



Larkin Hoffman

8300 Norman Center Drive
Suite 1000
Minneapolis, Minnesota 55437-1060

GENERAL: 952-835-3800
FAX: 952-896-3333
WEB: www.larkinhoffman.com

September 1, 2016

Minneapolis City Council
c/o Ms. Janelle Widmeier
Community Planning and Economic Development
250 S. Fourth Street, Room 300
Minneapolis, MN 55415

Re: Appeal of Planning Commission Decision to Approve Alatus LLC's CUP and Variance Request (BZZ-7820); Our File #39,149-00

Dear City Council Members:

This firm represents Neighbors for East Bank Livability ("NEBL"), a coalition of Nicollet Island-East Bank and Marcy-Holmes residents affected by the proposed multiple-family dwelling development (the "Project") located at 200 Central Avenue in the City of Minneapolis (the "City") by developer Alatus, LLC (the "Applicant"). On behalf of NEBL, we hereby appeal the August 29, 2016 decision of the Minneapolis Planning Commission to approve a conditional use permit to increase the height of the Project from 4 stories, or 56 feet, to 42 stories, or 483 feet, 4 inches, and a variance to increase the maximum floor area ratio by more than 600% from 2.04 to 14.42 (together, the "Applications").

The Minneapolis Zoning Code and Minnesota law requires that the Applications meet the findings in City Code Chapters 525 and 548. As is described in attached correspondence, the Applications do not meet the required findings necessary for approval for the increase in height and FAR. As such, on behalf of NEBL we strongly encourage the City Council to grant the appeal and deny the Applications.

Sincerely,

William C. Griffith, for
Larkin Hoffman

Direct Dial: 952-896-3285
Direct Fax: 952-842-1729
Email: wgriffith@larkinhoffman.com

Enclosures

c/o Ms. Janelle Widmeier

September 1, 2016

Page 2

cc: Erik Nilsson, City Attorney
Casey Jo Carl, City Clerk
Neighbors for East Bank Livability

4822-8276-1783, v. 1



Larkin Hoffman

8300 Norman Center Drive
Suite 1000
Minneapolis, Minnesota 55437-1060

GENERAL: 952-835-3800
FAX: 952-896-3333
WEB: www.larkinhoffman.com

August 26, 2016

City of Minneapolis Planning Commission
Department of Community Planning & Economic Development
250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385

Via – Email (Letter)

Hand Delivery – (Letter
& Enclosures)

Re: **Alatus Tower - 200 Central Avenue (BZZ-7821)**
Neighbors for East Bank Livability – Our File #39,149-00

Dear Planning Commission Members:

This firm represents Neighbors for East Bank Livability (“NEBL”), a coalition of Nicollet Island-East Bank and Marcy-Holmes residents affected by the proposed multiple-family dwelling development (the “Project”) located at 200 Central Avenue (the “Property”) in the City of Minneapolis (the “City”) by developer Alatus, LLC (the “Applicant”).

The Applicant currently has several land use applications before the Planning Commission, including a conditional use permit (CUP) to increase the height from 4 stories, or 56 feet, to 42 stories, or 483 feet, 4 inches, and a variance to increase the maximum floor area ratio (FAR) by more than 600% from 2.04 to 14.42 (together, the “Applications”). The Minneapolis Zoning Code requires that the Applications meet the findings in Chapters 525 and 548. As is described in detail below, the Applications do not meet the required findings necessary for approval for the increase in height and FAR. As such, on behalf of NEBL we strongly encourage the Planning Commission to deny the Applications.

