

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** 72 Cesar Chavez **FILE #:** 16-012-584
 2. **APPLICANT:** Neighborhood Development Alliance **HEARING DATE:** March 24, 2016
 3. **TYPE OF APPLICATION:** Conditional Use Permit & Variance
 4. **LOCATION:** 88 Cesar Chavez St, SW corner at Congress Street
 5. **PIN & LEGAL DESCRIPTION:** 082822220146, Rarig Campus Vac St Accruing And Fol, The E 40 Ft Of The N 175 Ft Of Lot 10 & The N 175 Ft Of Lots 11 And Lot 12 Blk 64 West St Paul Blks 1 Thru 99 And In Sd Rarig Campus Vac St Accruing And Fol, Thqat Part Of Lot 5 Blk 1 Lying Nely Of A Line Desc As Beg
 6. **PLANNING DISTRICT:** 3 **PRESENT ZONING:** T2
 7. **ZONING CODE REFERENCE:** § 61.501; 61.202(b); 66.331; 68.402(b)(2); 68.601
 8. **STAFF REPORT DATE:** 3/18/2016; updated 3/24/16 **BY:** Jake Reilly
 9. **DATE RECEIVED:** February 23, 2016 **60 DAY DEADLINE FOR ACTION:** April 23, 2016
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- A. **PURPOSE:** Conditional use permit for a maximum building height of 45 ft., and variance for new construction on slopes greater than 12% in the in the river corridor
- B. **PARCEL SIZE:** Frontage on Cesar Chavez = 432 ft.; Parcel = 47,580 sq. ft. (1.09 acres)
- C. **EXISTING LAND USE:** Vacant
- D. **SURROUNDING LAND USE:**
 - North – commercial land and buildings
 - South – Care facility
 - East – Vacant
 - West – Care facility
- E. **ZONING CODE CITATION:** §61.501 lists general requirements for all conditional uses; §61.202(b) authorizes the planning commission to grant variances when related to permits. §66.331 lists the density and dimensional standards for Traditional Neighborhood districts and has note (f) which allows a maximum height of 45 feet in T2 districts with a conditional use permit; §68.601 authorizes the planning commission to grant variances in the River Corridor Overlay District; §68.402(b)(2) restricts commercial or industrial development on slopes greater than 12 percent.
- F. **HISTORY/DISCUSSION:** The now defunct, Riverview Economic Development Association worked to redevelop the parcel at 72 Cesar Chavez in the mid-2000s. In zoning file #08-235-993, the organization applied for and received a variance for construction on slopes greater than 21% ion the river corridor in order to develop a 10,000 sq. ft. retail space and 50 parking stalls. The anticipated tenant was Holy Land Deli and Grocery. At that time, the applicant also applied for a rezoning of the site to T-2 (Traditional Neighborhood), (Z.F. #08-22042). The parcel is currently vacant and has been vacant for 28 years. The parcel was occupied by the Commercial Club, a chamber of commerce-like business club that provided social and dining opportunities for its members.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The West Side Community Organization (WSCO)'s Riverfront Development and Land Use Committee passed a resolution supporting the application for a CUP and Variance at 72 Cesar Chavez. A copy of the resolution or letter of support will be forthcoming.
- H. **FINDINGS:**
 1. The Neighborhood Development Alliance (NeDA) has applied for a CUP for a maximum building height of 45 feet in order to construct a mixed-use commercial and residential

building of four stories (including one of structured parking) consisting of 3,500 square feet of commercial space and 40 mixed-income apartment units of a variety of sizes, three-bedrooms and smaller. There will be a minimum of 10 three-bedroom units in order to meet funding source requirements. Due to practical difficulties related to geologic features of the site, the structure must be, at most, 45-feet high, in order to accommodate the required parking.

