



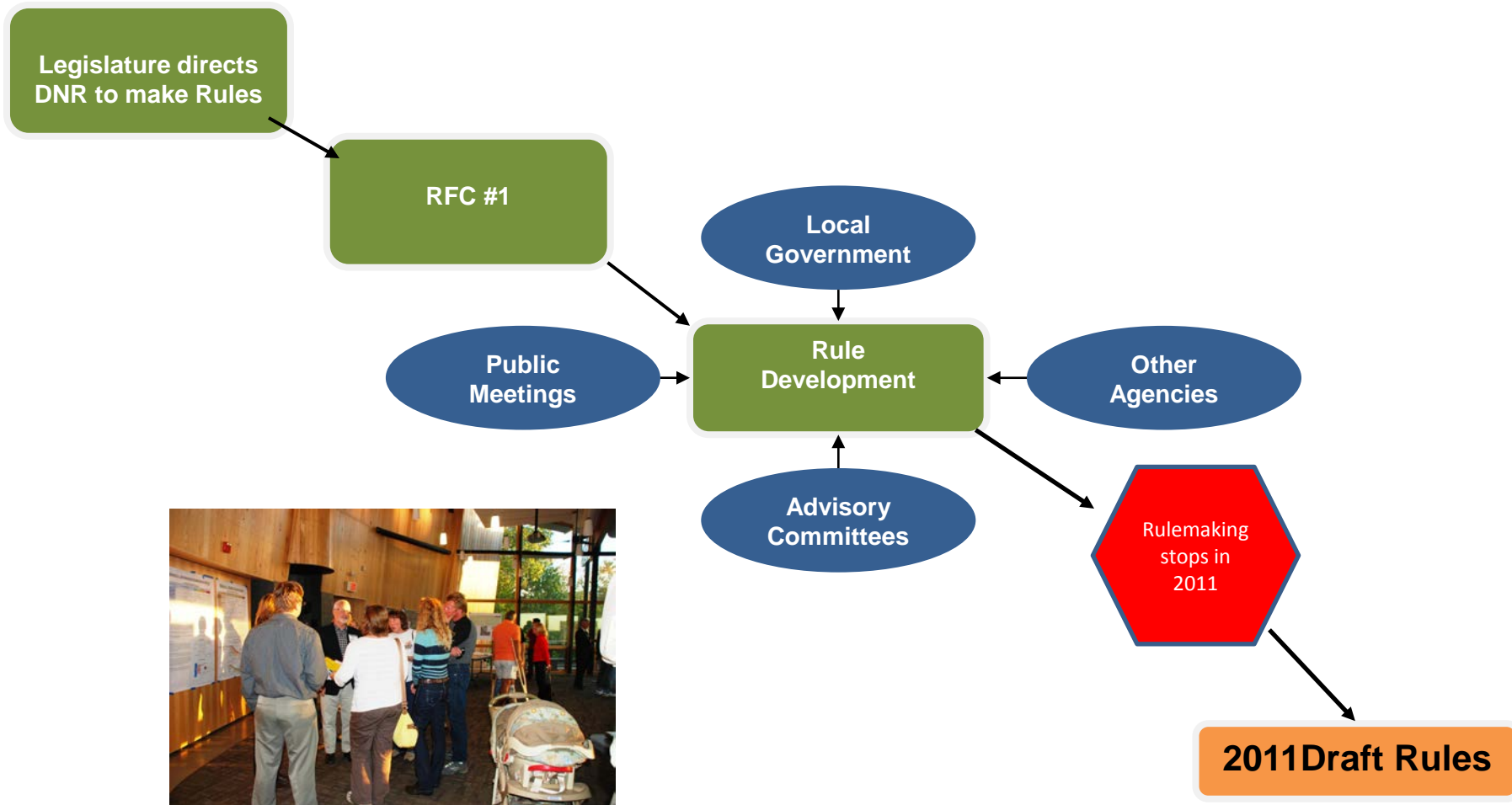
mississippi river corridor critical area

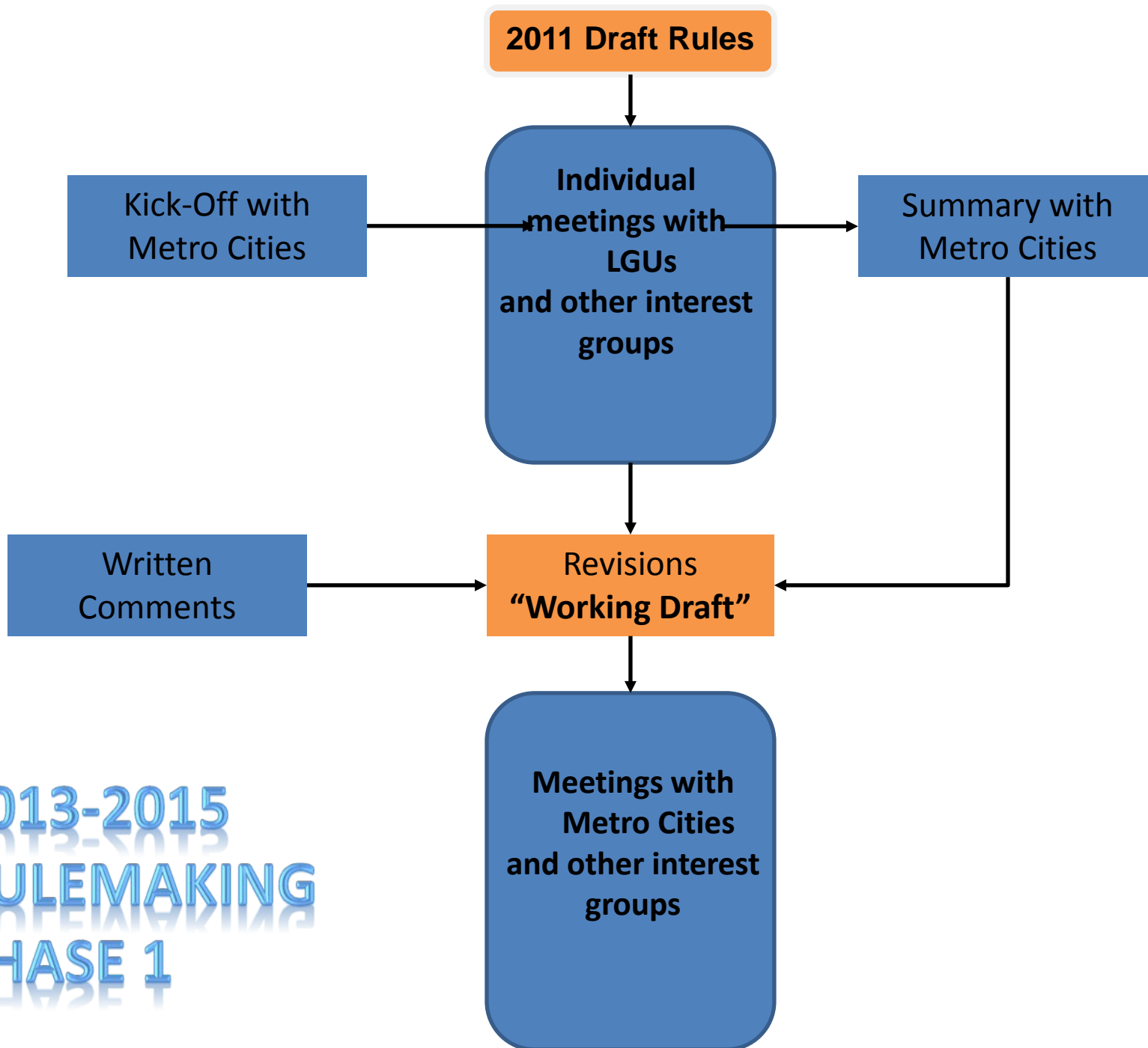


2013-2015 Rulemaking Project

December 11, 2014

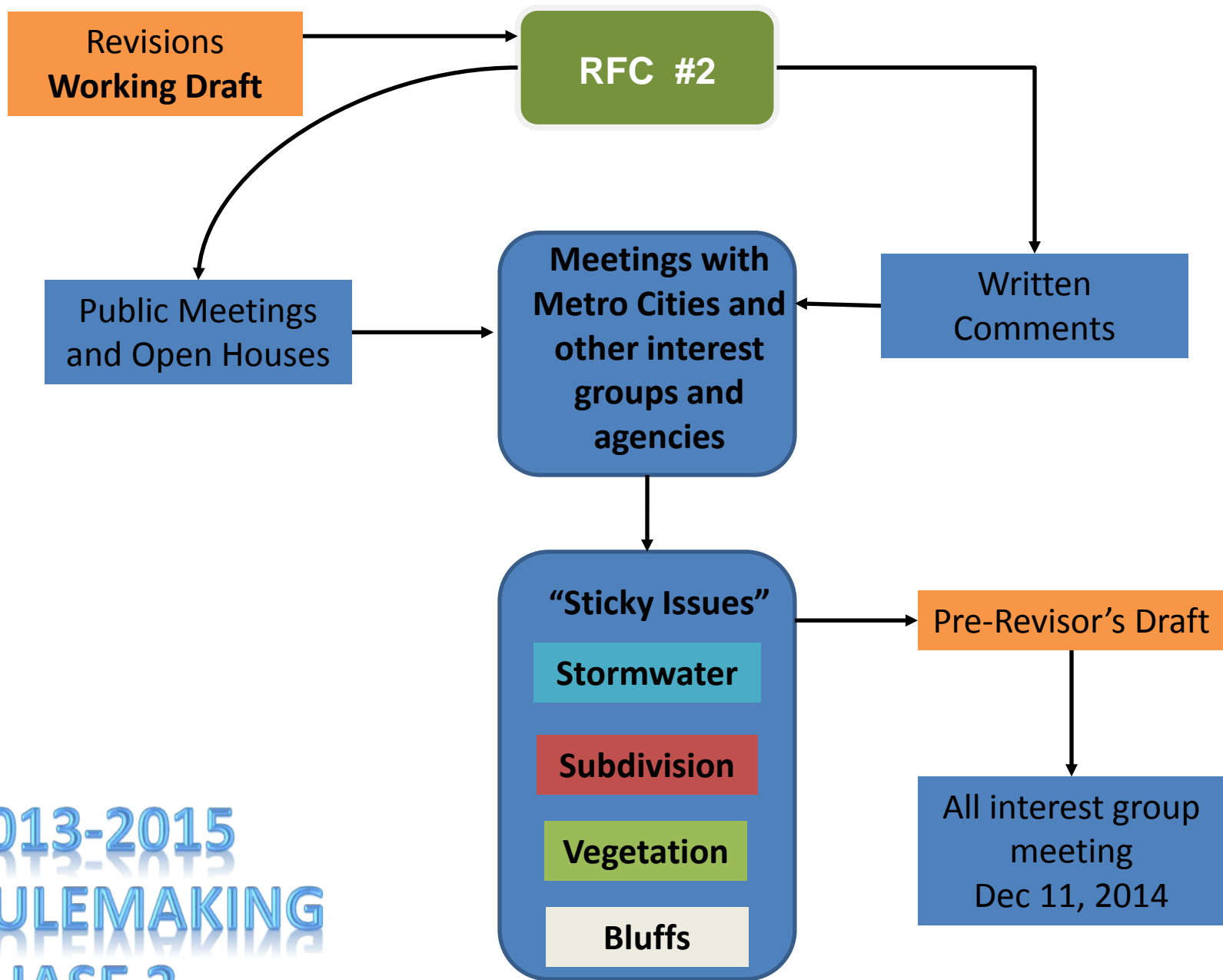
2009-2010 RULEMAKING PROCESS.....