Conditional Use Permit: Height

The Project does not meet the required findings to warrant an approval increasing the maximum height from 4 stories, or 56 feet, to 42 stories, or 483 feet, 4 inches. The required findings are as follows:

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The Project does not meet this finding. In April of 2016, the City Council denied a petition for an Environmental Assessment Worksheet (EAW) and made an incorrect determination that the Project was exempted from the automatic EAW trigger under Minnesota Rules 4410.4300, subp. 19(c). (See attached Letter from Larkin Hoffman to EQB (Apr. 4, 2016); Letter from Larkin Hoffman to Zoning & Planning Committee (Apr. 20, 2016).) Without having ordered the EAW consistent with the law, it is not possible to determine whether the Project will have a detrimental

impact on the public health and safety. The inconsistency of the Project's height and scale with respect to the surrounding area will however be detrimental to the comfort and general welfare of the neighborhood. The Project will be thirty (30) stories taller than the tallest building in the immediate vicinity (the Winslow House) and more than 170 feet taller than the tallest structure on the east bank. The height and scale of the Project are inconsistent with the context of the neighborhood, will cast extensive shadows, create a looming effect over adjacent properties, and will be visually disruptive to key views within the neighborhood and surrounding areas.

2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

The Project does not meet this finding. At more than 483 feet, the Project will be the 11th tallest structure in the City and far exceed the height of any structures on the east bank of downtown Minneapolis. Allowing a CUP and variance to permit the excessive height will create a precedent for future development, resulting in a bleeding of downtown into the residential Marcy-Holmes and Nicollet Island East Bank neighborhoods. Approval of the Project would be inconsistent with the character of the surrounding properties and would be disruptive to the orderly development of the neighborhood. As shown in TABLE 1, the Project will far exceed the height of any structures in the immediate vicinity. While the Applicant and the staff report rely on the existence of other taller structures on the east bank, including those referenced in TABLE 1, as justification for the excessive height of the Project, the next tallest structure, LaRive Condos, is 170 feet shorter than the Project or 64% of the Project's height. It is factually incorrect to conclude that the Project height and scale is consistent with the structures in the surrounding area.

TABLE 1

	Height	Difference from Project Height	Ratio to Project Height
PROPOSED PROJECT	483 feet		
Historic Pillsbury Library	53 feet	-430 feet	11% of Project height
Adjacent Parking Garage	98 feet	-385 feet	20% of Project height
Winslow House	180 feet	-303 feet	37% of Project height
The Falls and the Pinnacle	287 feet	-186 feet	59% of Project height
LaRive Condos	310 feet	-170 feet	64% of Project height

(Data based on public records, including staff report.)

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

Given the City's failure to order an EAW for the Project, it is not possible to determine that the Project will be served by adequate utilities, access, or other necessary facilities necessary.

4. *Adequate measures have been or will be taken to minimize traffic congestion in the public streets.*

Given that the anticipated traffic that will be generated by the Project resulting from the 389 vehicle parking spaces on the 0.8 acre-parcel, the proposed Project design does not adequately address the expected traffic congestion in the adjacent public streets. Moreover, given the City's failure to order an EAW for the Project, it is not possible to adequately evaluate the extent to which the Project will be detrimental to the traffic congestion in the surrounding area.

5. *The conditional use is consistent with the applicable policies of the comprehensive plan.*

The Project does not meet this finding. The Project is located in an Activity Center near a designated Growth Center. *The Minneapolis Plan for Sustainable Growth* (the "Comprehensive Plan") states that densities in Activity Centers range between high density (50-120 du/acre) and very high density (120-200 du/acre), dependent on context. In addition, densities up to 800 dwelling units per acre (du/acre) *may* be allowed in or near all designated Growth Centers and within Activity Centers adjacent to Growth Centers. However, *The Marcy-Holmes Neighborhood Master Plan* (the "Marcy-Holmes Plan"), which was incorporated into the Comprehensive Plan by the City Council on August 15th, 2014, calls for high-density residential development of only 50-120 dwelling units per acre on the Property. (Marcy-Holmes Plan, page 20.) The Project's density of 268.2 du/acre is more than double the Marcy-Holmes Plan guidance. Thus, while the Comprehensive Plan states that densities of this magnitude "may" be permitted here, such a density is inconsistent with the Marcy-Holmes Plan and is not appropriate.

