

## Butler, Sonja (CI-StPaul)

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**From:** Drummond, Donna (CI-StPaul)  
**Sent:** Monday, November 03, 2014 2:38 PM  
**To:** Butler, Sonja (CI-StPaul)  
**Cc:** Torstenson, Allan (CI-StPaul); Williams, Josh (CI-StPaul)  
**Subject:** FW: Additional Critical Area Comment

Sonja - Another written comment for the DNR Rulemaking public hearing for your records.



**Donna M. Drummond**  
*Director of Planning*  
Planning & Economic Development  
25 W. 4th St., Suite 1400  
Saint Paul, MN 55102  
P: 651-266-6556  
[donna.drummond@ci.stpaul.mn.us](mailto:donna.drummond@ci.stpaul.mn.us)



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**From:** Paul Sawyer [<mailto:paul.m.sawyer@gmail.com>]  
**Sent:** Monday, November 03, 2014 2:03 PM  
**To:** Drummond, Donna (CI-StPaul)  
**Cc:** TOM DIMOND  
**Subject:** Additional Critical Area Comment

Hi Donna,

I'd like to submit an additional comment regard the Critical Area rules speaking only in my personal capacity and not on behalf of any organizations that I represent.

First, I would like to state that I concur with all comments that I presented on behalf of the District 1 Community Council. Beyond that, I submit the following:

With regard to the district designation for most of the Highwood and Battle Creek neighborhoods, I would like to propose that an Urban Open Space district be considered for retention. The original Critical Area executive order established guidelines for this district stating: "The lands and waters within this district shall be managed to conserve and protect the existing and potential recreational, scenic, natural, and historical resources and uses within this district for the use and enjoyment of the surrounding region. Open space shall be provided in the open river valley lands for public use and the protection of unique natural and scenic resources. The existing transportation role of the river in this district shall be protected." More broadly, the order noted the need to "manage the river corridor consistent with its natural characteristics and its existing development."

A retained Urban Open Space district would better fit the existing development and characteristics of these neighborhoods than would the River Neighborhood district. It would keep the dimensional standards that we've used for three decades and would direct future development in that area to focus on preserving and enhancing the natural features.

Thank you again for the opportunity to provide comment on these rules.

Many thanks,  
Paul Sawyer

# CAPTAIN KEN'S FOODS INC.®

344 SOUTH ROBERT STREET, SAINT PAUL, MINNESOTA 55107  
PHONE: (651) 298-0071  
FAX: (651) 298-0849

(Hand-delivered to St. Paul Planning Commission, Attn: Ms. Barb Wencil, on November 3, 2014)

November 3, 2014

Ms. Barb Wencil  
St. Paul Planning Commission  
25 West Fourth Street  
St. Paul, MN 55102

*Rec'd  
11-3-14*

Re: MRCCA and Minnesota Department of Natural Resources ("MNDNR") Proposed Rules

Dear Barb,

For reference by the St. Paul Planning Commission:

See attached written feedback from Captain Ken's Foods regarding Department of Natural Resources (DNR) Draft Mississippi River Corridor Critical Area Rules. The attached was presented by Captain Ken's Foods at the Public Hearing on October 31, 2014.

Thank you.

Sincerely,

John G. Traxler  
Captain Ken's Foods, Inc.



\jgt  
enclosures

Barb Wencil 110314.doc



Delivered to St. Paul Planning Commission, Attn: Ms. Barb Wencl, on November 3, 2014

Rec'd  
11-3-14

## MRCCA Planning Commission Public Hearing – October 31, 2014

Thank you Madame Chair and all commissioners. My name is John Traxler and I am President and 50% owner of a high profile small business here in St. Paul at 344 Robert Street. The company's name is Captain Ken's Foods. My business partner, my older brother Mike, and I are both St. Paul boys, born and raised. We have a younger brother Tom who also works there and my wife Linda is Captain Ken's Controller and Human Resources Manager.

Captain Ken's Foods was started by a St. Paul Fire Department Captain, Ken Freiberg, in 1967, 47 years ago. We have 30+ fully cooked home style products served throughout the upper Midwest and around the country. We sell to the retail, foodservice, deli, schools, and convenience store marketplaces. You may be familiar with our 1923 antique Ahrens Fox Fire Engine that participates in community parades throughout the year in and around St. Paul.

Captain Ken's property sits on a bluff on the West Side. It is zoned I-1, Light Industrial. The predecessor owner of the property, Peter's Meats, also had I-1 zoning, Light Industrial. That building on the bluff on the West Side has been there for over 100 years.

I am here this morning to inform you that under DNR's proposed rules Captain Ken's building is deemed a "Non-conforming structure". As you know there are hundreds of residences and buildings targeted to become "non-conforming structures" under the DNR proposal. I want you to know that such a designation limits future business opportunities and imposes limitations on Captain Ken's use and value of its property.

The continued need for St. Paul's metro area businesses was never more evident than during the recent Great Recession. A 2009 report prepared for The United States Conference of Mayors and The Council for the New American City cited the following:

*"...metro economies need to be at the center of the U.S. recovery program. The nation's 363 metropolitan areas are home to 86% of U.S. employment and 90% of wage income. They are the key drivers of the nation's economic performance. Without the economic recovery of metro economies, there can be no U.S. recovery. In order for recovery spending to generate employment, there must be an available labor force. The unemployment rate will rise above 9% in metro areas this year and above 10% in 2010. In fact, we project that 85% of the job losses during this recession will occur in metro areas, and 83% of currently unemployed workers in the nation reside in metro areas."*<sup>1</sup>

As evident during that Great Recession, and continuing today, small and large businesses are the engines of innovation and the development of jobs and communities. At Captain Ken's we embrace the philosophy of "Innovate or die." We are creative and professional.

