



*Working to protect the Mississippi River
and its watershed in the Twin Cities area.*

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Mayor Chris Coleman
St. Paul City Council
City of Saint Paul
15 Kellogg Blvd., West
Saint Paul, MN 55102

May 18, 2016

Dear Mayor Coleman, Council President Stark and members of the St. Paul City Council:

Friends of the Mississippi River (FMR) would like to thank you and city staff for your interest and attention to the Mississippi River Corridor Critical Area (MRCCA) rulemaking process that is currently underway by the DNR. The City of St. Paul has long been a good steward of the Mississippi River through its community planning, park development and restoration efforts. Now the City has an opportunity to lead the way to ensuring strong MRCCA rules are put in place to protect the many unique resources of the Mississippi's National Park throughout the Twin Cities for generations to come.

The purpose of this letter is to respond to the draft comments and recommendations of the Planning Commission from August 21, 2015. We continue to be greatly disappointed that the City of St. Paul, whose leaders regularly tout their love and appreciation for the many natural, scenic and recreational benefits the Mississippi River provides, continues to attempt to weaken and undermine the proposed standards that would protect those very features and characteristics. We question whether your constituents would agree with page after page of arguments in favor of reducing or eliminating common sense restrictions, many of which have been in place for decades, on structure height limits, building on bluffs and steep slopes, managing river-adjacent vegetation and providing riverfront open space as new development occurs.

We have numerous objections to the draft comments and we are disappointed in the City's antagonistic approach to the proposed rules. The tone and content of the letter is largely negative, making repeated claims that the rules are unbalanced and unnecessary. We strongly disagree that the rules will make it more difficult to achieve vibrant urban neighborhoods in St. Paul. To the contrary, protecting the unique and significant resources in the river corridor will actually ensure that the City continues to enjoy the social and economic benefits provided by the Mississippi River.

Overarching Issues

In our last letter on this issue (October 13, 2014) we stressed the importance of St. Paul's Mississippi River Corridor Plan adopted as part of the St. Paul Comprehensive Plan in 2002. This document frames the City's policies on development and preservation within the MRCCA, and it should therefore undergird any comments the City generates. The corridor plan is mentioned in the August 21st letter, but several of the proposed recommendations are still in direct conflict with the plan and other existing City policies.

We also pointed out in our last letter that the concerns about non-conforming properties or structures are overblown and fail to acknowledge that several exceptions and allowances are built into the rules to ensure that existing development patterns can be maintained. Some of the examples provided in the August 21st comment letter obfuscate the truth. For example the number of properties that will now have lower height limits is grossly exaggerated because it neglects to point out that most of the areas noted already have height limits in the underlying zoning that are consistent, or even more protective, than height limits in the proposed rules.

In addition, we find it disconcerting that many of the proposed recommendations call for wholesale changes to the rules. After seven years and countless hours of stakeholder engagement, the City should be working more cooperatively with the DNR at this point in the process. Asking for wholesale changes is not constructive and it could potentially further delay adoption of the rules altogether.

FMR Response to the August 21st Comment Letter Proposed Recommendations

MRCCA District Recommendations (1.4)

East of Highway 61: We agree with your final recommendation that RN River Neighborhood district designation is acceptable for the area east of Highway 61, because this area has high ecological value and is visible from the river valley. We're confused that in the supporting analysis you suggest that the SR (Separated from River) district is most appropriate for this area. We disagree with this analysis. The SR district is for places in the corridor that are not visible from the river. The wooded ravines and bluffs in this area are some of the most scenic in St. Paul and are visible from many points throughout the river valley.

Regional Parks: We disagree with the City that an Urban Open Space district should be created. The ROS (Rural and Open Space) district is designed for low-density development and areas with high ecological value. We believe this is highly appropriate for natural parks such as Hidden Falls, Crosby, Lilydale, Indian Mounds and Pig's Eye. We strongly support the Great River Passage Plan, but we disagree that these rules will prevent its implementation. The City will have to be thoughtful about where it puts buildings in these parks, but there are exceptions included in the proposed rule for most park structures and features such as trails, roads, overlooks, picnic shelters and boating facilities.

Ford Site: We disagree with the suggested district changes to the Ford site. The area between the River and Mississippi River Boulevard is in the Gorge and should remain in the ROS district. There are numerous other places in the corridor where river dependent industry exists in the ROS, such as the mines on Grey Cloud Island. There are exceptions for existing development and operations that allow industrial uses to continue. For the area east of Mississippi River Boulevard we disagree that the districts should change from RTC (River Towns and Crossings)

and UM (Urban Mixed) to UM and SR. A portion of the Ford site is already outside the MRCCA and the portion that is within the MRCCA needs to include strong height limits to protect scenic views from the many parks and overlooks that surround this area up and down the valley. Height limits of 48 feet (RTC) and 65 feet (UM) are more than sufficient to provide for the dense, transit-oriented urban neighborhoods that the City desires while still protecting the outstanding scenic value of the river gorge.