In addition to inconsistency with the Comprehensive Plan density guidance for the Project, the Project is inconsistent with several other enumerated Comprehensive Plan policies. The most relevant inconsistencies are located in the following chapters: Land Use (Chapter 1); Heritage Preservation (Chapter 8); and Urban Design of the Comprehensive Plan (Chapter 10).

a. The Project is Inconsistent with Chapter 1: Land Use

The Property is located in the East Hennepin Activity Center, as designated under Chapter 1 of the Comprehensive Plan. The Property itself is guided for Commercial future land use and is located at the intersection of Central Avenue SE and 2nd Street SE. The General Commercial future land use is described as follows: "Includes a broad range of commercial uses. *This designation is reserved for areas that are less suited for mixed use development that includes residential.*" (Comprehensive Plan 1-8 (emphasis added).) While the Project does have 6,500 square feet of proposed retail, that accounts for approximately 1 percent of the total building area. A commercial to residential ratio of 1:100 can hardly be said to constitute a "commercial" development consistent with the future land use guidance of the Comprehensive Plan, let alone a "mixed-use" development. Moreover, the Project is inconsistent with several enumerated policies under Chapter 1 of the Comprehensive Plan, including the following:

1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural

features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

The Project is grossly out of scale for the surrounding neighborhood. The 42-story tower is incompatible with not only the nearby properties, but the massing far exceeds any regulations or policies that exist within the City outside of the downtown core.

1.2. Ensure appropriate transitions between uses with different size, scale, and intensity.

There is no transition aside from a massive reduction in size that could soften the massing of the proposed Project. The surrounding uses include the one-story historic Ard Godfrey House, three-story condos, the two-story Pillsbury Library, and the nine-story parking ramp immediately to the east. At twelve (12) stories or approximately 180 feet, the tallest building in the immediate vicinity (the Winslow House), located across Second Street, is dwarfed by the Project, which is proposed to be thirty (30) stories or 303 feet taller.

1.2.1 Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.

The scale and massing of the Project is wholly inappropriate within the context of the surrounding area. As shown in TABLE 1, the Project would be the tallest structure on the east side of the river from downtown by more than 170 feet in height. The extreme height and massing of the Project is not consistent with the context of the area.

b. The Project is Inconsistent with Comprehensive Plan Chapter 8: Heritage Preservation

Because the Project is located in the St. Anthony Falls Historic District (the "District"), which is recognized by both the City of Minneapolis and the National Register, it is also subject to several Comprehensive Plan policies under Chapter 8: Heritage Preservation. Chapter 8 outlines specific policies pertaining to the protection and preservation of historically significant properties and districts, including the St. Anthony Falls Historic District. In 2012, the City adopted the St. Anthony Falls Historic District Guidelines (the "District Guidelines"), which established guidance for treatment of existing and new structures in the District in order to preserve the District's character. As proposed, the Project is clearly inconsistent with the District Guidelines, as well as several policies established in Chapter 8. (*For further information, see attached Letter from Larkin Hoffman to City Council (June 3, 2016).*) The applicable inconsistent policies include the following:

8.1 Preserve, maintain, and designate districts, landmarks, and historic resources which serve as reminders of the city's architecture, history, and culture.

Construction of the Project is inconsistent with preserving and maintaining the historic District. The Project would risk damage to not only the character of the District but to the actual contributing historical structures themselves. The Project would require demolition of the Washburn-McReavy funeral home and the foundation of the Project is proposed only 20 feet from the adjacent historic Pillsbury Library. The Project will tower more than 430 feet above the historic structure, creating the risk of damage during construction and result in overshadowing and dwarfing of the historic building. In addition, the massive height of the tower will dwarf the Pillsbury Library and loom over the historic Ard Godfrey House and Chute Square to the northwest.