The DNR proposal matters to me because I want to expand my building someday just like other current and potential business owners in St. Paul. I don't want the potential to grow my business limited. The recent Great Recession proved again that innovation is not only the key to growth for small and large businesses but in some cases to their very survival. Captain



Delivered to St. Paul Planning Commission, Attn: Ms. Barb Wencl, on November 3, 2014

Rec'd  
11-3-14

Ken's, along with all other businesses, would like to have the capability to grow and not be limited by a building deemed as a non-conforming structure. A non-conforming structure designation would indeed decrease the value of the property. It would limit any company from utilizing its non-conforming structure property from its current full potential.

I am very concerned that the DNR's new rules will result in many businesses properties becoming non-conforming. This will not only prevent businesses from expanding but it will discourage new businesses from moving to Saint Paul to use existing properties. If we ignore St. Paul business development, current and potential small and large businesses will not be able to help sustain the St. Paul community with jobs.

I conclude with the following: "Every community grows one business at a time." "Every community grows one job at a time." St. Paul is no different!

#### Questions?

<sup>1</sup> - U.S. Metro Economies. American Recovery and Reinvestment Act - Preliminary Report. June, 2009. <http://usmayors.org/pressreleases/uploads/report-200906-metroeconomies.pdf>,  
Prepared for: The United States Conference of Mayors and The Council for the New American City,  
Prepared by: I.H.S. Global Insight. <http://usmayors.org/pressreleases/uploads/report-200906-metroeconomies.pdf>

#### Cut-Out but would have been included if time allowed:

I have one other question and concern. Why is GIS used to mark the bluffline when its' use presents a different bluffline than the actual physical bluffline that exists today? <sup>2</sup> (GIS utilization impacts how much building would be affected by the MNDNR proposed rules.)

<sup>2</sup> - [Josh Williams, St Paul PED, and Michael Belaen, St. Paul Chamber of Commerce, and I discussed this question after the Oct. 31<sup>st</sup>, 2014 Public Hearing. Within 90 minutes after the Public Hearing I delivered to Mr. Williams a copy of Captain Ken's Foods' detailed Land (Property) Survey to ascertain exact bluffline/property line and help answer the question.]





CITY OF SAINT PAUL  
Mayor Christopher B. Coleman

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October 31, 2014

TO: Barbara Wencil,  
Chair, Saint Paul Planning Commission  
FROM: Brian Tourtelotte **BT**  
Parks and Recreation  
RE: Mississippi River Critical Corridor Area (MRCCA) Proposed Rules

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I wish to submit further response to the questions from one of the Commissioners regarding Victoria Park. I am still uncertain of the issues that may have been in question regarding the Victoria Park design or community engagement because, as I indicated, my team in Design and Construction is not directly involved in that project.

I do want to make one thing perfectly clear, which may have been part of the question by the Commissioner: **Parks and Recreation, and the group of 10 Implementing Agencies (IA's) of Regional Parks has not requested, and has not even suggested, that environmental protections be weakened.** We, as a Department, and the licensed professionals in Design and Construction, consider protection of our unique and precious resources to be of utmost importance. And as we work with partner agencies that provide environmental protection to specific issues, such as watershed districts, endangered species protection, invasive species, wetland conservation, and soil and water pollution, we continue to keep protection of the limited resources we have as a primary directive.

What we have requested is that the rules be written in performance-based language. This can help the design and management to achieve desired outcomes, which might in fact be more stringent than currently proposed, but allows flexibility for evolving skills, practices, and technologies to be incorporated.

And the IA's have also requested that the urban parks be categorized in an Urban Parks District, separate from the Rural Open Space district currently shown. The Urban Parks receive intentional and professional management from well qualified staff and citizen input, and are publicly owned, and regulated by Metropolitan Council and other authorized agencies. The intensity of use and accessibility to the public create character and management requirements much different from privately-owned, minimally developed open space and agricultural lands within the corridor which are the focus of the Rural Open Space district.

I would be happy to respond if any of this is unclear. I can be reached at (651) 266-6414, or my email: [brian.tourtelotte@ci.stpaul.mn.us](mailto:brian.tourtelotte@ci.stpaul.mn.us)



**Neighborhood Development Alliance**  
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October 31, 2014

Saint Paul Planning Commission  
City Hall Conference Center Room 40  
15 Kellogg Boulevard West  
St. Paul, MN 55102

Re: Department of Natural Resources Draft Mississippi River Corridor Critical Area Rules

Dear Planning Commission Chair Ms. Barbara A. Wencil:

This is a written update from my verbal presentation to the Planning Commission on October 31<sup>st</sup>. While NeDA see a lot of good sense in applying Critical Area Rules (though we are unsure what exactly they are at this point in time – a frustratingly moving target) **to historically undeveloped areas**, we believe careful consideration should be taken to determine how to apply zoning changes to existing, built up areas that together make up our neighborhoods. **This is particularly important for planned redevelopment and reinvestment in the West Side neighborhood.**

Many of the structures that would be impacted on the West Side have been part of the urban fabric of the city for generations. **And many will need reinvestment over time. This will include expansion as businesses grow and/or use changes.**

We are concerned that the implementation of these zoning changes would slowly destroy the urban fabric — residential and commercial — by removing individual properties from the neighborhood like taking out random puzzle pieces. **We are concerned that if owners are discouraged from reinvestment the commercial and housing stock will deteriorate.** Over time, this could pick apart and threaten the vitality and livability of our neighborhoods.

The proposed zoning impacts negatively a large portion of the West Side's affordable rental housing and **may discourage reinvestment.**

- The buildings affected include:
  - a portion of Torre de San Miguel,
  - all of Vista Village,
  - all of Bluff Park Homes,
  - a portion of the Public Housing (family townhomes), all of the Terraces (townhomes),
  - all of Cerenity Senior Housing and other structures on the Old Wilder Campus on Humboldt Avenue S.; and
  - at least 11 Habitat for Humanity homes.