West Side Flats: We disagree with changing this area from UM to UC Urban Core as it is intended to be an urban village neighborhood, not an extension of downtown. We believe the 65-foot height limit supports the West Side Flats Master Plan, because it will provide an extra layer of protection for one of the most scenic places in the corridor. The process laid out for CUPs in the UM district will allow for taller heights, provided a viewshed analysis is conducted. This should not prove difficult since the City has already done extensive visual studies for the area.

Bluff and Steep Slope Recommendations (2.4)

It is unclear to us why St. Paul continues to criticize the way the new rules address bluffs and steep slopes. The City's existing corridor plan and ordinance already prohibit development on slopes greater than 18%. The definition of bluff in the new rules (18% and 25 feet high) is based in part on the definition drafted in 2007 by St. Paul for the corridor zoning that was never adopted. The City should be a strong supporter of bluff protections.

We are also incredulous that your comments would suggest that bluff setbacks are not needed. Relying on best management practices for development near bluffs instead of setbacks is irresponsible, especially when you consider recent local tragedies that resulted from bluff erosion and failure. There is ample evidence that buildings and impervious surfaces near bluffs intensify the risk of bluff erosion. Asking for performance standards instead of dimensional setbacks is an example of recommending a wholesale change to the rules, one that could lead to reducing protections across the entire corridor, not just in St. Paul.

Furthermore, claims made through public testimony of increased costs, administrative burden and creation of non-conforming properties are greatly exaggerated. Since the City's existing ordinance already prohibits development on slopes of 18% or greater, there will be little to no additional administrative burden on private property owners. Bluff protection is an essential function of the new rules and cannot be "balanced" with other needs and uses.

Scenic Views

Protecting the iconic views and vistas of St. Paul's scenic river valley for public enjoyment is an important responsibility of the City. Limiting building height within the MRCCA is often controversial, but it is an important tool for preserving the scenic character of the river corridor. The 2002 St. Paul River Corridor Plan calls for limiting heights to protect views, however the City's MRCCA ordinance has not been updated in 35 years. Instead, the City has taken steps to accomplish scenic protection through master plans and neighborhood zoning in places with no existing MRCCA height restrictions (such as West Side Flats).

Building Height Analysis (3.3)

We are disappointed with the analysis of building heights provided in the August 21st letter. It starts out with a disingenuous claim that 91% of corridor parcels will have stricter height limits

to contend with. In reality, many of these parcels are already subject to lower heights through underlying zoning. The height limits proposed in the draft MRCCA rules are similar to the city's underlying zoning *by design*. The DNR worked closely with city staff to match the districts (and by extension, the height limits) to the City's existing and planned development.

Instead of embracing the complicated and highly nuanced effort that city staff helped the DNR to shape, the August 21st comment letter suggests that the City might be better served by the districts in the original 1979 MRCCA Executive Order or the height limits in the 1995 MNRRA Comprehensive Management Plan.

The analysis also insinuates that the height limits proposed in the new rules might make it difficult to achieve enough density for vibrant, transit-oriented development. This is false. The parts of St. Paul identified for dense redevelopment (such as the West Side Flats) are all part of the UM Urban Mixed district, which allows buildings up to 65 feet. Four to six stories is plenty for dense development, as demonstrated by the Green Line Corridor.

Building Height Recommendations (3.4)

The recommendations in this section are somewhat vague and inconclusive. The August 21st comment letter suggests that the rules should allow for urban growth according to comprehensive plans and that building heights should not be limited in places that are away from the river and not visible from the river. It is unclear why these issues were raised since both of these objectives are already met in the rules through use of the UM (Urban Mixed) district and the SR (Separated from River) district.

We agree that visual impact standards would be helpful and that evaluation of potential visual impacts can be done successfully at the municipal level. We do not agree that the DNR should just eliminate height limits from the rules and let the cities figure it out. As part of Comprehensive Planning, the City should do an analysis, including significant public input, to identify the most valued scenic views in the corridor, as well as what types of intrusions are most impactful to those views. This information would inform development of a new MRCCA ordinance, as well as providing guidance for CUP visual evaluation processes.

Although height limits in the river corridor can be controversial, they are very much needed to protect some of St. Paul's greatest assets. Clear dimensional standards will actually prevent some of the controversy that is inspired by building height issues along the river. As a city with the only gorge on the Mississippi River, the confluence of the Minnesota and Mississippi Rivers, the beginning of the famed floodplain river, and many public and sacred outlooks, St. Paul should take a leadership role in standing up for height limits to protect the beauty of these great natural features/amenities.