8.1.2 Require new construction in historic districts to be compatible with the historic fabric.

The Project would set a dramatic new precedent for height in this historic District and is not compatible with the historic fabric of the neighborhood or the District. The Project is a contemporary tower that makes no effort to reflect the historic building heights and massing.

8.8 Preserve neighborhood character by preserving the quality of the built environment.

The Project will pose substantial risks to the nearby historic structures during construction and construction of the Project would be detrimental to the preservation and maintenance of the built environment. The dramatically inappropriate height and massing of the Project would be detrimental to the neighborhood and District character.

8.9 Integrate preservation planning in the larger planning process.

As is described below, the Project is out of scale and character with the District Guidelines, adopted in 2012 and intended to protect the integrity and character of the District. Ignoring the District Guidelines throughout the planning process would be detrimental to the preservation of the District and individual contributing resources within the District. It is important to note that any of the existing taller structures located on the East Bank in the District were constructed more than 25 years prior to the adoption of the District Guidelines. Any new development in the District should be consistent with the guidance set forth in the District Guidelines.

(1) Inconsistency with the Historic District Guidelines

The Project is located within the District and is subject to the District Guidelines, which are an adopted City policy. The intent of the District Guidelines is to “protect the integrity and character of the district and to ensure that new development occurs in a manner that is sensitive to the historic character of this unique place.” (District Guidelines 1.) The District Guidelines provide general guidelines for all development in the District, but also area-specific guidelines for each character area within the larger District. The Project is located in the University Avenue Transition Area, which is a subarea of the Water Power Character Area. It is NEBL’s position that the Project is wholly inconsistent with the District Guidelines. The most glaring discrepancies between with the District Guidelines are with regard to the height, character, and massing of the Project. The intent of the Water Power Character Area is stated as follows:

New buildings should be contemporary in character, while respecting the fundamental characteristics of the historic subarea context. They should draw upon the simple forms, materials and massing of historic buildings, especially as experienced at the street level. *New buildings should reflect the massing of other historic buildings within the subarea* and not that of the grain elevators.

(District Guidelines 129 (*emphasis added*)). As proposed, the Project will be substantially taller than the grain elevators, let alone any contemporary or modern structure in the Water Power Character Area and makes no effort to comply with the District Guidelines.

In addition, the Project is inconsistent with several policies established in the District Guidelines, including the following policy guidance:

P. 106 Building Height: Intent - A new building should be compatible in height, mass and scale with its context, including the specific block, the character area, and the historic district as a whole. This should be a primary consideration for the design of a new building. Each new building also should convey a human scale, reflect similar building massing and façade articulation features of the context, and be compatible with the district skyline.

The height, mass, and scale of the Project are incompatible with the block, the character area, and the larger District. At approximately 483 feet, the Project would be the tallest structure in the District, exceeding the height of the Carlyle, which is located on the downtown side of the river. The nearest “tall” building is the Windsor House, which is 30 stories or 303 feet shorter than the Project. With respect to other structures on the block, the Project will be approximately 400 feet taller than the adjacent parking garage and approximately 430 feet taller than the historic Pillsbury Library.

9.8(a) The height of a new building should be within the range established in the context, especially at the street frontage.

The Project fails to be within the height established by the context, and the 42-story tower will dominate the viewsheds and overshadow the historic Pillsbury Library and the Ard Godfrey House immediately north and northwest of the Project respectively. Even at the street level, the building podium will rise more than 5 stories above the streetscape, dwarfing the nearby historic structures.

9.10 Locate the taller portion of a new structure to minimize looming effects and shading of lower scaled neighbors, especially when adjacent to smaller historic structures.

The Project is located only 20 feet from the adjacent Pillsbury Library and the imposing 5-story podium and 42-story tower will loom over the historic structure. The Project will also cast significant shadows for much of the year on the one-story historic Ard Godfrey House in Chute Square and over the historic Chute Square Park itself.

10.8 In the University Avenue Transition Area, the maximum building height should not exceed eight stories. Mid-rise, low-rise and very low-rise buildings are most appropriate.