It also makes nonconforming a variety of long-established and new businesses where owners have and are currently investing.

- These include
  - Boca Chica,

***"Building Homes, Partnerships and a Great Neighborhood"***  
Affirmative Action, Equal Opportunity Employer



- the Taco House,
- Captain Ken's,
- the new West Side brew pub,
- Millie's Bakery,
- Rodriguez Auto Repair,
- Guadalupana Mercado, and
- NeDA's building Wabasha Center (whose identified slope is actually man-made!)

Equally disturbing is the wholesale identification of the properties east of Hwy 52, including Guadalupe Alternative Programs (an alternative high school) and the surrounding single family ownership and rental housing that is home primarily to low-income families. **This area needs reinvestment as many of the homes are pre-World War II and have experienced deferred maintenance.**

NeDA would like the Planning Commission to reflect not only on the environmental goals of the proposed zoning, but also on the social and community impacts zoning enforcement will have on the West Side's low-income neighborhoods.

The number of West Side structures that would become nonconforming under the proposed rules is staggering. The list of unknowns about applying the draft rules is long and the items on it have serious consequences for residents, business owners, property owners and West Side neighborhoods. The RDLU Committee urges the Planning Commission to move cautiously and inclusively when making its recommendation to the City Council.

We want to continue to assist West Side businesses and residents in the reinvestment in their homes and business to increase the viability of this neighborhood.

**We do not think pointing out possible impacts on the neighborhood and individual properties as "fear mongering" as was suggested at the hearing on the 31<sup>st</sup>.** NeDA is seeking to understand and insure this neighborhood is not negatively impacted today or tomorrow.

With Regards:



Karen Reid  
Executive Director

cc: West Side Community Organization  
Council Member Dave Thune  
Planning Director Donna Drummond  
Principal City Planner Allan Torstenson







West Side Community Organization  
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St. Paul, MN 55107  
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October 30, 2014  
Saint Paul Planning Commission  
City Hall Conference Center Room 40  
15 Kellogg Boulevard West  
St. Paul, MN 55102

Re: Department of Natural Resources Draft Mississippi River Corridor Critical Area Rules

Dear Planning Commissioners:

The West Side Community Organization's Riverview, Development and Land Use Committee (RDLU Committee) appreciates the opportunity to comment on the DNR's Draft Rules for the Mississippi River Corridor Critical Area. The RDLU Committee reviewed the proposed rules and maps (dated 8/6/2014) that were available when the DNR presented to the Planning Commission on October 17<sup>th</sup>.

While we see a lot of good sense in applying these changes to *historically* undeveloped areas, we believe careful consideration should be taken to determine how to apply zoning changes to existing, built up areas that together make up our neighborhoods. Many of the structures that would be impacted on the West Side have been part of the urban fabric of the city for generations. We are concerned that the implementation of these zoning changes would slowly destroy the urban fabric — residential and commercial — by removing individual properties from the neighborhood like taking out random puzzle pieces. Over time, this could pick apart and threaten the vitality and livability of our neighborhoods.

Also zoning mostly affects use. What does it mean that a building is nonconforming simply for existing? Does it mean that the buildings could not be improved or added to, or would this apply only if the use changes? Does it mean that the use could not be changed, e.g. housing converted to retail, or vice-versa?

Under the initial map shared with the RDLU Committee, the proposed zoning impacts negatively a large portion of the West Side's affordable rental housing. These buildings become nonconforming, which makes long-term preservation/reinvestment problematic. The buildings affected include: a portion of Torre de San Miguel, all of Vista Village, all of Bluff Park Homes, a portion of the Public Housing (family townhomes), all of the Terraces (townhomes), all of Cerenity Senior Housing (including memory care, nursing home) and at least 11 Habitat for Humanity homes.

It also makes nonconforming a variety of long-established and new businesses where owners have and are currently investing. These include Boca Chica, the Taco House, Captain Ken's, the

new West Side brew pub, Millie's Bakery, Rodriquez Auto Repair, Guadalupana Mercado, Wabasha Center (home of NeDA and a Child Care Center) and others.

Equally disturbing is the wholesale identification of the properties east of Hwy 52, including Guadalupe Alternative Programs (an alternative high school) and the surrounding single family and rental housing that is home primarily to low-income families.

In the 1960s the City rezoned the West Side Flats – removing all the housing (primarily low-income) on the flood plan. Then a levee was built and land zoned for industry and other businesses. Now, we are told that this is another part of the river valley that we need to rezone and again it negatively impacts low-income housing. While there is no buying out of land, the planned zoning announces that there is a tacit signal that this land is not suitable for building thus reducing value for the current owners. What will follow?

We would like the Planning Commission to reflect not only on the environmental goals of the proposed zoning, but also on the social and community impacts zoning enforcement will have on the West Side's low-income, racially diverse neighborhoods. What would be the impact on West Side schools if housing is removed from these areas? What is the city's plan for replacing this housing? What is the plan for supporting and transitioning communities in these areas if housing in these areas is gradually eroded? Should there be a health impact assessment of applying the proposed rules? What are the impacts on future transit development and service for the West Side if population and job densities are reduced or capped in these areas? Is this another form of institutional racism that will have unintended adverse impacts on yet more communities in the city?

The number of West Side structures that would become nonconforming under the proposed rules is staggering. The list of unknowns about applying the draft rules is long and the items on it have serious consequences for residents, business owners, property owners and West Side neighborhoods. The RDLU Committee urges the Planning Commission to move cautiously and inclusively when making its recommendation to the City Council.