**2013-2015
RULEMAKING
PHASE 1**

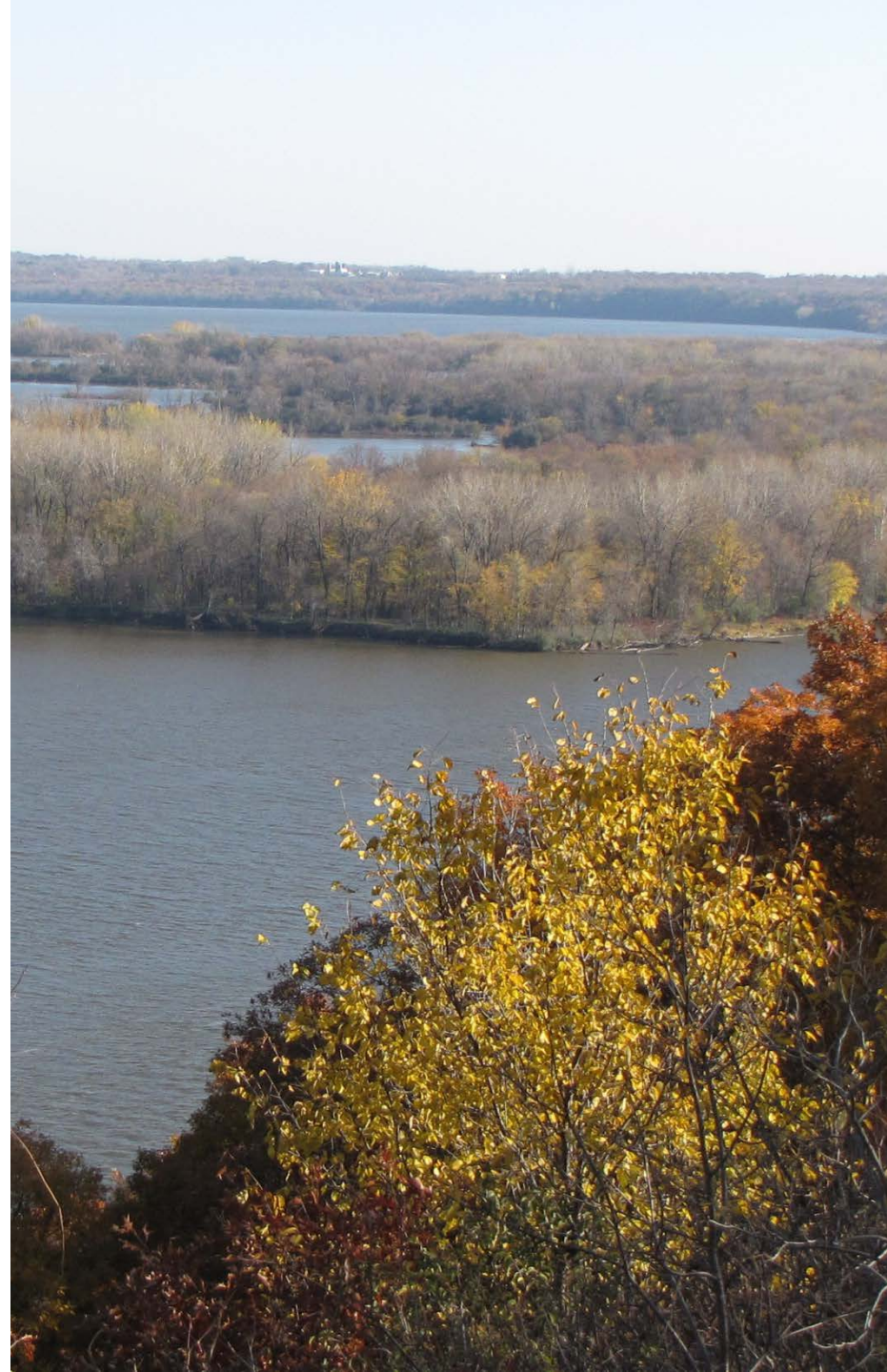
2013-2015
RULEMAKING
PHASE 2





AGENDA

1. Review public participation during RFC
2. DNR process for reviewing comments/getting feedback
3. DNR decision-making process
4. Review key issues for revisions
5. Open house for further discussion



2013-2015 MRCCA Rulemaking Schedule



2011 Draft Rules

Output of
2009 - 2010 Process

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(starts upon publication of RFC)
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Winter 2015

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Public Hearing
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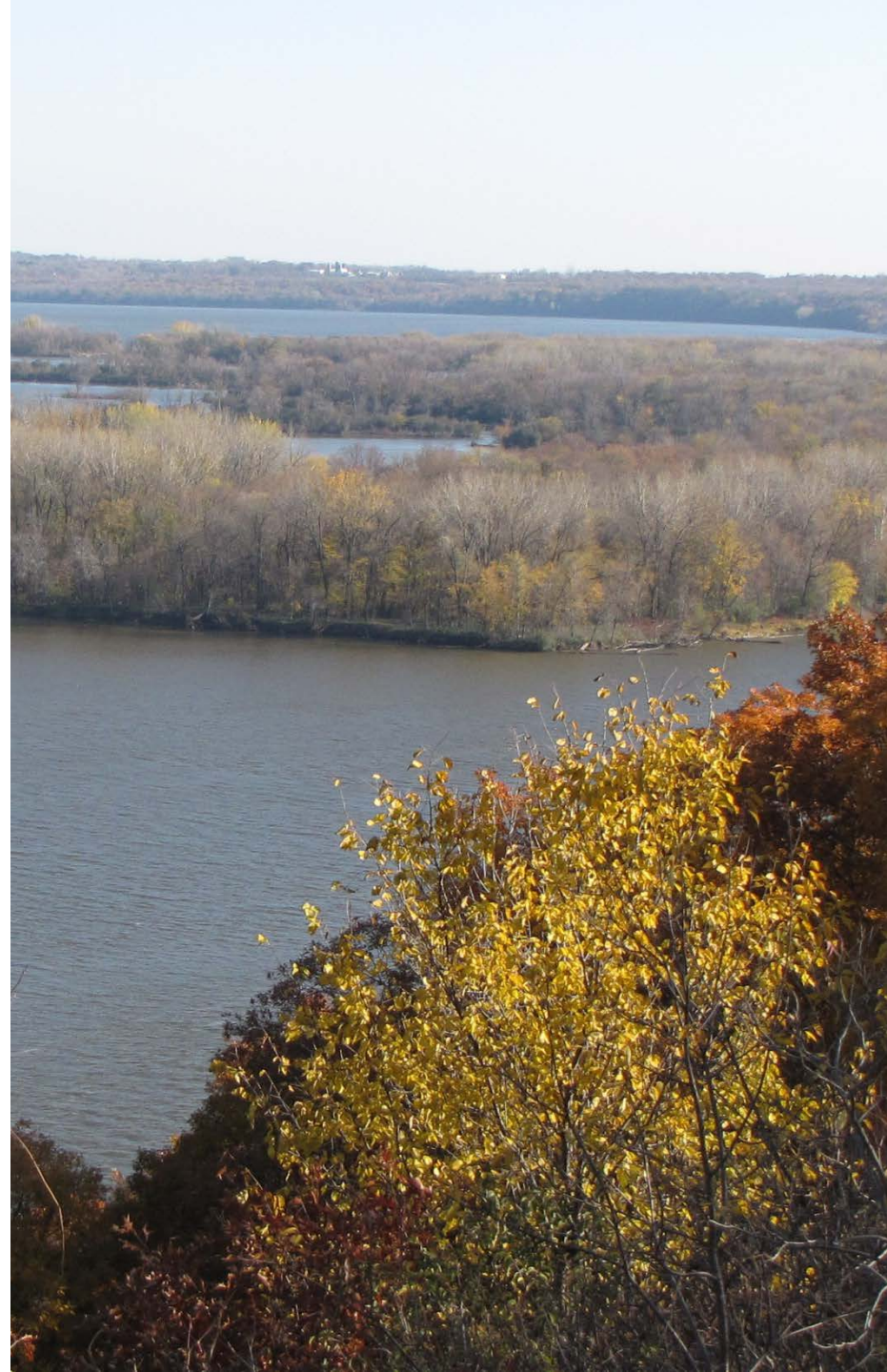
Administrative Law Judge Report
TBD

Governor Review & Approval/Veto
TBD

Adopt Rule
TBD

COMMENT REVIEW

1. Read all comments
2. Tracked all comments by rule section – (spreadsheet)
3. Evaluating according to rulemaking goals
4. Summary report



RULEMAKING GOALS.....