At 42 stories, the Project exceeds the stated "maximum" by an additional 34 stories and makes no effort to comply with the height guidelines. The Project is disruptive to the historic development pattern in the District and would be inappropriate given the proximity and placement of contributing historic structures.

c. The Project is Inconsistent with Comprehensive Plan Chapter 10: Urban Design

Chapter 10 of the Comprehensive Plan establishes policies to guide the urban form. These include policies to guide the future design of neighborhoods, transportation and pedestrian infrastructure, and building design. As proposed, it is inconsistent with several of the policies established in Chapter 10, including the following:

10.1.1 Concentrate the tallest buildings in the Downtown core.

The Project would be the tallest structure in the Nicollet Island-East Bank and Marcy-Holmes neighborhoods and is significantly taller than many of the residential towers recently constructed in the downtown core today. A development of this height, scale and massing should be located in the downtown core and is markedly out of place for the Property and the neighborhood. The staff report notes that the Project "is located in the East Hennepin Activity Center where other tall buildings are located" as justification for the inconsistency with this policy. However, as is demonstrated in TABLE 1, not only is the Project

significantly taller than the other structures in the vicinity, but the next tallest structure is only 64% as tall as the Project.

10.1.2 Building placement should preserve and enhance public view corridors that focus attention on natural or built features, such as landmark buildings, significant open spaces or water bodies.

The proposed building placement would not preserve or enhance view corridors, rather it would obstruct several existing view corridors, increase shadowing on adjacent properties, and loom over historic landmark buildings, including the Pillsbury Library and the Ard Godfrey House, both of which are contributing structures in the District.

10.1.3 Building placement should allow light and air into the site and surrounding properties.

The surrounding properties would be adversely affected, including those to the north and west. This includes two historic structures, the Pillsbury Library and Ard Godfrey House, both of which will be substantially affected by shadowing throughout the year. The residential condominiums to the west, as well as the residential condominiums to the north, will also be severely affected by limited access to sunlight.

10.4: Support the development of residential dwellings that are of high quality design and compatible with surrounding development.

The Project is out of character for the neighborhood and incompatible with the surrounding development. The scale and height of the Project are unequivocally inconsistent with surrounding development and the Project will tower more than 30 stories or 303 feet over even the highest building in the immediate vicinity, the Winslow House.

10.4.1 Maintain and strengthen the architectural character of the city's various residential neighborhoods.

The character of the Marcy-Holmes and Nicollet Island-East Bank neighborhoods is a mixture of residential, commercial, and industrial uses, heavily influenced by the development patterns around St. Anthony Falls. The building heights are largely consistent and the historic building heights are intended to guide development. The Project would disrupt the character of the neighborhood and overshadow the adjacent historic property.

10.4.2 Promote the development of new housing that is compatible with existing development in the area and the best of the city's existing housing stock.

It cannot be said that the Project is compatible with development on the east side of the river. The height and massing of the structure are inconsistent with the surrounding development and the Project will rise more than 170 feet over any other structures on in the vicinity.

10.5: Support the development of multi-family residential dwellings of appropriate form and scale.

In addition to the Project's inconsistency with the Marcy-Holmes Plan, the form and scale of the Project is not appropriate given the context of the neighborhood, the surrounding area and the block. The form of the Project is unlike anything currently constructed in the neighborhood and the tower would be the tallest structure in the East Bank/Marcy-Holmes neighborhoods by more than 170 feet.

10.5.2 Medium-scale, multi-family residential development is more appropriate along Commercial Corridors, Activity Centers, Transit Station Areas and Growth Centers outside of Downtown Minneapolis.

The Project would be the eleventh tallest structure in the entire City and is not of an appropriate scale for a growth area located outside of downtown Minneapolis. The Project is located on the edge of the East Hennepin growth area. In Growth Areas outside of downtown, medium-scale multi-family residential development is more appropriate. Residential skyscrapers are more appropriate in the Downtown Minneapolis Growth Center.