In some places, we believe the DNR's proposed height limits are not restrictive enough, but there is nothing to prevent the City from adopting a MRCCA ordinance with stronger standards. For example, the Shepard-Davern area should not be in the UM (Urban Mixed) district, because 65 feet is too tall for the highly scenic bluffs that surround the confluence of the Mississippi and Minnesota Rivers. We recommend that the City ask for this area to be in RTC (River Towns and Crossings) with a 48-foot height limit.

Vegetation Management, Land Alteration and Stormwater Management Recommendations (4.4)

We strongly support the new requirement that vegetation management and land alteration activities of a certain size require permits. St. Paul currently has restrictions on vegetation removal in its ordinance, but unless redevelopment occurs, there is no way to enforce the restrictions. The new permit process provides a mechanism for enforcement, should it be needed. Based on the analysis in the August 21st comment letter, most private St. Paul properties would be exempt from permit requirements.

We disagree with the recommendation that public parkland not be subject to the vegetation management and land alteration standards. We support the fact that Parks are exempt from permit requirements, but we see no reason why they shouldn't still follow the rules. The reason provided to justify this exemption from the standards is "public parkland is managed for unique purposes, and that significant changes to public parklands are vetted through substantial public review." This statement provides no guarantee that vegetation management and land alteration will be conducted in a way that does not impact the river; in fact it does the opposite. While each riverfront or blufftop park has some unique qualities and purposes, protecting the natural river ecology and geology must be a top priority for all of these parks, regardless of other park purposes. Today, in St. Paul, the parks department can be trusted to manage vegetation and prevent erosion, but that could change in the future. The rules need to ensure adequate protection of corridor resources for the next 50 years or more.

Open Space Dedication (Set-asides) Recommendations (5.4)

Dedication of open space within the corridor is needed to ensure protection of the river's biological and ecological functions, preservation of its natural and scenic character, and enhancement of public river access and trails.

Both Executive Order 79-19 and Minnesota Statutes 116G.15 include provisions to ensure protection of open space and public parkland within the MRCCA and requiring open space dedication is not a taking of private property for public purposes. Development on or near the river provides a significant economic benefit, and it is incumbent on those reaping the benefits to preserve any significant natural resources located on their property.

We disagree with the suggested changes to Part 6106.0170. We do not think Subpart 3 should be deleted because it ensures that local governments gather and evaluate information about primary conservation areas for properties large enough to require the set-asides. There are very few properties of 10 acres or more that are likely to be developed in St. Paul, but it will be important to protect critical ecological functions on larger sites, and the open space dedication provisions provide an important tool to do that.

Administrative Burden/Development Disincentive Recommendations (6.3)

We agree that the latest draft of the rules would reduce the number of non-conforming properties created by the updated standards. We do not agree with the recommendation that the burden on property owners should be further reduced, by eliminating the requirement for permits and site plans, and by providing exemptions to variance requirements for proportional mitigation. These suggested changes would further weaken the rules and undermine the natural

resource protection goals the rules are intended to achieve for the good of all national park users.

Ordinance Adoption/Flexibility Provisions Analysis & Recommendations (7.3)

The recommendations in this section request that major changes be made to the districts and standards, especially with regards to building heights. We disagree with these recommendations and suggest that you remove the first two paragraphs of section 7.3 for the reasons stated above regarding scenic view protection. We agree with the third paragraph that suggests longer timeframes for updating plans and ordinances.

Key River Corridor Redevelopment Sites Analysis & Recommendations (8.3)

Our comments on specific development sites are covered in the section on district designations.

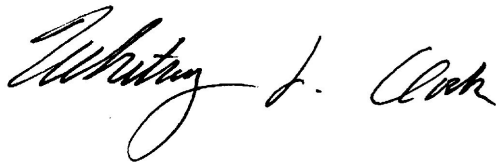
Considering our foregoing objections, we urge you to reconsider the City's approach to the MRCCA rules and revise your comment letter to reflect support for the carefully crafted standards that the DNR is proposing. At the very least your comments should not be inconsistent with existing City plans and ordinances. We hope the City will thoughtfully consider the rules an important tool that you and other corridor cities, will use to maintain and enhance the scenic and ecological attributes that led congress to designate the Mississippi in the Twin Cities a national park.

St. Paul is the host city of our National Park with more river corridor miles and acres than any other city. Please take this opportunity to embrace the new rules because they will ensure that our generation is leaving a river legacy for future generations.

If you have questions or would like to discuss this further, please do not hesitate to contact me (wclark@fmr.org, x13) or my colleague Irene Jones (ijones@fmr.org, x11).

Thank you for your thoughtful consideration of these comments.

Sincerely,



Whitney L. Clark
Executive Director

Cc: Daniel Petrik, Minnesota DNR
John Anfinson, National Park Service