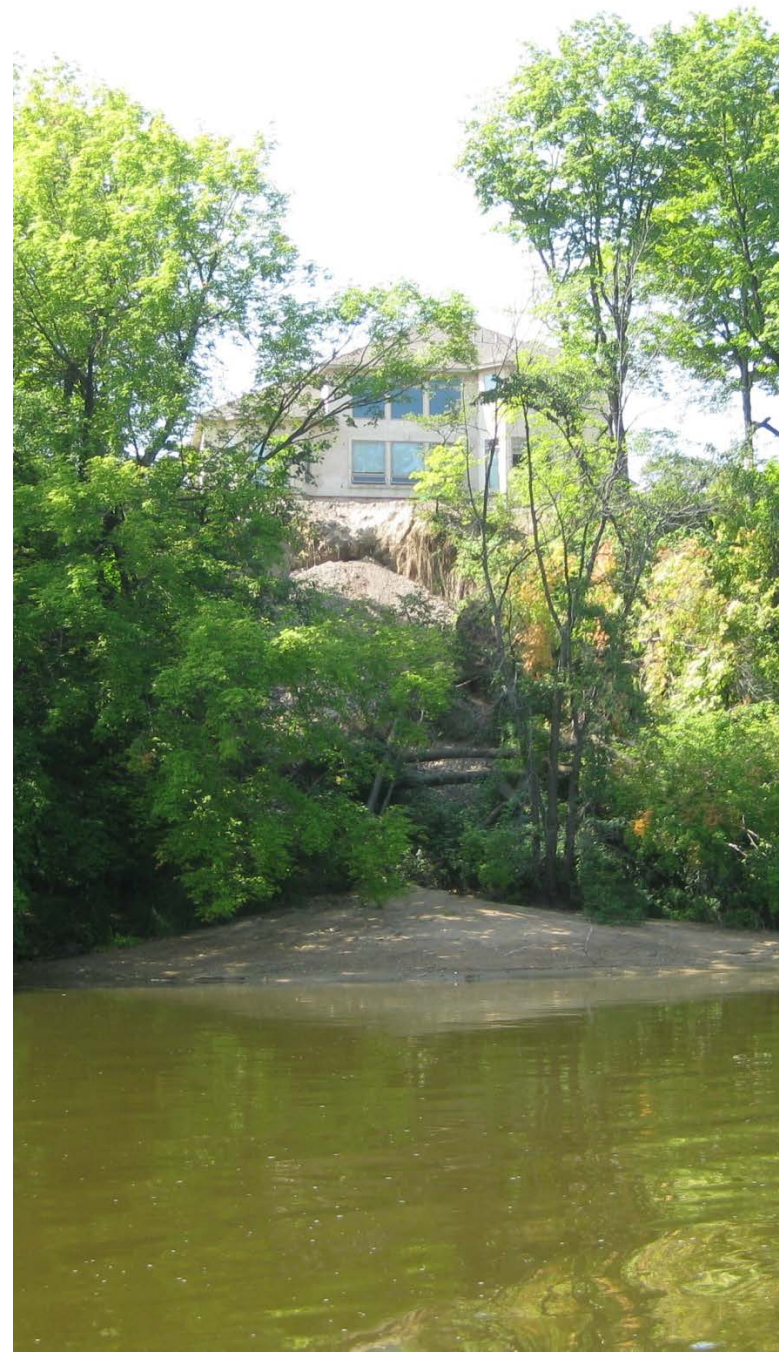
Maintain & improve water and resource protection

Better recognize existing & planned development

Increase flexibility for LGUs

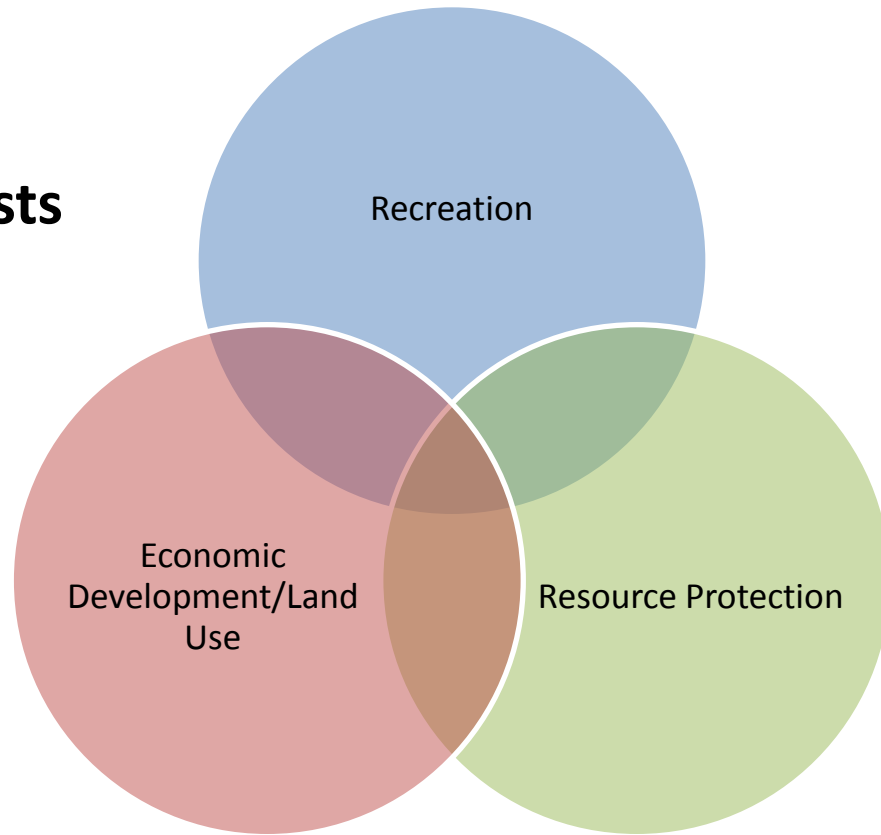
Focus rules on those measures that can realistically achieve resource protection

Simplify administration, clarify language, improve organization



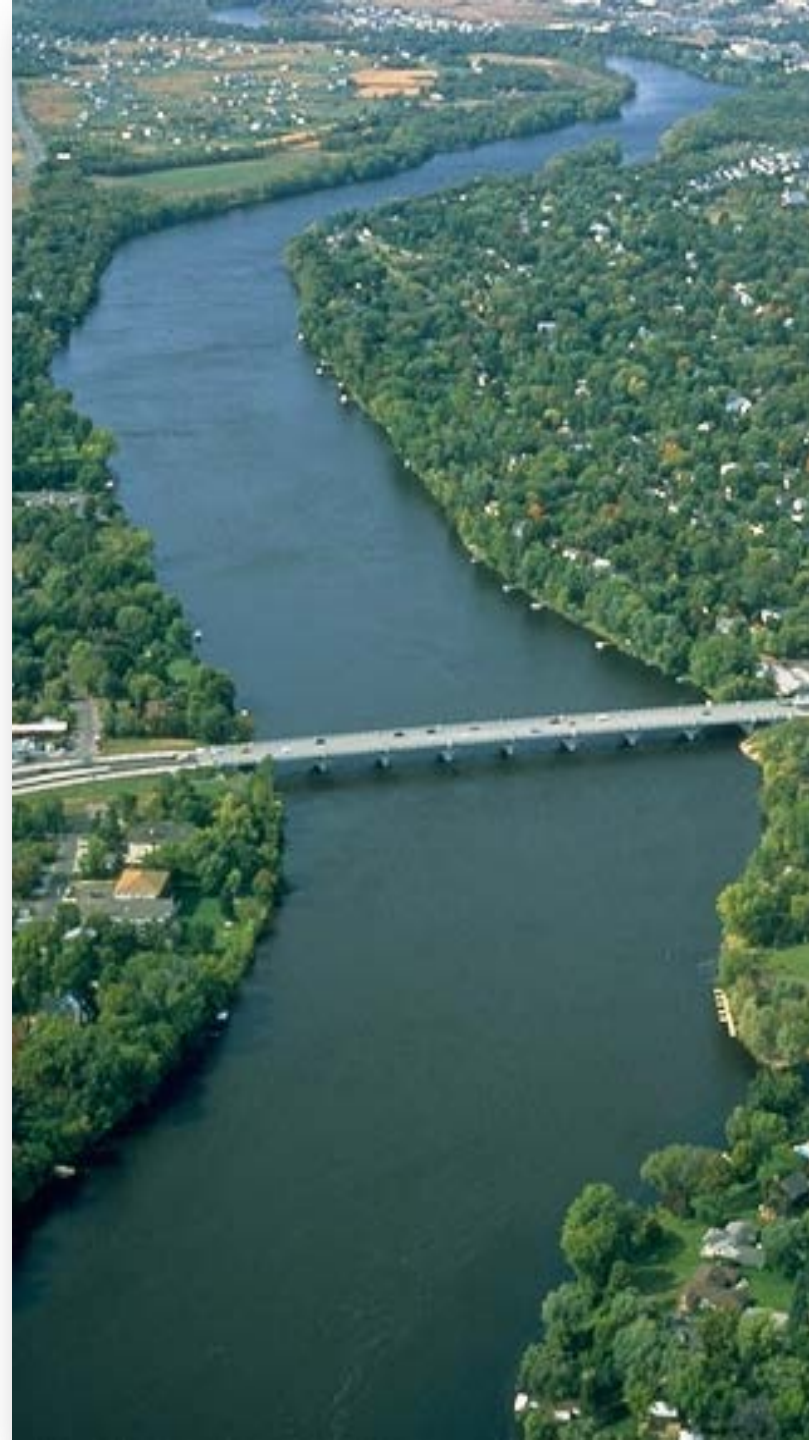
DNR'S ROLE.....

Balance Needs & Interests



“TOP ISSUES”

- Consistency, substantial compliance & flexibility
- State & regional agencies
- Bluff & BIZ
- Nonconformities
- Districts & maps
- Building height & visual quality
- Vegetation management
- Land alteration (Riprap & SW)
- Subdivision & land development
- Other.....



SUBSTANTIAL COMPLIANCE & FLEXIBILITY

Purpose: Consistent application of rules across the corridor while offering some administrative flexibility to allow regulatory modification for unique situations. Flexibility consistent with shoreland rules approach.