2. The Traditional Neighborhood 2 (T2) zoning district allows for the use as of right, but limits the height of the structure to 35 feet. Section 66.331(f), the Traditional Neighborhood District Dimensional Standards table and related footnote, allows the proposed use to apply for a CUP in order to increase the height 10 feet to 45 feet. The applicant has applied for a CUP for a height of 45 feet.
3. §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 Comprehensive Plan's **Land Use Plan** (2010) supports a compatible mix of land uses in traditional neighborhood zoning districts (Policy 5.2.1). The **Land Use Plan** designates Cesar Chavez Street as a mixed use corridor. The **District Del Sol Small Area Plan** (2012) designates this site as a redevelopment opportunity. The proposed mixed-income, mixed-use structure constitutes a mix of uses consistent with the intent of the zoning designation.
 - (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The applicant is applying for a CUP in part in order to accommodate the required parking on the site, which will minimize traffic congestion in the public streets.
 - (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. The surrounding neighborhood, known as District del Sol, is characterized by a mix of residential and commercial uses, including cafés, automotive retail, fast food restaurants, and other commercial services. A mixed-use, mixed-income building is consistent with, and complements this mix of uses.
 - (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. As noted above, an apartment use is appropriate for the site, and is envisioned as part of the normal and orderly development and improvement of surrounding property.
 - (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition can be met subject to approval of the variance applied for concurrently with this conditional use permit.
4. NeDA has also applied for a variance from the River Corridor standard § 68.401(b)(2) - *No commercial or industrial development shall be permitted on slopes greater than twelve (12) percent.* § 68.601 states that *the burden of proof shall rest with the applicant that such variance will not result in a hazard to life or property and will not adversely affect the safety, use or stability of a public way, slope or drainage channel, or the natural environment. Variances shall be consistent with the general purposes of the standards contained in this chapter and state law and the intent of applicable state and national laws and programs.* This finding is met. The slope in question is not in the public right-of-way. It is not part of the slope that is connected to the larger bluff area to the rear of the building, and it does not compromise safety, a drainage channel or the natural

environment. Any retaining walls that may be required will be certified by a registered professional engineer.

5. 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 regulation is to prevent slope instability and subsequent damage to property. A retaining wall will be built to hold back soil or rock from the area. Retaining walls prevent downslope movement or erosion and provide support for vertical or near-vertical grade changes. The retaining wall will prevent erosion problems and undercutting of the toe of the slope, preventing a danger that the slope may collapse on the site. TN2 zoning is designed for use in existing or potential pedestrian or transit nodes. Its intent is to foster and support compact, pedestrian-oriented commercial development. It encourages a mix of uses. Cesar Chavez Street has developed as a transit and pedestrian friendly environment. This variance will not change the uses permitted.
 - (b) *The variance is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan's **Land Use Plan** (2010) supports a compatible mix of land uses in traditional neighborhood zoning districts (Policy 5.2.1). The **Land Use Plan** designates Cesar Chavez Street as a mixed use corridor. The **District Del Sol Small Area Plan** (2012) designates this site as a redevelopment opportunity. The proposed mixed-income, mixed-use structure constitutes a mix of uses consistent with the intent of the zoning designation. The variance will not alter this.
 - (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 applicant has demonstrated that there are practical difficulties in complying with the provision, mostly related to unique geologic features of the site. In order to build a structure that meets the district dimensional and density standards, meets the design standards, and meets minimum parking requirements for the uses, as much buildable area of the site must be accessible by the developer as possible.
 - (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.* This finding is met. Research of the historic use of the property, locations of historical structures on the property, and the historical integrity of the adjacent bluffline suggest that much of the slope (from 0 to 12%) is composed of man-made fill remaining from buildings that were developed on the site decades ago. This circumstance is unique to this property and was 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.* This finding is met. Altering the slope will not change the uses permitted.
 - (f) *The variance will not alter the essential character of the surrounding area.* This finding is met. Disturbing the slope will not impair an adequate supply of light and air to adjacent property, nor will it alter the essential character of the surrounding area. Disturbing the slope will allow development that complements the existing character of the neighborhood to occur on this property which has been vacant and underutilized for almost 30 years.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of

the conditional use permit for a maximum building height of 45 ft., and variance for new construction on slopes greater than 12% in the in the river corridor subject to the following additional condition:

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 all plans that require alterations to the slope shall be reviewed by appropriate city staff from all pertinent departments.