With Regards



Mason Wells

WSCO Staff/On behalf of Riverfront and Development Committee

cc: Council Member Dave Thune  
Planning Director Donna Drummond



# DRAFT MRCCA RULES SLOPE & RIVER SETBACKS

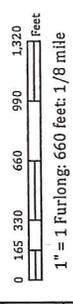
Based off of a 1 m Digital Elevation Model

-  MRCCA Boundary
-  Nonconforming Structures (under draft MRCCA Rules)
-  Structures
-  Water
-  Ordinary High Water
-  Section Lines
-  Very Steep Slopes
-  Slope Preservation Zone
-  40' Slope Setback
-  100' Slope Setback
-  River Setback from OHW

40' & 100' setbacks were calculated from very steep slopes instead of a bluffline or very steep slope line. Some of these setbacks are located on the toe of the slope. To correct for this, buildings impacted by the setbacks from the slope toe have been removed.

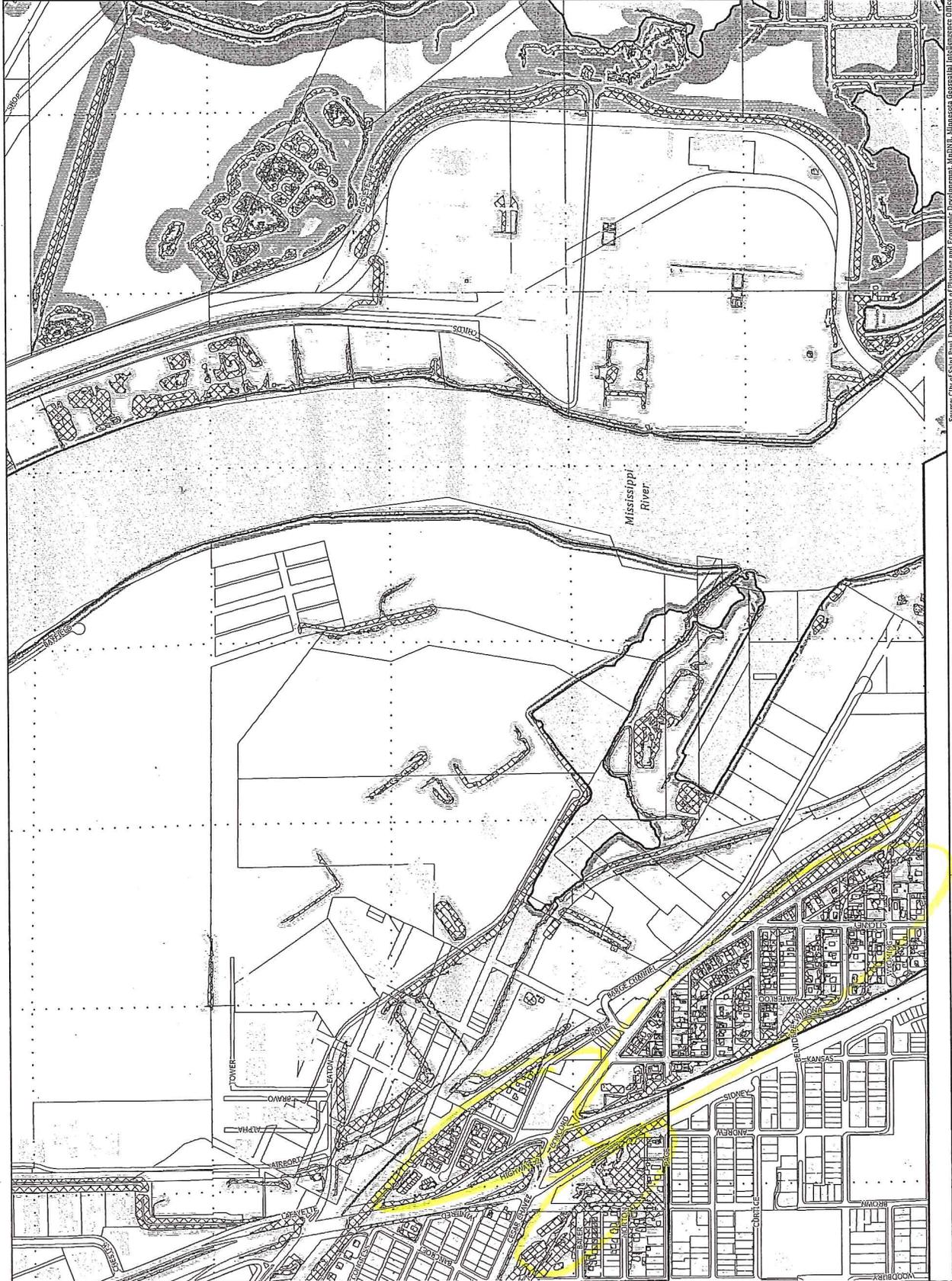
Buildings that are impacted by man made slopes have not being identified as nonconforming.

13	16	17	18
19	21	22	23
25	27	28	29
30	31	32	



PANEL 23

6/6/2014



Source: City of Saint Paul, Department of Planning and Economic Development, Map/N, Minnesota Geospatial Intelligence Office

August 4, 2014

Mr. Daniel Petrik  
MRCCA Rulemaking Project  
Minnesota DNR  
500 Lafayette Road  
St. Paul, MN 55155-4032

Re: Comments on MRCCA Draft Rules

Dear Mr. Petrik,

Friends of the Parks and Trails of Saint Paul and Ramsey County supports, among other things, efforts to protect and enhance the natural resources and recreational opportunities in the Mississippi River Corridor Critical Area (MRCCA). Following are the many reasons we believe new rules and regulations should retain strong protections of this shared natural resource and our suggestions on the draft rules.

In order to *protect and enhance* this unique and valuable state and regional resource for the benefit, health and welfare of the citizens of the state, region and nation it is incumbent upon new rules and regulations to be *as protective or more protective* than those currently in place. By definition, anything less would not meet the statutory purpose to *protect and enhance* the resource. For each draft rule, the first consideration should be: Does this rule provide the same or better protection?

