



June 17, 2016

To: Administrative law Judge Eric L. Lipman
Office of Administrative Hearings
600 North Robert Street
PO Box 64620
Saint Paul, MN 55164-0620

From: The Honorable Christopher B. Coleman, Mayor
The Honorable Russ Stark, Council President
The Honorable Rebecca Noecker, Councilmember
The Honorable Jane L. Prince, Councilmember
The Honorable Chris Tolbert, Councilmember
The Honorable Dan Bostrom, Councilmember
The Honorable Amy Brendmoen, Councilmember
The Honorable Dai Thao, Councilmember

CC: Tom Landwehr, Commissioner, Minnesota Department of Natural Resources

Re: Comments on proposed Mississippi River Corridor Critical Area (MRCCA) Rulemaking

The City of Saint Paul has worked closely with the Minnesota Department of Natural Resources throughout the informal phase of the MRCCA rulemaking process, and we are appreciative of the opportunity to submit comments during the final, formal phase of this process. The City of Saint Paul, as memorialized in the attached resolution, has conducted its own internal process, including two separate public hearings, to gather input on the proposed rules. With this background, the City offers these comments on the proposed rules.

The City of Saint Paul strongly supports the rulemaking process and proposed rules to provide protection of the river corridor for future generations while accommodating economic activity and urban redevelopment where appropriate. Adoption of new state rules to replace Executive Order 79-19 in providing minimum standards to guide local planning and ordinances for the MRCCA is an important step forward.

The City of Saint Paul acknowledges the substantial efforts by DNR staff to understand the unintended potential impacts of some aspects of the proposed rules on redevelopment within the corridor, and the corresponding changes to the rules made as part of the informal rulemaking process. The City also acknowledges the important contributions of our partners and all stakeholders to the informal rulemaking process and the development of these City comments.

The City of Saint Paul supports building height limits necessary for the purpose stated in the Statement of Need and Reasonableness (SONAR) to protect river corridor views, the standard proposed in the rules for evaluating impact on river corridor views based on views toward bluffs from the opposite shore, and the mandate to implementing units of local government to identify additional important public river corridor views as part of development of local river corridor plans.

The City of Saint Paul strongly supports the inclusion in the rules of language providing for flexibility in development of ordinances pursuant to the rules (Sec. 6106.0070, Subp. 6, beginning

line 23.22). While the rules help to establish corridor-wide standards, the broad districts by which dimensional standards are applied are an inherently blunt tool for an area as large as the MRCCA where both landform and historical development patterns vary widely. Through the flexibility provision, local planning efforts can take a finer-grained look at issues such as visual impact, setting height standards that can better protect resources and avoid undue regulation and discretionary permitting processes where not needed to achieve resource protection.

Throughout the informal rulemaking process, the City of Saint Paul has suggested the inclusion of an urban parks district in addition to the 6 districts included in the proposed rules. While the City still believes the creation of a new urban parks district would be a good addition to the proposed rules, the City recognizes that most existing and potential future parks facilities are or would be permissible under the rules, provided that:

- The area around the Watergate Marina (a Saint Paul Parks and Recreation facility located in Crosby Farm Regional Park) is included in the CA-RN (River Neighborhood) district. ~~The rules currently propose for the marina to be included in the CA-ROS (Rural and Open Space) district.~~ This change ~~would~~ make treatment of the Watergate Marina consistent with treatment of other marinas in the MRCCA.
- The exemptions from setbacks, height limits, and other requirements included in the proposed rules (Sec. 6106.0180, beginning line 61.8) to provide for elements common to urban parks remain in the adopted/final rules. The City acknowledges and appreciates that some of these exemptions were added to the proposed rules based on comments from the City and other parties to the DNR during the informal portion of the rulemaking process.

The City of Saint Paul supports and appreciates changes incorporated into the proposed rules in Sec. 6106.0070 Subp. 7 (lines 25.24-26.2) that ensure uniform administrative requirements for all agencies responsible for developing and managing parks within the MRCCA, regardless of governmental unit.

The City of Saint Paul supports bluff impact zones and setbacks necessary for the purposes stated in the SONAR to protect steep, unstable, natural bluff features from failure and erosion; to protect public safety and property investments; and to limit the visual impact of structures on scenic resources. The City understands the difficulty of defining bluffs for these purposes using relatively simple height and slope criteria that can be applied uniformly across the MRCCA corridor. The City also appreciates the substantial effort by DNR staff in trying to do this, responding to many comments they received as part of the informal rulemaking process by simplifying and combining “bluff” and “very steep slope” definitions and regulations into bluff and bluff impact zone definitions and regulations, and in so doing changing the draft bluff definition from a slope at least 25 feet high with an average slope of at least 30% to a 25 ft. high 18% slope or a 10 ft. high 100% slope (Sec. 6106.0050 Subp. 8, lines 2.24-3.7). To avoid any gap between this new definition of “bluff” and the definition of “steep slope,” the definition of “steep slope” (Sec. 6106.0050 Subp. 72, lines 12.13-12.15) should be *a natural topographic feature with an average slope of more than 12 percent, measured over a horizontal distance of at least 50 feet, that is not a bluff.*

The City generally supports the definition of “bluff” in the proposed rules with a caveat. This bluff definition would continue to pick up relatively low, gentle, stable slopes that can be protected from erosion and failure by less intrusive means than prohibiting development on and near them; little slopes that are not part of primary bluff complexes facing the river and that do not affect river corridor views; and slopes in fully developed areas, with development on and near them, that have little or no original natural vegetation. The City of Saint Paul requests clarification in the rules that the flexibility provision in the rules (Sec. 6106.0070, Subp. 6, beginning line 23.22) would allow for exemption of such slopes from the bluff definition and/or bluff impact zone and setback requirements where regulation of them as bluffs is not necessary for the purposes of the critical area.