- Appreciate option for flexibility
- Substantial compliance concept is confusing
- Situations for considering flexibility and criteria for evaluating are weak



SUBSTANTIAL COMPLIANCE & FLEXIBILITY

Revisions Made

- “Consistent” replaces “Substantial Compliance”
- Consistent means ordinances consistent with:
 - Purpose
 - Scope
 - Numeric thresholds & standards
- Circumstances and criteria for considering and evaluating clarified

STATE & REGIONAL AGENCIES.....

Purpose: Management of lands consistent with MRCCA rules

- It doesn't make sense for park agencies to get vegetation and land alteration permits from cities or townships
- Allow structure placement in SIZ/BIZ when element of plans approved through public process
- Setbacks & heights should apply equally to all landowners – equity issue



STATE & REGIONAL AGENCIES.....

Revisions Made

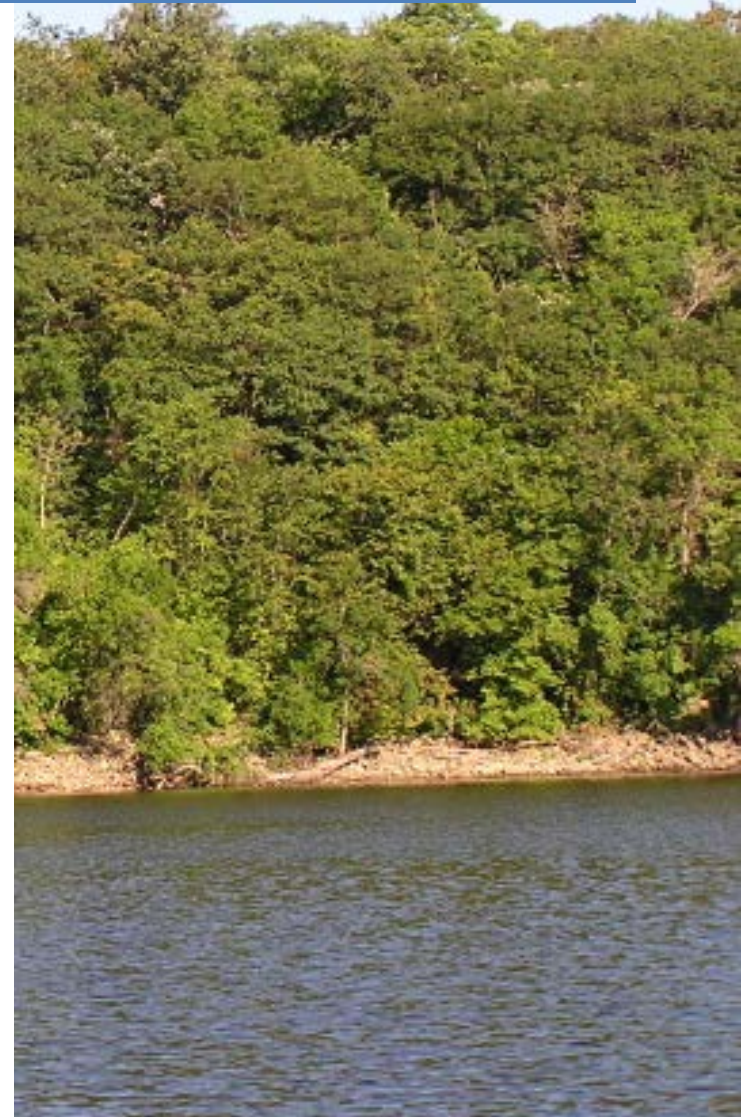
- Agencies do not need to comply with local ordinances or permits – but must comply with rules
- Recognition of MRCCA and its purposes must be in plans & projects
- Facilities:
 - No hard surface trails on bluffs \geq 30%
 - Public signs & kiosks allowed in SIZ & BIZ
 - Parking lots within 20' of toe of some bluffs



BLUFFS & BLUFF IMPACT ZONE (BIZ).....

Purpose: Maintain existing character, ecological function, and reduce risk of soil erosion/slope failure, while minimizing nonconformities .

- Use of two definitions (Bluff and VSS) is confusing
- Many nonconforming structures created due to VSS & SPZ concept
- Administratively difficult & costly to manage/permit projects (structures, vegetation, land alteration)
- Using “Bluff” term for 30% features weakens original intent



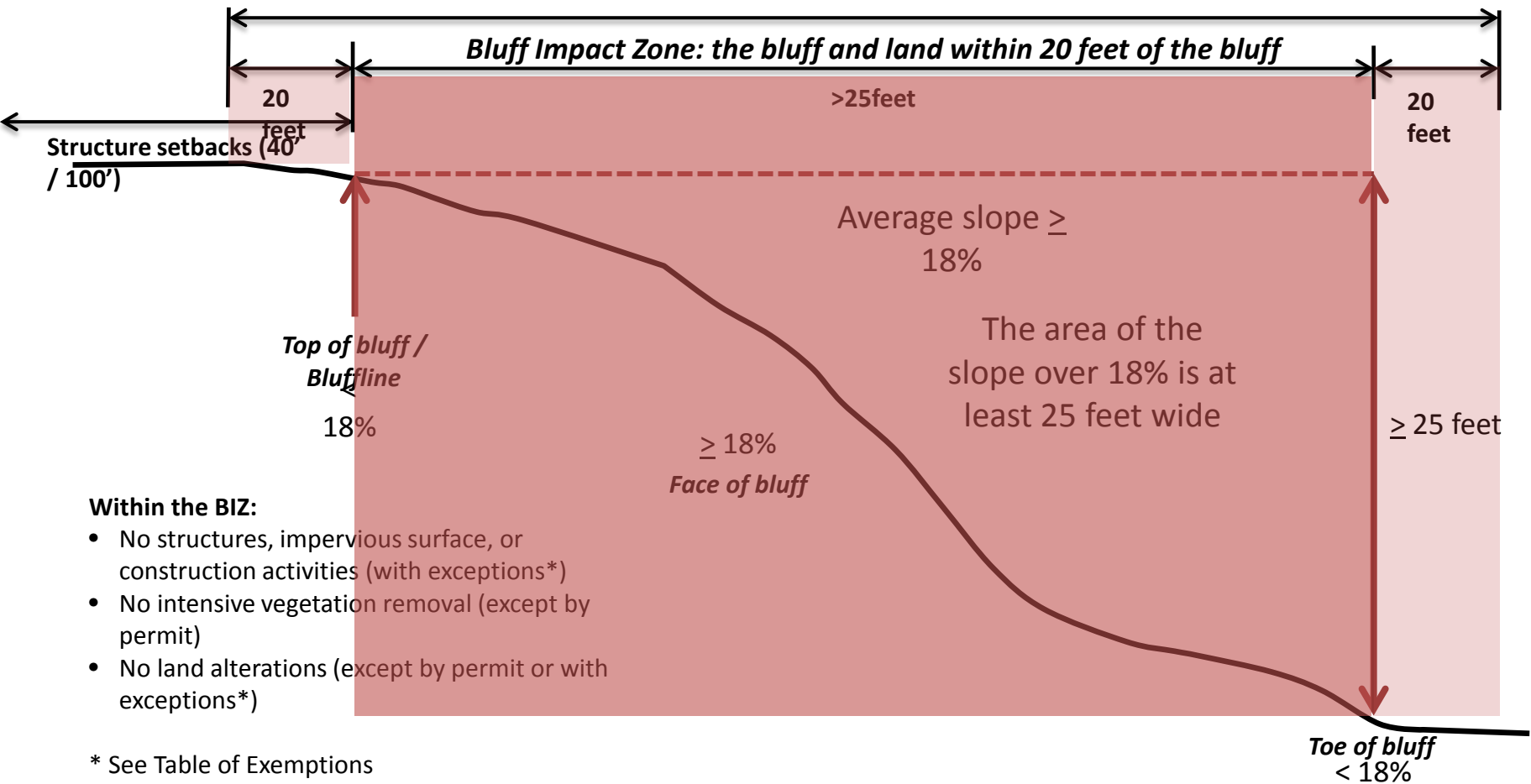
BLUFFS & BLUFF IMPACT ZONE (BIZ).....