10.5.3 Large-scale, high-rise, multi-family residential development is more appropriate in the Downtown Minneapolis Growth Center.

The Project is not located in Downtown Minneapolis and therefore the location of the Project is inconsistent with the Comprehensive Plan.

10.6.2 Promote the preservation and enhancement of view corridors that focus attention on natural or built features, such as the Downtown skyline, landmark buildings, significant open spaces or bodies of water.

The Project would stick out from existing development, and would be visually disruptive to viewsheds of the riverfront and the District. The Project would constitute a "bleeding" of downtown into the Marcy-Holmes neighborhood that would be detrimental to not only the character of the immediate vicinity but create a visually scattered skyline.

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

The Project does not meet this finding. The Project does not conform to the other applicable regulations of the district and require two variances to comply with the City ordinance, including a variance to increase the floor area ratio (FAR) by more than 600% over the allowed FAR. The Project cannot be found to comply with the other applicable regulations under the City ordinance.

Additional Standards to Increase Maximum Height

In addition to the CUP standards, the Planning Commission shall consider, but not be limited to, the following factors when determining the maximum height of principal structures in commercial districts:

1. Access to light and air of surrounding properties.

The surrounding properties would be adversely affected and received limited light and air. The Project is located only 20 feet from the adjacent Pillsbury Library and the imposing 5-story podium and 42-story tower will loom over the historic structure. The Project will also cast reduce access to light for much of the year on the one-story historic Ard Godfrey House in Chute Square and over the historic Chute Square Park itself.

2. Shadowing of residential properties, significant public spaces, or existing solar energy systems.

Chute Square Park, a public park located immediately north/northwest of the Project, will receive no sunlight for a significant portion of the year due to the Project's scale and massing as is demonstrated by the Applicant's shadow study. The residential condominiums to the west, as well as the residential condominiums to the north, will also be severely affected by limited access to sunlight.

3. The scale and character of surrounding uses.

It cannot be said that the Project is compatible with the scale and character of development in the surrounding area or anywhere on the east side of the river. The height and massing of the structure are inconsistent with the surrounding development and the Project will rise more than 170 feet over any other structures on in the vicinity. As is demonstrated in TABLE 1, the scale and character of the Project is inconsistent with the surrounding uses.

4. Preservation of views of landmark buildings, significant open spaces or water bodies.

The proposed building placement would not preserve or enhance view corridors, rather it would obstruct several existing view corridors, increase shadowing on adjacent properties, and loom over historic landmark buildings, including the Pillsbury Library and the Ard Godfrey House, both of which are contributing structures in the District. The Project would be visually

disruptive to viewsheds of the riverfront, the adjacent Chute Square Park, and the skyline of the downtown area. The Project would constitute a “bleeding” of downtown into the Marcy-Holmes neighborhood that would be detrimental to not only the character of the immediate vicinity but create a visually scattered skyline.

Variance: Floor Area Ratio

The application does not meet the findings required under the City ordinance or state law to grant a variance to increase the maximum floor area ratio (FAR) from 2.04 to 14.42. The required findings are as follows:

1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.

The Project does not meet this finding. There are no practical difficulties that exist in complying with the City ordinance. There is nothing unique about the Property and the sole factor driving the Applicant’s request is economic goals of the Applicant. The Applicant and the staff report rely on the Comprehensive Plan and Marcy-Holmes Plan policies for allowing higher densities on the Property as justification for granting the Applicant’s request for a variance to increase the FAR from 2.04 to 14.42, an increase of more than 600%. This conclusion is not supported in the facts, the policies, or the law.

