Appellants requested a public hearing before the City Council to consider the matter; and

WHEREAS the said appeal was assigned Council File No. APC 21-2 and set for public hearing before the Council on September 15, 2021, and

WHEREAS, on September 15, 2021, the Council of the City of Saint Paul duly conducted a public hearing on the said 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 had been previously 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 Council’s consideration and the hearing record and, further, were also afforded the opportunity to audibly monitor the Council’s hearing proceedings; and

WHEREAS, upon the close of the public hearing, the City Council, having heard the statements made and having considered all the reports, minutes, and testimony in the matter including Planning Commission Resolution No. 21-37 took up the matter and entertained a motion to grant the said appeal which motion failed on a 2-5 vote whereupon a motion to deny the appeal was duly made which passed on a 5-2 vote: NOW, THEREFORE,

BE IT RESOLVED, that the Council of the City of Saint Paul hereby denies Appellant’s appeal as the Council finds that Appellant has not met its burden to demonstrate that the Commission erred in its facts or findings as alleged by Appellant when it approved the Applicant’s CUP and variance requests upon the

facts and findings set forth in Planning Commission Resolution No. 21-37; and

BE IT FURTHER RESOLVED, the Council hereby adopts as its own in support of this decision, the facts and findings set forth in Planning Commission Resolution No. 21-37 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.