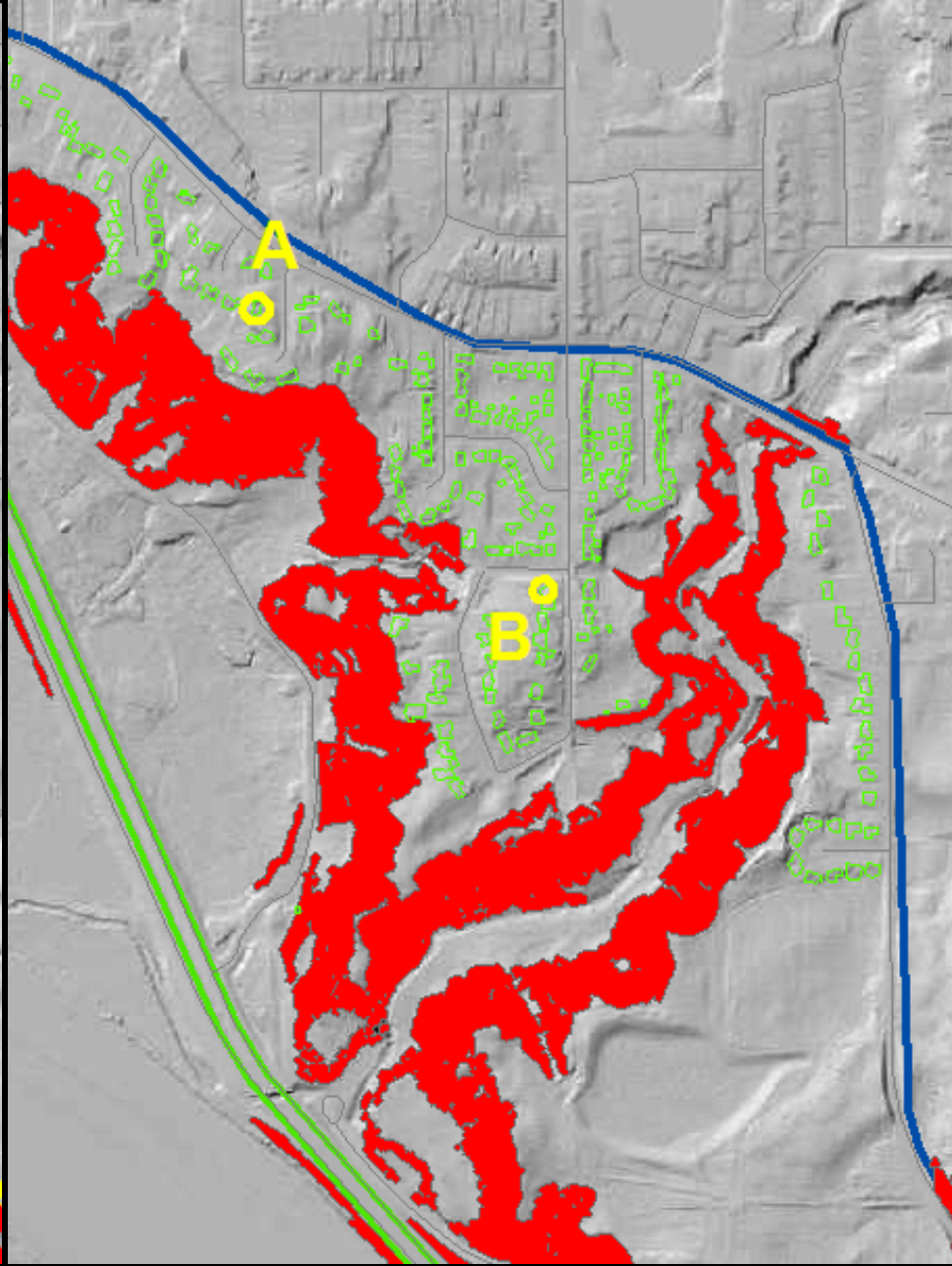
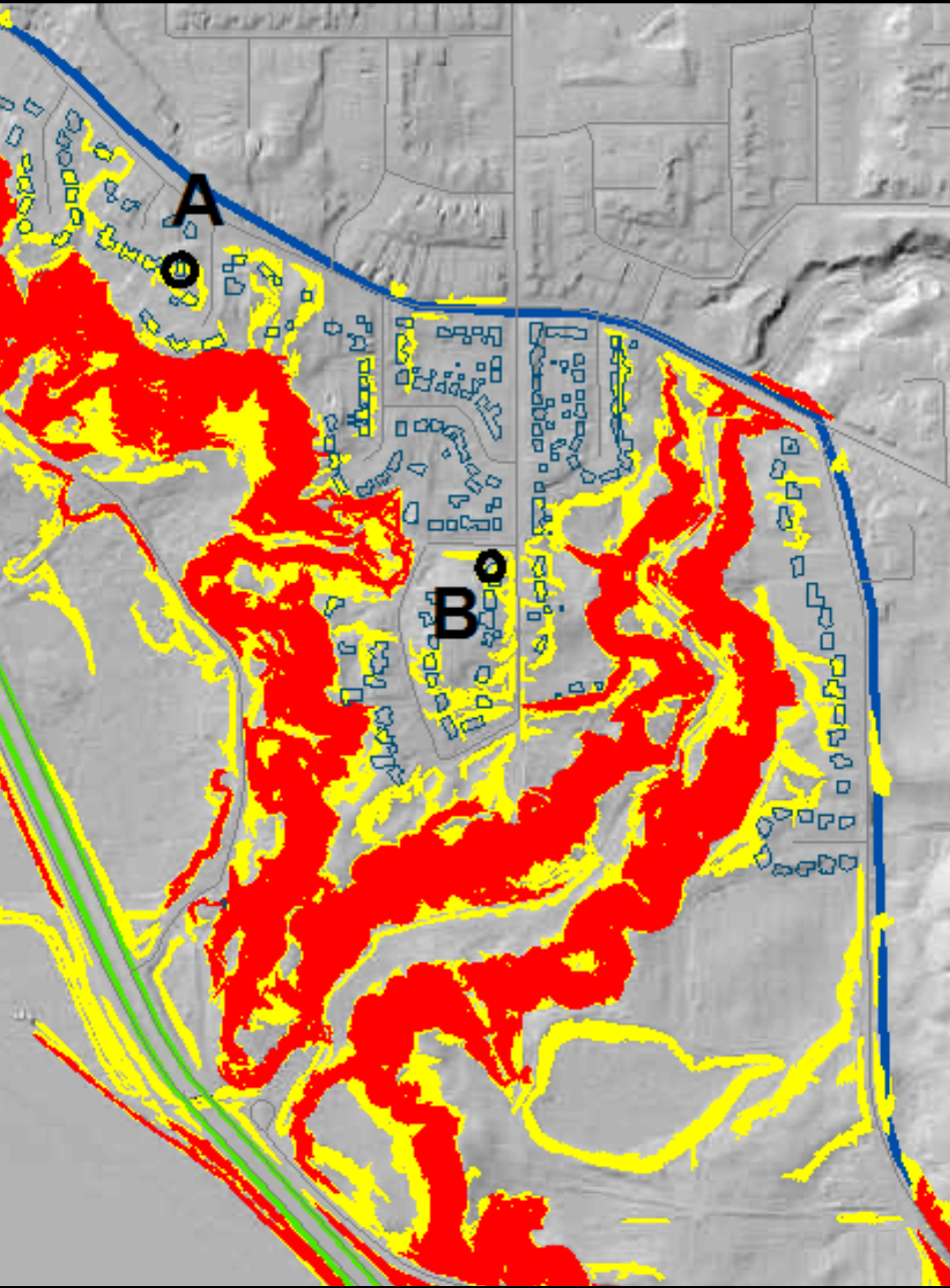
Revisions Made

- Bluff defined as:
 - slopes $\geq 18\%$, rise 25 ft, and 25 ft wide, or
 - any feature with slope $\geq 75\%$.
- BIZ, as 20 ft buffer, remains
- Very Steep Slope ($\geq 18\%$) and SPZ concepts eliminated



BLUFFS & BLUFF IMPACT ZONE (BIZ).....





Working Draft Definition
Bluff (≥ 30 ft rise) VSS ($\geq 18\%$, 10 ft rise)

Pre-Revisor's Draft
Bluff ($\geq 18\%$, 25 ft rise, 25 ft width)

BLUFFS & BLUFF IMPACT ZONE (BIZ).....

Examples of properties not covered by the revised definitions

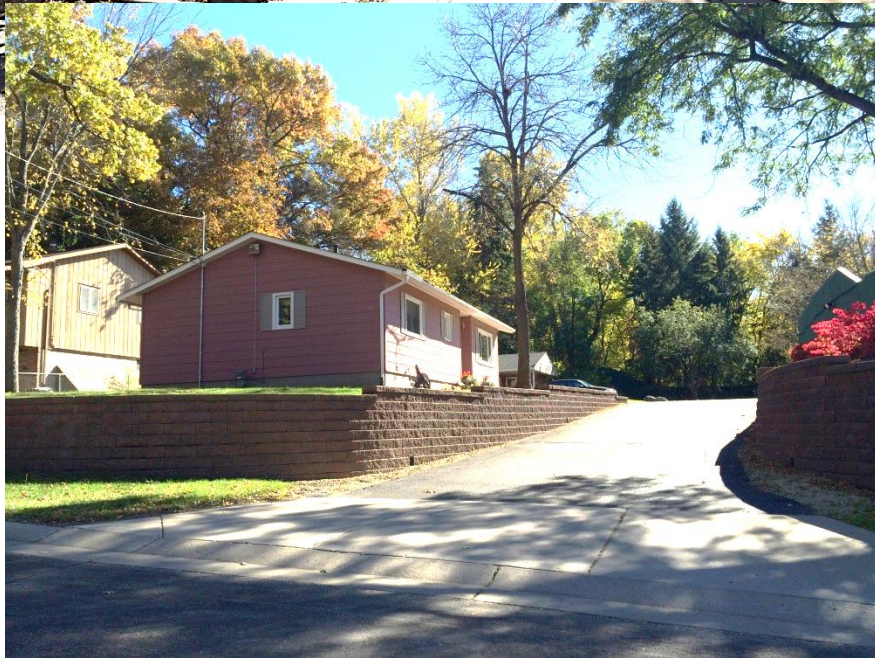
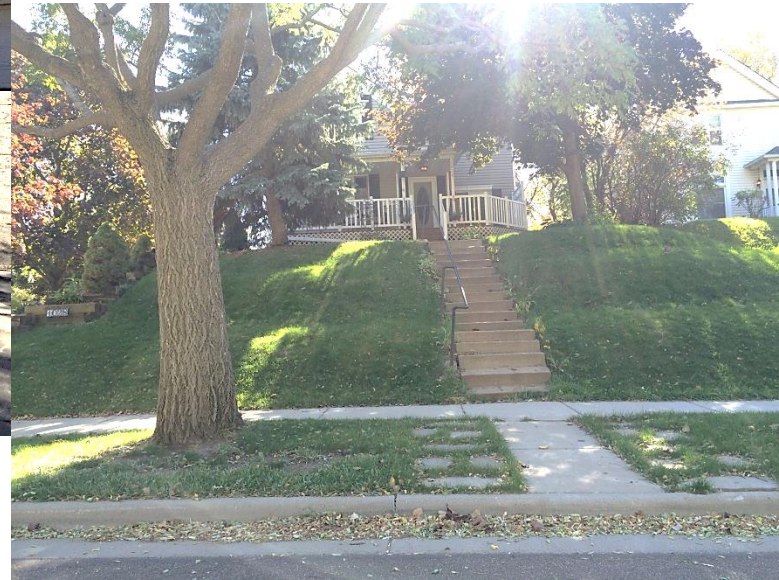


A



B

BLUFFS & BLUFF IMPACT ZONE (BIZ).....



Examples of properties
not covered by the revised
definitions

BLUFFS & BLUFF IMPACT ZONE (BIZ).....