Minnesota Statute 116G.02 reads: "The legislature finds that the development of certain areas of the state possessing important historic, cultural, or aesthetic values, or natural systems which perform functions of greater than local significance, could result in irreversible damage to these resources, decrease their value and utility for public purposes, or unreasonably endanger life and property. The legislature therefore determines that the state should identify these areas of critical concern and assist and cooperate with local units of government in the preparation of plans and regulations for the wise use of these areas."

We understand the desire of the DNR to listen closely to local units of government (LGUs) as they must implement the rules and regulations. However, the foremost part of the legislature's intent was "preparation of plans and regulations for the wise use of these areas." It bears repeating that the first section states, "...the development of certain areas...could result in irreversible damage to these resources...". By drafting the rules in close alignment with feedback from LGUs and with limited public input, what the draft currently reflects are regulations written by the regulated. In designing the process to allow meetings with LGUs for one year, before any draft was made available outside of those meetings, and then giving the public two months over the summer to comment, the process is skewed towards weakening regulations at the behest of LGUs.

We urge the DNR to keep in mind that the MRCCA is a shared resource for all of us, linking past, present, and future generations. LGUs implement the rules and regulations but the effects and consequences are not limited to a specific area, thus the establishment of the "Mississippi River Corridor Critical Area."

We also urge the DNR to consider equity and social justice when reviewing draft regulations. Less affluent neighborhoods deserve natural resource protections, and need access to open space, scenic vistas, and recreational opportunities equal to, or perhaps more than, more affluent neighborhoods.

In St. Paul, and in Ramsey County, we have a **No Net Loss of Parkland** ordinance. In effect, if development or sale will result in loss of parkland, it is required to be replaced. We strongly suggest the DNR consider a similar provision.

The statutory purpose of Executive Order 79-19 is "to protect and preserve a unique and valuable state and regional resource for the benefit of the health, safety, and welfare of the citizens for the state, region, and nation." Additionally, "to prevent and mitigate irreversible damage..." and "to protect and preserve...". This language appears repeatedly throughout E.O. 79-19 and is quite clear that this is a "Critical Area" that must be *protected and preserved* if the statute is to be followed. Minnesota Statute 116G.15 Subdivision 1 repeatedly states the same "protect and preserve" and "protect and enhance" language.

*Protection and enhancement* of natural resources and recreational opportunities in the MRCCA currently are guided by Shoreland and Critical Area regulations established in executive orders, statutes and rules. State regulations specify that the more protective provision applies. The draft MRCCA rules must ensure that the more protective provision of Shoreland or Critical Area remains in place.

Page 2. 6106.0030 Subp. 4. Conflicting standards.

**“Rule” should be replaced with “Regulation”.** Regulation is a broader term, to encompass all conflicting standards, not just those contained in the MRCCA rules.

Page 2. 6106.0030 Subp. 5. Local determination.

**Subp. 5. should be deleted.** It is in direct conflict with Subp. 4, directly preceding it. Additionally, there is no statutory authority for local government units to opt out of State Shoreland regulations. The Critical Area, which has been designated by the State of Minnesota as a unique and valuable resource, *must not have* less protection than is required everywhere else in the State. If the Commissioner wants to simplify ordinance and plan approval by consolidating the review and approval processes of both programs, the Commissioner should establish the same timeline for both. Alternatively, the draft rules should incorporate the more protective provisions from both programs to ensure that the statutory requirements are met.

Page 3. 6106.0050 Subp. 10. Bluff.

**Replace with: Bluff means a very steep slope that is a natural topographic feature with an average slope of 18 percent or greater, measured over a horizontal distance equal to or greater than 50 feet.** This definition simplifies protection of bluffs. Removing 18% to 30% slopes from the bluff definitions will remove a significant amount of the current bluffs from bluff protections. The rules should limit development of steep slopes and retain protection of slopes over 18%, as required by E.O. 79-19.

Protection of bluffs (18% and greater slopes) in their natural state is a key provision of the River Corridor Critical Area protections. Two definitions complicate instead of simplify. The draft rules would remove a large portion of existing bluffs from the definition of bluffs. The draft rule would permit development on 18% to 30% slopes which is not allowed in

the current rules. People relate to the term bluff and have nearly 40 years of experience defining the bluffs as 18% and greater slopes. Adding a second tier definition will make it more difficult to advocate for protection of 18% to 30% slopes. It will increase the pressure to approve variances on 18% to 30% slopes. The current definition of bluffs should be retained as 18% and greater slopes.

Page 6. 6106.0050 Subp. 42. Native plant community.

**Replace “mapped” with “identified” and add “USGS National Vegetation Classification, USGS-NPS Vegetation Characterization Program, and locally identified significant trees or plant communities including remnant prairie grasses, trees, or plant communities that are rare to the area or of particular horticultural or landscape value, or trees with a diameter at breast height of 12 inches or larger”.** This language is from the Minneapolis Protection of Natural Resources ordinance. This allows for protection of locally significant natural resources. The definition should also include the national USGS classification. The definition would then include national, state, and local identification.

Page 7. 6106.0050 Subp. 54 Primary conservation areas.

**Include: islands, wildlife preservation areas, and waterfalls. Retain: publicly-owned parks, trails, and open space.**

Page 9. 6106.0050 Subp. 70 Shore impact zone.

**Include: but not less than 50 feet. The shore impact zone serves as all or part of the shoreline buffer.** This is contained in the draft Shoreland Rules.

Page 9. 6106.0050 Subp. 74 Steep slope.

**Steep slope. “Steep slope” means a natural topographic feature with an average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater than 50 feet.** We agree with this definition.

Page 9. 6106.0050 Subp. 76 Structure.

The definition of structure in the draft rules does not include swimming pools, pipelines, transmission lines, railroad tracks, and advertising signs. The current statutory definition includes portable structures, billboards, flood walls, fences, and retaining walls. The statutory definition of structure should be retained.