The Marcy-Holmes Plan calls for “high density” for the Property. However, high density is defined as a range of “50-120 dwelling units per acre,” which is far below the 268.2 du/acre proposed by the Applicant. (Marcy-Holmes Plan, page 20.) The Comprehensive Plan states that very high densities of 120-200 du/acre are appropriate, and that “densities up to 800 du/acre *may* be allowed in or near all designated Growth Centers.” (Comprehensive Plan 1-11 (emphasis added).) The staff report concludes that in order “to achieve the desired density at this location, the FAR of the building needs to be increased.” However, this language is neither a mandate nor an expression of a “desired density,” rather it is permissive only. To use this permissive language as creating a “need” to vary the FAR is not supported by logic. The “desired density” of 268.2 du/acre is driven not by City policy, but solely by the Applicant’s economic goals of maximizing profit. Pursuant to Minnesota Statutes Section 462.357, subd. 6, “economic considerations alone do not constitute practical difficulties.”

Furthermore, these circumstances that the Applicant is relying on to justify a practical difficulty are in no way unique to the Property. These same policies apply throughout the City in various Activity and Growth Centers. The 2.04 FAR limit that the Applicant is requesting to vary is not the result of a unique feature of the Property, a unique confluence of regulatory restrictions, or an unintended consequence of the ordinance, but simply the desire of the Applicant to build a larger building. There is no legal justification to find that a practical difficulty exists because the Applicant merely *wants* to not comply with the City ordinance.

2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

The Project does not meet this finding. The Applicant is proposing a use of the Property that is unreasonable and inconsistent with the spirit and intent of the ordinance and the Comprehensive Plan. As is described above, the height and scale of the Project is inconsistent with several Comprehensive Plan policies, as well as the density guidance in the Marcy-Holmes Plan.

The maximum FAR regulations are established in order to assure that the scale and form of new development or expansion will occur in a manner most compatible with the surrounding area and applicable zoning district. As is demonstrated in TABLE 1, the Project is grossly inconsistent with the scale of the development in the surrounding area and more than 170 feet taller than the next highest structure on the east bank of the river. The maximum allowed FAR of 2.04 is after the calculation of density bonuses, meaning that the baseline FAR guidance for the C2 District has already been increased. In addition to the density bonuses, the Applicant is requesting a 600% increase in the FAR for the sole purpose of increasing the economic value of the Project. The height and scale of the Project are unreasonable and unwarranted given the context of the surrounding area and the Project does not meet the spirit and intent of the ordinance or the Comprehensive Plan.

3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

The Project does not meet this finding. The granting of the variance will detrimentally alter the character of the immediate vicinity as well as the Marcy-Holmes and Nicollet Island East Bank neighborhoods. The Project is unquestionably inconsistent with the scale and height of any other property in the surrounding area. There are no other structures on the east bank of the river that are even remotely as tall as the Project, and the next highest structure is only 64%, less than two-thirds, of the proposed Project height. Given the inconsistency of the Project with the surrounding development, it is not possible to soften the impact on the adjacent uses or transition the height of the Project into the nearby development. The Project would be injurious to the use and enjoyment of other properties in the surrounding area.

Conclusion

Based on the above analysis, the Planning Commission cannot find that the required findings have not been satisfied. The Project is grossly out of scale and context for the surrounding area and inconsistent with the Comprehensive Plan and the City ordinance. The Applicant cannot meet the required findings necessary to justify the increased height, and has not demonstrated that any practical difficulty exists aside from a mere desire to build a building larger than the City ordinance allows. As such, we strongly encourage the Planning Commission to deny the Applications.

City of Minneapolis Planning Commission
August 26, 2016
Page 13

Please contact me about this letter or any of the information contained herein. Also, please incorporate this letter and its attachments into the official record of decision in this matter. Thank you.

Sincerely,



William C. Griffith, for
Larkin Hoffman

Direct Dial: 952-896-3285
Direct Fax: 952-842-1729
Email: wgriffith@larkinhoffman.com

cc: Janelle Widmeier, Senior City Planner
Casey Jo Carl, City Clerk
Erik Nilsson, Assistant City Attorney
Neighbors for East Bank Livability

Enclosures

4852-5963-4231, v. 1