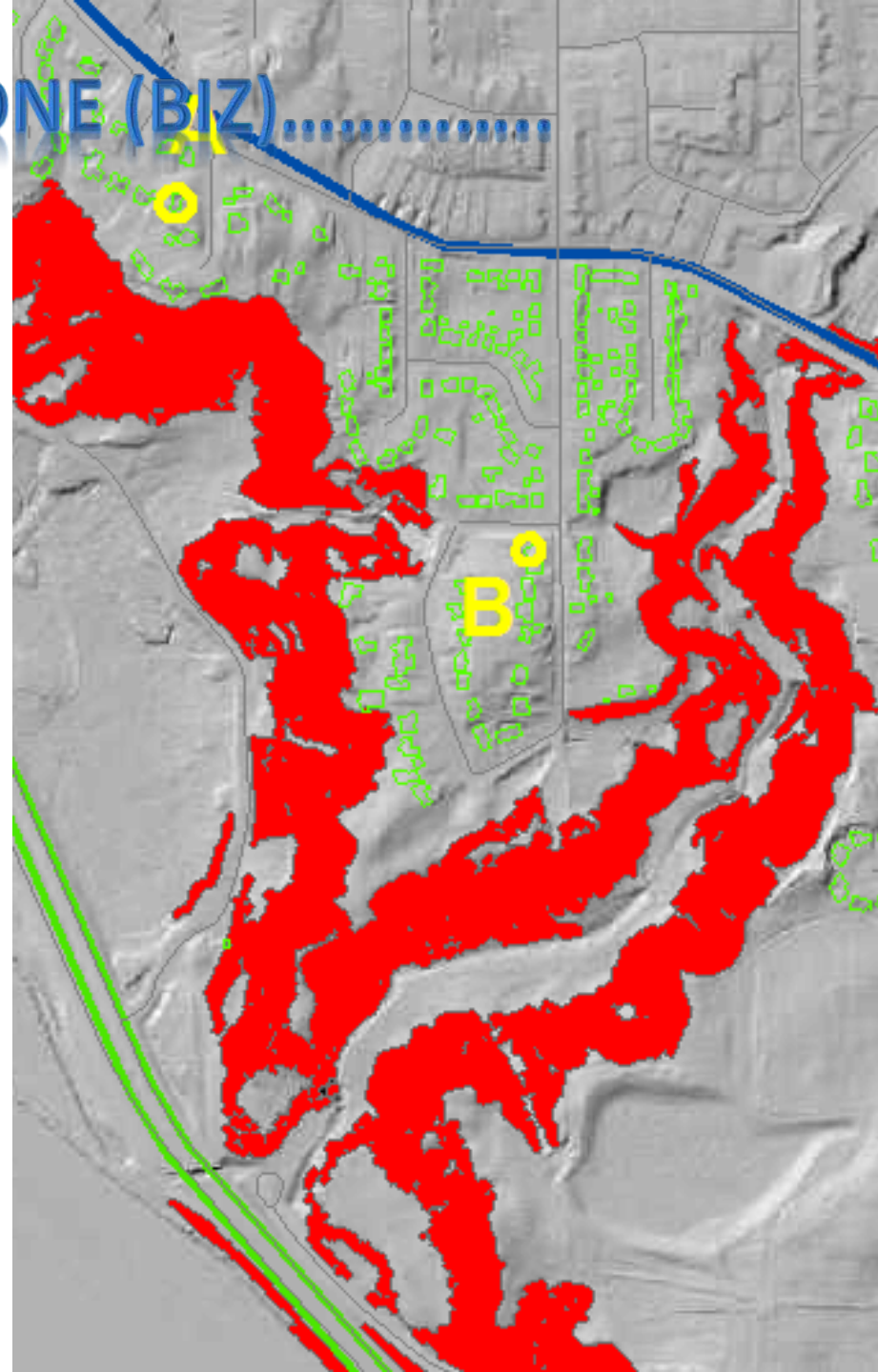
Examples of properties still covered by the revised definitions



BLUFFS & BLUFF IMPACT ZONE (BIZ)

Caution on Use of Maps!!!

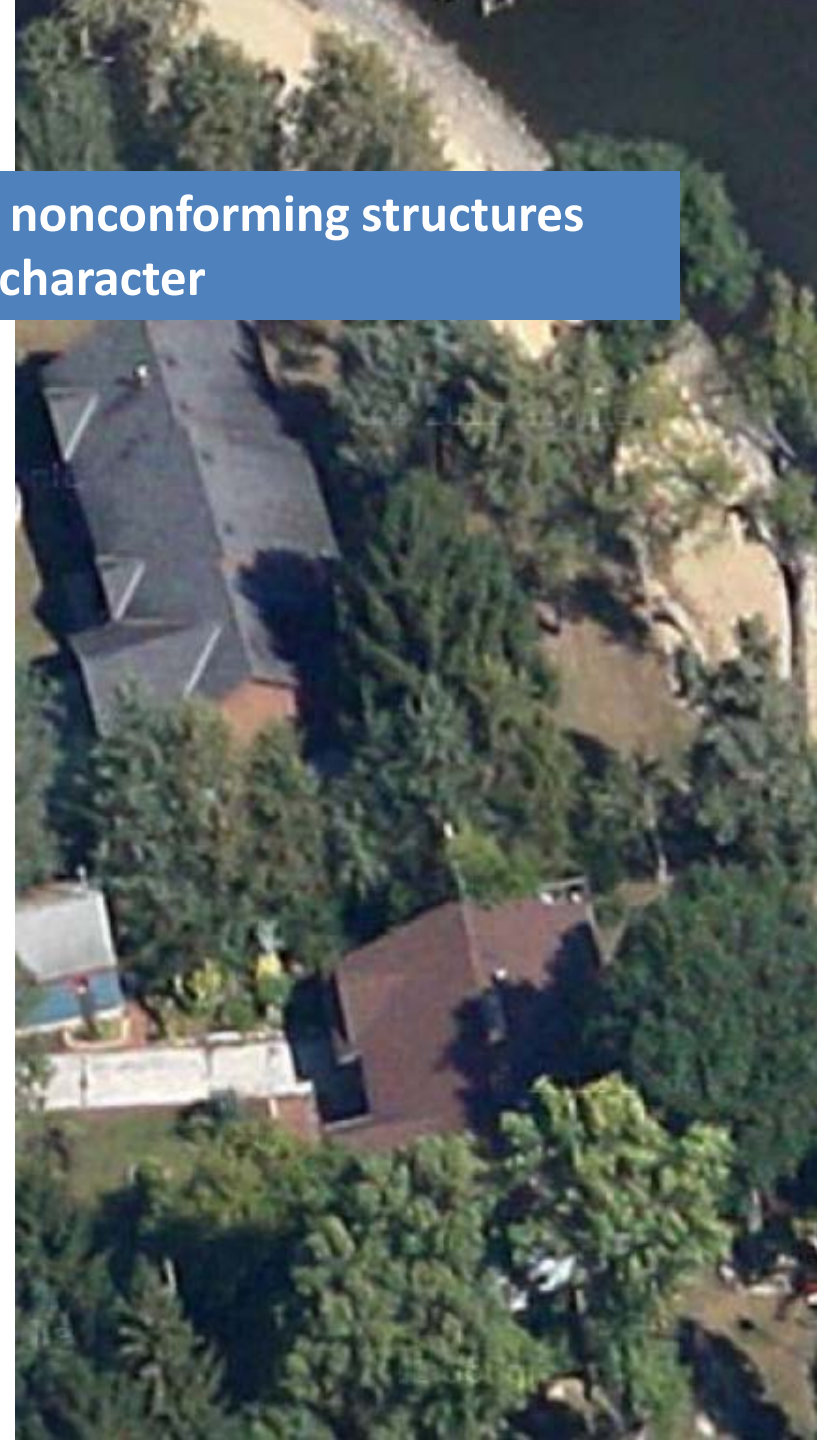
- Maps prepared to help communicate and plan, **not regulate**
- Mapping bluffs is difficult/imprecise (base data, analysis tools, and interpretation varies)
- Field surveys still needed to verify features
- LGU responsible for interpretation & administration of written regulations
- Regulations do not apply to man-made features



NONCONFORMITIES

Purpose: Allow continuation and expansion of nonconforming structures while protecting bluffs, vegetation, and visual character

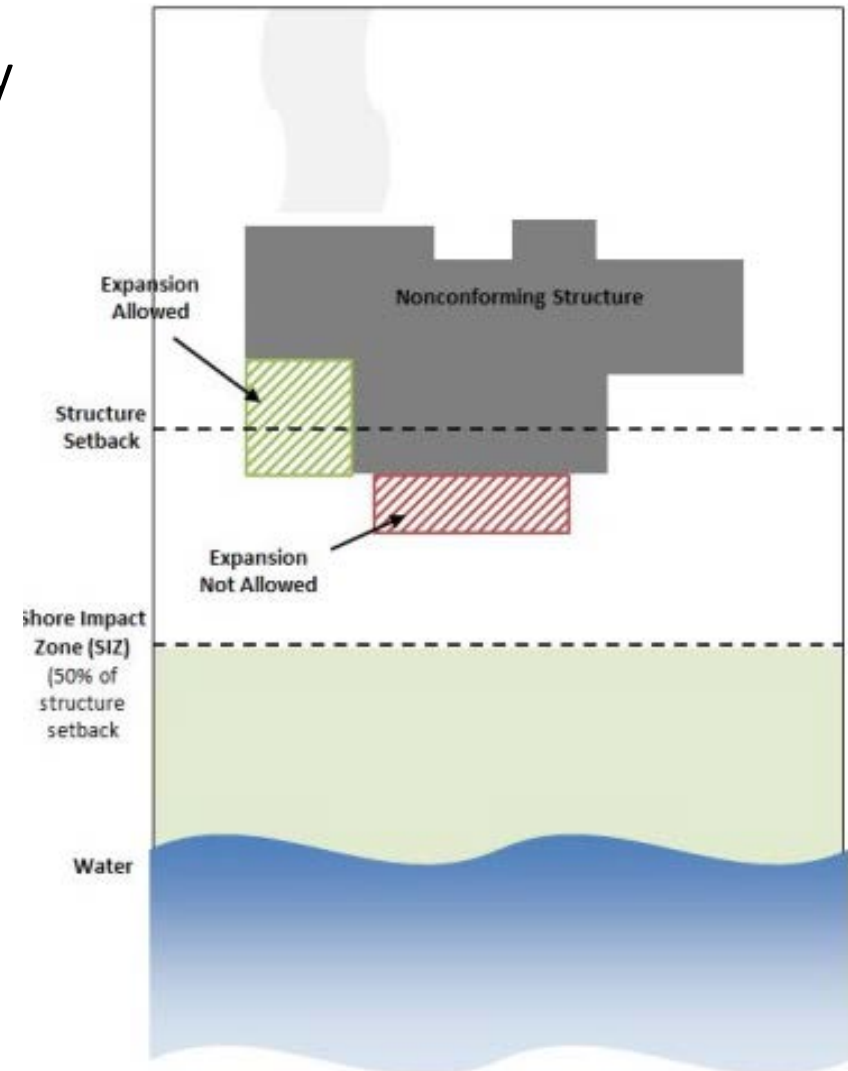
- Confusion about what expansions are allowed
- Allow decks, patios in setback areas
- Clarify site alterations that are considered conforming
- Apply nonconforming protection to accessory buildings