Page 9. 6106.0050 Structure height.  
**Listed as Height of structure above.**

Page 12. 6106.0060 Subp. 3 Substantial compliance.  
**Remove: substantial.** The Commissioner is required to ensure compliance.

Page 22. 6106.0070 Subp. 4 Contents of plans.  
**(1) Retain: provide for screening existing development that constitutes a visual intrusion, whenever appropriate. Include: prepare plans for control of noise in open space and recreational areas.** Both are current protections in E.O. 79-19 and should be retained.  
**(6) Retain: Maximize.**

Page 22. 6106.0070 Subp. 5 Contents of ordinances.  
**A. Remove: substantially.** The Commissioner must ensure compliance.

Page 22. 6106.0070 Subp. 6 Flexibility requests for ordinances.  
Local units of government must comply with state law. There is no statutory authority for this provision. Rules must ensure compliance.

Page 24. 6106.0080 Subp. 3 Nonconformities  
**Retain: A plan to remove nonconforming advertising signs in the River Corridor is required.** Current regulations prohibit billboards visible from the river. Current regulations require a plan for removing non-conforming signs. Additionally, Saint Paul prohibits billboards in the River Corridor. The draft rules eliminate the provision to develop a plan for removing non-conforming signs. The draft rules add a qualifier of "readily visible", further limits it to "readily visible from the opposite shore of the river", and even further limits it to "readily visible, from the opposite shore, leaf-on in the summer". This does not simplify regulations and does not protect and enhance the natural and aesthetic values of the River Corridor. Minnesotans enjoy their natural resources year around. The resources must be protected 12 months of the year. The prohibition of billboards visible from the river at any time of the year must be retained. The DNR should consider the City of Saint Paul policy and regulation that prohibits billboards in the River Corridor.

Page 25. 6106.0080 Subp. 5 B Mitigation.

**Add: Mitigation must be provided in the MRCCA. Retain: The list of ways to mitigate.** It is helpful to provide guidance to all, including the public, local governments, planning commissions, and elected officials.

Page 28. 6106.0100 Subp. 2 Rural and Open Space District.

**B. Remove: existing. Add: wetlands and recreational resources. Add: Enhance includes restoration.**

**C. Retain: shall be managed to conserve existing and potential recreational, scenic, natural, and historic resources for the use and enjoyment of the surrounding region. Natural shorelines, bluffs, steep slopes, and very steep slopes shall be protected and enhanced. Providing public access to and views of the river is a priority in the district.** The current language in this section prohibits the expansion of existing commercial and industrial uses and development on lands on the riverside of the bluff line. Currently, the expansion plans of CP Railroad would allow extensive industrial development adjacent to Pig's Eye Lake. The current language must be included in this section.

Page 29. 6106.0100 Subp. 4 River Neighborhood District.

**B. add: enhance and restore shoreline and bluff habitat, scenic views, and recreational resources.**

Page 29. 6106.0100 Subp. 5 River Towns and Crossings District.

**B. add: historic preservation, enhancing tree canopy, scenic views, shoreline habitat or habitat on the river side of the districts that are not riparian and providing public access to and scenic overlooks of the river corridor are priorities. Add: enhance includes restoration.**

Page 30. 6106.0100 Subp. 6 Separated from River District.

**B. Add: Priorities are enhancing tree canopy and historic preservation. Add: enhance includes restoration.**

Page 30. 6106.0100 Subp. 7 Urban Mixed District.

**B. Add: tree canopy and recreational resources, including trails. Add: enhancement includes restoration. Add: Shoreline restoration and trails are a priority in this district. Restoration of the tree canopy is also a priority, especially on top of the bluff at the confluence of the Minnesota and Mississippi Rivers in order to protect the scenic vista from Fort Snelling. Add: where appropriate (in addressing development).**

Page 30. 6106.0100 Subp. 8 Urban Core District.

**B. Add: and enhancing. Add: shoreline habitat, tree canopy, trails, scenic overlooks, access to the river and recreational resources are priorities. Enhancement includes restoration.**

Page 31. 6106.0100 Subp. 9 District boundaries.

The proposed rule allows for district boundary amendments. Under commissioner requirements, **add: g) provide a 45-day comment period and hold a public hearing allowing the opportunity for public testimony that will be included in the public record.**

Page 32. 6106.0110 Subp. 3 Commercial and industrial.

**Add: (new subpart 3 and renumber the other subparts.) In cities of the First Class ROS districts, the development of new and expansion of existing commercial and industrial uses and development shall be permitted on lands which are on the landward side of all blufflines, if it meets the dimensional standards and criteria.** This retains the protection in E.O. 79-19 and is also in the St. Paul River Corridor Plan and Zoning Code. It is part of the specific directive to balance the uses around Pig's Eye Lake. It helps protect the area around the lake and the base of the bluff in Highwood. This provision helped prevent the storage of 4 million gallons of hazardous materials adjacent to Pig's Eye Lake and currently is part of an EIS review to protect wetlands at Pig's Eye Lake. The existing protections must be retained.

Page 33. 6106.0110 Subp. 5. G. Frac Sand mining.

**Add: New frac sand mines are prohibited.**

Page 33. 6106.0110 Subp. 5. H. Mining and Extraction.

**Add: In cities of the First Class ROS districts, mining and extraction shall not be permitted.** This is in keeping with E.O. 79-19.

Page 33. 6106.0110 Subp. 6. River-dependent uses.

**Add: Exemptions are not allowed for uses other than operational reasons. Exemptions do not apply to bluffs.** The exemption should be for that portion of the facility only. The exemption does not apply to 18% and greater slopes. The MRCCA regulations prohibit all development on 18% and greater slopes. St. Paul prohibits residential, commercial and

industrial development on 18% and greater slopes and commercial and industrial development on 12% and greater slopes.

Page 34. 6106.0120 Subp. 2 Dimensional Standards, Structure height.

The draft rules increase the allowable heights that are currently in existence. The City of St. Paul has used conditional use permits to allow greater heights. As long as a CUP is allowable, there is no need to increase base heights. Allowing buildings taller than 60 feet along the shore of the river is in conflict with the statutory purpose of preserving and enhancing aesthetic values of the MRCCA.

Page 36. 6106.0120 Subp. 3. Location of structures.

Minnesota Shoreland regulations require a 50-foot setback and the draft Shoreland Rules require a 75-foot setback from the OHW. The MRCCA rules should follow the Shoreland Rules and Regulations. Two current districts, Rural Open Space and Urban Open Space, are being combined, therefore, we recommend the setback in CA-ROS be 40 feet in cities of the First Class. In rural areas, setback should be 100 feet.

Page 37. 6106.0120 Subp. 3. D. Setback averaging.

**Remove: Item D.** Does not conform to E.O. 79-19. It will reduce protections that have been in place for 40 years and is not in keeping with the purpose of the establishment of MRCCA.

Page 39. 6106.0130 Subp. 3. Right-of-way maintenance standards.

**Add: D. When vegetation is removed, the removal of invasive species, such as buckthorn, will be a priority.**

Page 43. 6106.0140 Subp. 6. Private signs.

Executive Order 79-19 prohibits advertising signs visible from the river. Advertising signs that are visible from the river must not be allowed in the MRCCA. The proposed rules redefine the meaning of visible by adding "readily" visible and only apply to "views in the summer with leaf-on conditions". Winter in Minnesota means bare trees about five months of the year. As drafted, it could allow towering digital billboards with messages changing every few seconds. This exemption should be eliminated or rewritten to limit it to marinas and other businesses located on the river with a dock that serves transient watercraft. It should also limit lights to hours of operation.

Page 46. 6106.0150 Subp. 1. Vegetation management and land alteration standards.

**Purpose should also include: protection and enhancement of wildlife habitat, native plant communities, remnant stands of native trees and remnant prairie grasses. Encourage efforts to link habitat into regional greenways, providing continuous habitat corridors to support native plant and wildlife species.**

Page 48. 6106.0150 Subp. 5. Vegetation permit requirements.

We support the use of 5% with not more than 1,000 square feet in your suggested number ranges. **Add: Prohibit removal of native plant communities and 12" and larger trees without a permit.**

Page 49. 6106.0150 Subp. 7. Land alteration permit requirements.

E.O. 79-19 requires a permit for any grading, filling, excavation or change of topography. There should be no excavation or filling allowed on the bluff. There should not be an allowance to remove or fill 5 cubic yards without a permit.

Page 50. 6106.0150 Subp. 8. Rock riprap and retaining walls.

Current regulations require setback floodwalls from the OHW. Guidelines call for protection of vegetation, shorelines, riverbanks, scenic views, and water quality. Current protections should apply.

Page 50. 6106.0150 Subp. 9. Development on steep slopes.

Development on slopes of 12% to 18% must be limited. Protections of these slopes have been in place since the establishment of the MRCCA. Development on slopes of 18% to 30% would open up bluffs to excavation, filling, alteration, loss of habitat and the development of impervious surfaces. What justification is there to reduce protections now? The numerous landslides this spring should encourage protection of these fragile areas, not open them up to greater risk.

Page 55. 6106.0170 Subp. 1. General provisions.

**B. Replace "in place of 10-20 acres" with "the division of any parcel of land into two or more lots, including subdivision".** This is from E.O. 79-19. Parkland dedication, lot design, and lot standards are all part of B. Applying the regulation only to 10 acre and larger tracts does not meet the requirements of Statute 116G.15 Purpose. Urban areas have need of protection as well as areas of lower-density development.

Page 55-56. 6106.0170 Subp. 3. Design standards.

**Retain - ROS - 50%, RN - 30%, RTC,UM,UC - 20%, SR - 20% for all of the district.** The requirement is to protect and enhance all of the River Corridor.

Page 56. 6106.0170 Subp. 4. Land dedication.

Current parkland dedication regulations require residential, commercial and industrial developments to dedicate land for parks and open space or an equivalent amount of cash to be used only for acquisition in the river corridor. This provision, which has been in existence since the Mississippi River Corridor was declared a Critical Area, opens up areas along the corridor for habitat protection, recreational opportunities, scenic views, and public access to the river. The rules should retain this requirement and should require a minimum of 10% parkland/open space dedication. Priority must be given to dedication of land for public access to public waters. Local governments may create joint management agreements, contract with another government unit or non-profit to administer their park dedication fund. Parkland dedication is credited as part of any set aside requirement. We appreciate the DNR position to use percentages. The current requirement to dedicate a reasonable portion to the public should be simplified and clarified as 10%. This is consistent with the set aside use of percentages.

Page 60. Table 1. Exemptions from setbacks, height limits and other requirements.

—Floodwalls should not be exempt from setback requirements. The floodwall at Holman Field demonstrates the value of protecting and restoring shoreland vegetation to protect the natural and aesthetic values of the river corridor. Structure setback also allows for public access and trails along the shore of the river.

—Slope preservation zone (bluff): structures, filling and grading on bluffs (slopes 18% and greater) is prohibited and must remain so. Protecting 18% and greater slopes in a natural state is one of the key provisions of the MRCCA protections.

Regarding district maps, we support designations that promote strong *protections and enhancements* throughout the River Corridor Critical Area, in general.

In particular, we are concerned about the change of lands along the top of the bluff of the gorge and confluence that have been changed from the Open Space district to less protective districts. These are highly visible areas that are valued for their aesthetic and scenic views. Additionally, the rules need to prioritize strong *protections and enhancements* of these areas because of their historic and cultural significance. St. Paul's existing plans and ordinances provide greater protections than are proposed.