NONCONFORMITIES

Revisions Made

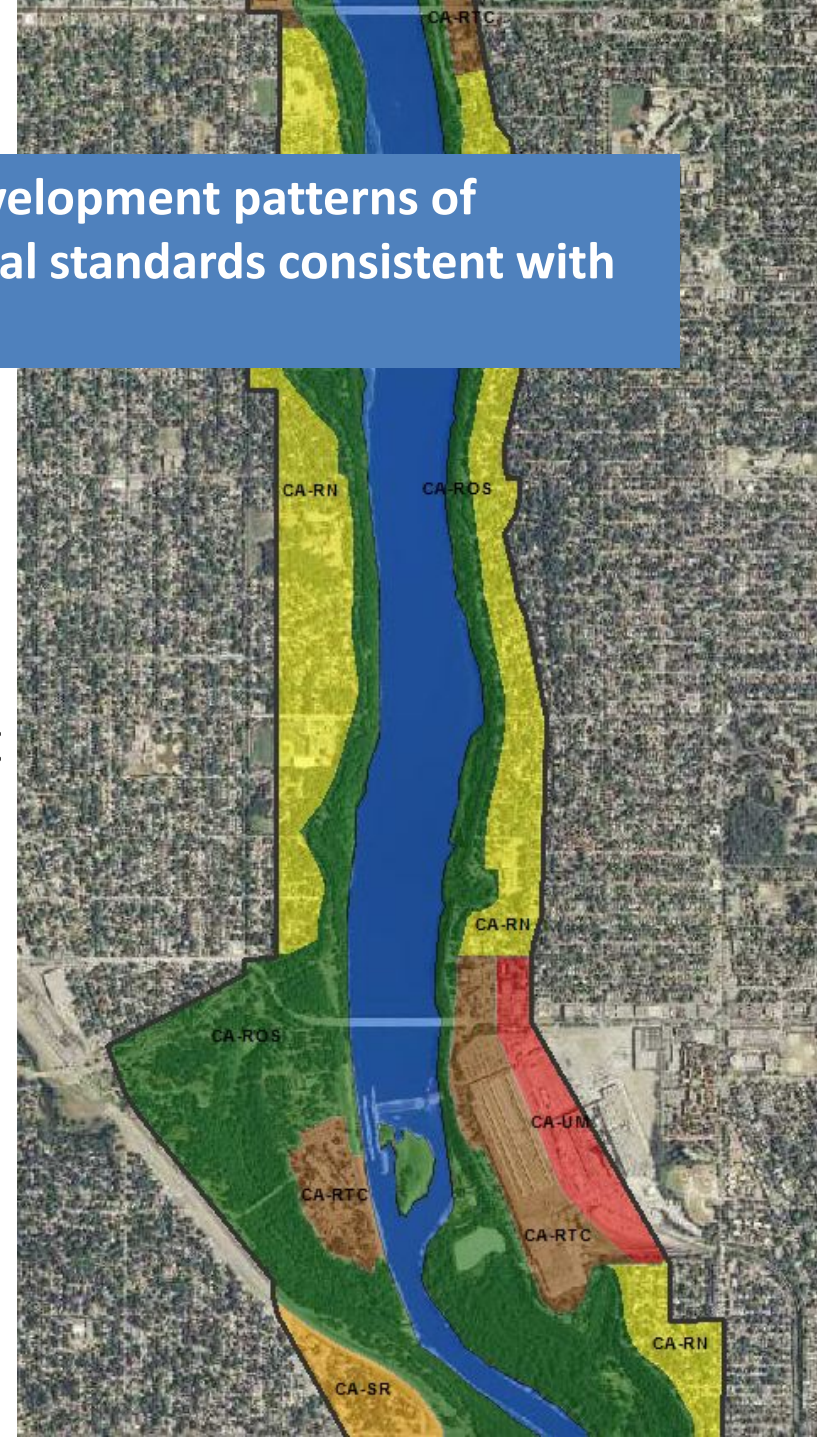
- Language and a figure added to clarify that lateral expansions are allowed
- Expansions of principal structures allowed consistent with existing and surrounding development
- Decks and patios may encroach 15% into setback
- Clarified that site alterations means vegetation, erosion control, SW control, etc.



DISTRICTS

Purpose: Reflect the current character and development patterns of different river segments and assign dimensional standards consistent with existing and planned future development.

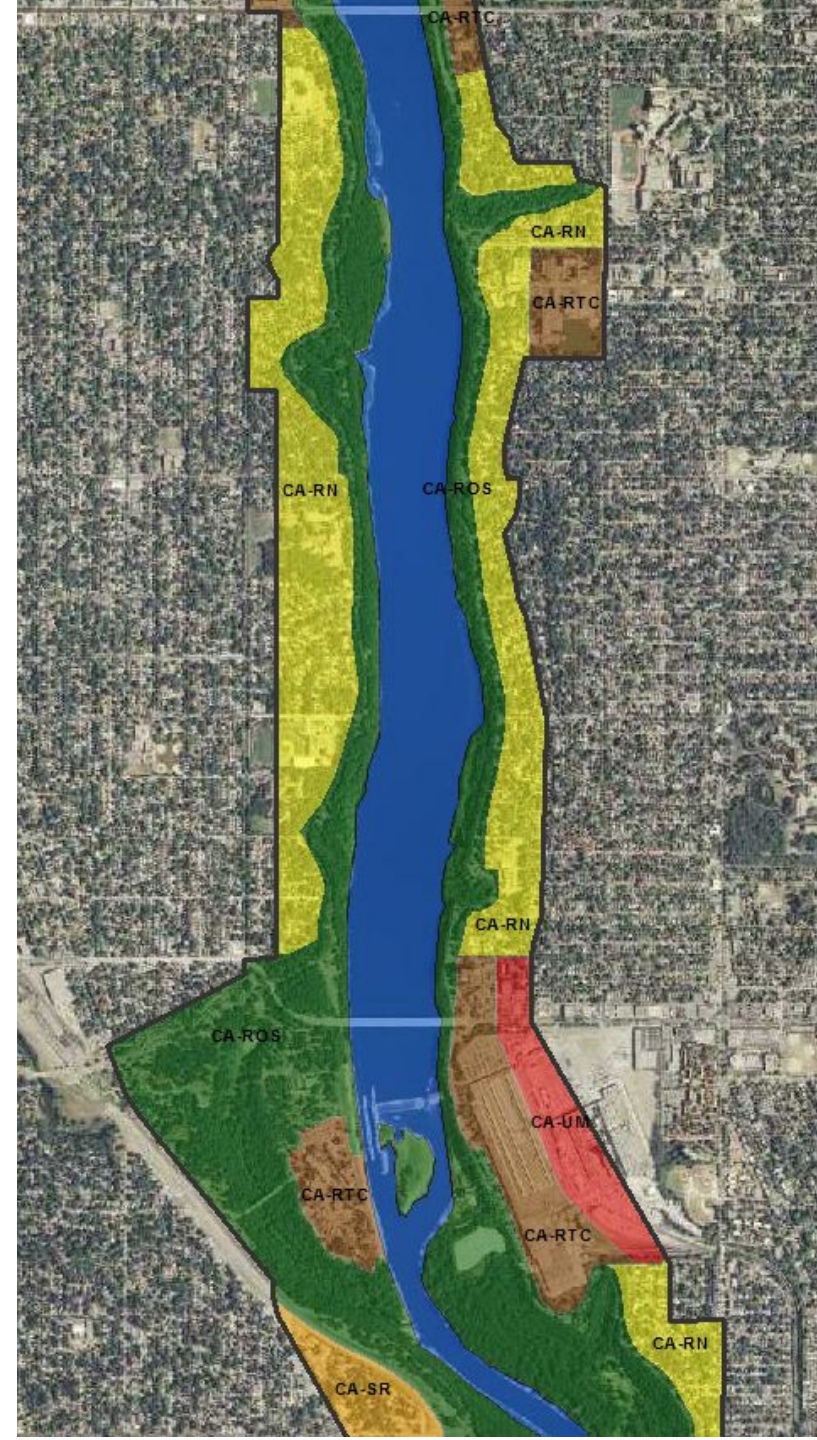
- General support for six districts
- Explain why some properties in CA-SR, others not
- Boundaries do not follow parcel lines
- Clarify standards for changing district boundaries – notification needed
- Overuse of CA-UC in Minneapolis
- Overuse of CA-SR in many locations
- Apply CA-ROS to some large parks in Minneapolis



DISTRICTS

Revisions Made

- Clarified definitions to describe unique character and management objectives
- Each district includes parks
- Numerous map changes (see maps on display)
- Administrative procedures & expedited rulemaking



HEIGHT

Purpose: Provide for new development while protecting public river corridor views (from river to bluffs or from parklands to river).

- Prefer lower/taller buildings in CA-RTC/UM
- Like CUP provision for taller buildings
- Strengthen CUP criteria for taller buildings
- Apply CUP to taller industrial-utility structures, no exemption
- CA-SR height should be determined by underlying zoning only
- CA-SR district height limits overly permissive – limit height to tree line
- Keep existing (EO 79-19) base heights as-is
- Like new “public river corridor views” definition, but expand



Revisions Made

CA-RTC.....48 ft, CUP for taller

Public River Corridor Views definition has been expanded:

Views toward the river from public parkland, historic properties, and public overlooks, as well as views toward bluffs from the ordinary high water level of the opposite shore, as seen during the summer months.



VEGETATION MANAGEMENT

Purpose: Avoid large scale vegetation removal in sensitive areas and provide framework for restoration through a permit process.

- “Selective” removal difficult to communicate & enforce
- Administratively difficult and costly to establish base cover, apply thresholds and track two-year removal
- Permit thresholds too low
- Permit tied to SPZ, which captures too many properties to administer cost-effectively



VEGETATION MANAGEMENT

Revisions Made

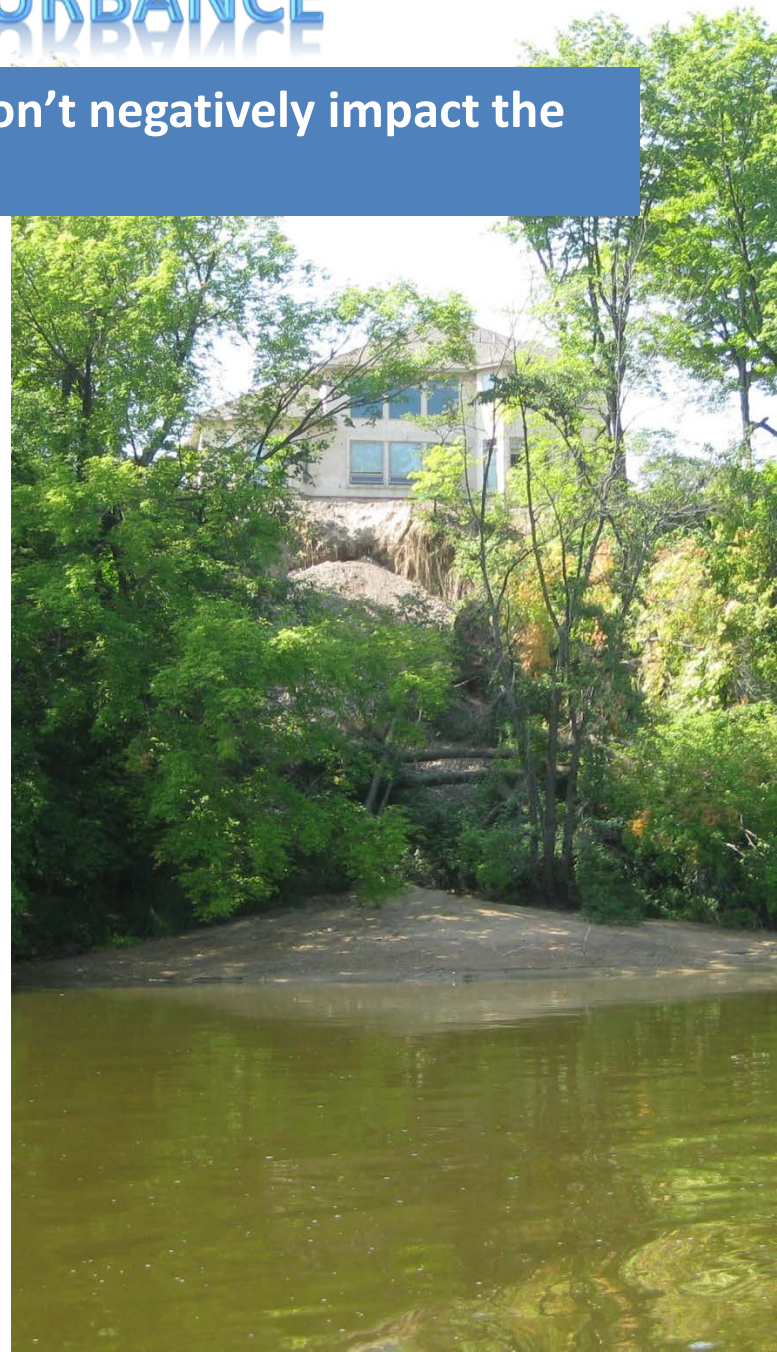
- Focus on permitting where and how “intensive vegetation clearing” is conducted, not “selective vegetation removal”
- Intensive clearing prohibited in sensitive areas
- No “area” thresholds for permit



LAND ALTERATION-LAND DISTURBANCE

Purpose: Ensure that land alteration activities don't negatively impact the river and primary conservation areas

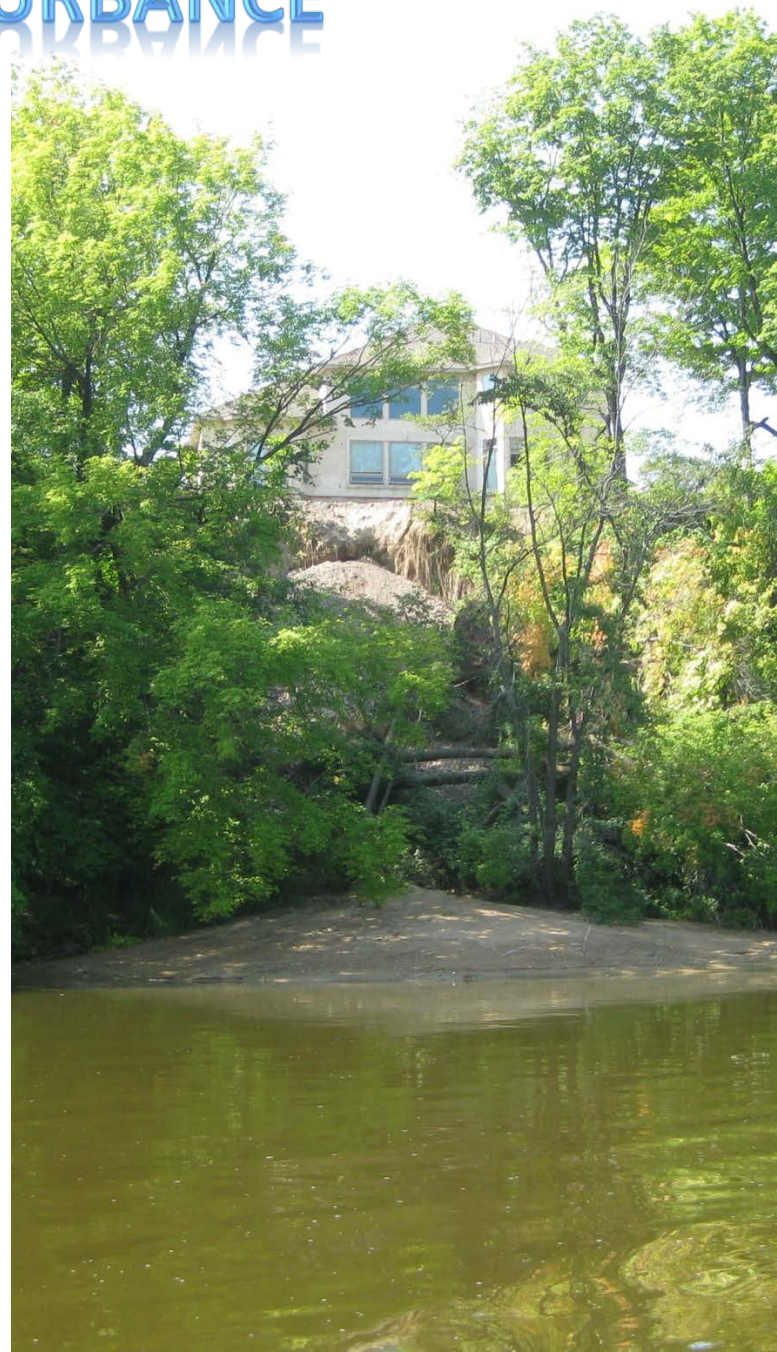
- Thresholds too low – follow requirements of other authorities
- Support lower thresholds for land alteration
- Will prevent owners from making needed improvements to structures
- Require a land alteration permit for ANY change in topography



LAND ALTERATION-LAND DISTURBANCE

Revisions Made

- Thresholds triggering a permit set at 10 CY or 1,000 SF in the WQIZ
- New term “WQIZ” to define sensitive areas near water
- Land alteration in BIZ prohibited except by permit in limited situations



LAND ALTERATION - RIPRAP, WALLS & EROSION CONTROL STRUCTURES

Purpose: Allow reasonable alterations to shorelines areas while protecting vegetation and habitat

- Vegetative methods not effective when dealing with wave action
- Costly effort to prove they don't work before rules allow hard armoring



LAND ALTERATION - RIPRAP, WALLS & EROSION CONTROL STRUCTURES

Revisions Made

- Structures allowed by local permit in BIZ & WQIZ – no requirement for bioengineering methods, but.....
- Work at OHWL, requires DNR approval first
- Structures to correct an erosion problem
- Size must be minimum necessary to correct the problem, and no larger than:
 - 5 feet for walls
 - Height of RFPE for riprap
 - Unless determined by a PE



LAND ALTERATION-STORMWATER

Purpose: Ensure that land alteration activities don't negatively impact the river and primary conservation areas

- MS4 permit threshold of 1 acre is reasonable. Lower threshold will drive up costs for roads and trails
- Supports the 10,000 sf threshold and MIDS standards



LAND ALTERATION-STORMWATER

Revisions Made

- 10,000 sf threshold retained for new or fully reconstructed impervious surface in WQIZ
- Fully reconstructed defined
- LGUs may adopt other MPCA approved treatment
- SW facilities prohibited in BIZ except under specified conditions



SUBDIVISION & LAND DEVELOPMENT.....

Purpose: Provide protection for primary conservation areas and increase opportunities for river access

- Prefer lower/higher threshold (2 lots to 20 acres)
- Prefer threshold as low as 5 acres/riparian, 10 acres/non-riparian
- Site location and characteristics should drive conservation design – not certain %
- Set aside is (may amount to) a regulatory taking
- Require townships to use dedication/exempt townships from dedication
- Require land dedication of at least 10%
- 10% is defensible under some circumstances



SUBDIVISION & LAND DEVELOPMENT.....

Revisions Made

- Threshold for set-asides:
 - 10 acres/riparian
 - 20 acres/non-riparian
- Set aside percentages:
 - CA-ROS: 50%
 - CA-RN: 20%
 - CA-SR, CA-RTC, CA-UM, CA-UC: 10%
- If PCAs exceed these amounts, then priority given to native plant communities and riparian vegetation.
- If PCAs are less than percentage, only those PCAs that exist must be set aside.
- Restoration only if identified in plan.



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OPEN HOUSE