Lower Landing Park, from Lafayette to Childs Road, and between the river and rail road tracks, should be included in the ROS district. It is adjacent to Bruce Vento Nature Sanctuary and Indian Mounds Park. The park consists of open space, trails, picnic areas, and wetlands.

We appreciate that Pig's Eye Lake and Highwood are designated Rural Open Space. Historically, there has been much pressure to develop that area and we commend your efforts to protect it.

Thank you for taking our comments into consideration as you finalize the draft rules. Thank you, too, for your continued efforts to *protect and enhance* this unique and valuable resource.

Sincerely,

Jeanne Weigum

cc: The Honorable Mark Dayton, Governor of Minnesota  
The Honorable Sandra L. Pappas, President, Minnesota Senate  
The Honorable Richard Cohen, Minnesota Senate  
The Honorable Fong Hawj, Minnesota Senate  
The Honorable John Marty, Minnesota Senate  
The Honorable Erin Murphy, Majority Leader, Minnesota House of Representatives  
The Honorable Rick Hansen, Minnesota House of Representatives  
The Honorable Alice Hausman, Minnesota House of Representatives  
The Honorable Sheldon Johnson, Minnesota House of Representatives  
The Honorable Carlos Mariani, Minnesota House of Representatives

The Honorable Michael Paymar, Minnesota House of Representatives  
The Honorable Jim McDonough, Chair, Ramsey County Board of  
Commissioners  
The Honorable Toni Carter, Ramsey County Board of Commissioners  
The Honorable Blake Huffman, Ramsey County Board of  
Commissioners  
The Honorable Mary Jo McGuire, Ramsey County Board of  
Commissioners  
The Honorable Rafael Ortega, Ramsey County Board of  
Commissioners  
The Honorable Victoria Reinhardt, Ramsey County Board of  
Commissioners  
The Honorable Janice Rettman, Ramsey County Board of  
Commissioners  
The Honorable Chris Coleman, Mayor of Saint Paul  
The Honorable Kathy Lantry, President, Saint Paul City Council  
The Honorable Dan Bostrom, Saint Paul City Council  
The Honorable Amy Brendmoen, Saint Paul City Council  
The Honorable Russ Stark, Saint Paul City Council  
The Honorable Dai Thao, Saint Paul City Council  
The Honorable Dave Thune, Saint Paul City Council  
The Honorable Chris Tolbert, Saint Paul City Council



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October 31, 2014

Saint Paul Planning Commission  
City Hall Conference Center Room 40  
15 Kellogg Boulevard West  
St. Paul, MN 55102

Re: Department of Natural Resources Draft Mississippi River Corridor Critical Area Rules

Dear Planning Commission Chair Ms. Barbara A. Wencil:

This is a written update from my verbal presentation to the Planning Commission on October 31<sup>st</sup>. While NeDA see a lot of good sense in applying Critical Area Rules (though we are unsure what exactly they are at this point in time – a frustratingly moving target) **to historically undeveloped areas**, we believe careful consideration should be taken to determine how to apply zoning changes to existing, built up areas that together make up our neighborhoods. **This is particularly important for planned redevelopment and reinvestment in the West Side neighborhood.**

Many of the structures that would be impacted on the West Side have been part of the urban fabric of the city for generations. **And many will need reinvestment over time. This will include expansion as businesses grow and/or use changes.**

We are concerned that the implementation of these zoning changes would slowly destroy the urban fabric — residential and commercial — by removing individual properties from the neighborhood like taking out random puzzle pieces. **We are concerned that if owners are discouraged from reinvestment the commercial and housing stock will deteriorate.** Over time, this could pick apart and threaten the vitality and livability of our neighborhoods.

The proposed zoning impacts negatively a large portion of the West Side's affordable rental housing and **may discourage reinvestment.**

- The buildings affected include:
  - a portion of Torre de San Miguel,
  - all of Vista Village,
  - all of Bluff Park Homes,
  - a portion of the Public Housing (family townhomes), all of the Terraces (townhomes),
  - all of Cerenity Senior Housing and other structures on the Old Wilder Campus on Humboldt Avenue S.; and
  - at least 11 Habitat for Humanity homes.

It also makes nonconforming a variety of long-established and new businesses where owners have and are currently investing.

- These include
  - Boca Chica,  
**"Building Homes, Partnerships and a Great Neighborhood"**  
Affirmative Action, Equal Opportunity Employer



- o the Taco House,
- o Captain Ken's,
- o the new West Side brew pub,
- o Millie's Bakery,
- o Rodriquez Auto Repair,
- o Guadalupana Mercado, and
- o NeDA's building Wabasha Center (whose identified slope is actually man-made)

Equally disturbing is the wholesale identification of the properties east of Hwy 52, including Guadalupe Alternative Programs (an alternative high school) and the surrounding single family ownership and rental housing that is home primarily to low-income families. **This area needs reinvestment as many of the homes are pre-World War II and have experienced deferred maintenance.**

NeDA would like the Planning Commission to reflect not only on the environmental goals of the proposed zoning, but also on the social and community impacts zoning enforcement will have on the West Side's low-income neighborhoods.

The number of West Side structures that would become nonconforming under the proposed rules is staggering. The list of unknowns about applying the draft rules is long and the items on it have serious consequences for residents, business owners, property owners and West Side neighborhoods. The RDLU Committee urges the Planning Commission to move cautiously and inclusively when making its recommendation to the City Council.

We want to continue to assist West Side businesses and residents in the reinvestment in their homes and business to increase the viability of this neighborhood.

**We do not think pointing out possible impacts on the neighborhood and individual properties as "fear mongering" as was suggested at the hearing on the 31<sup>st</sup>.** NeDA is seeking to understand and insure this neighborhood is not negatively impacted today or tomorrow.

With Regards:



Karen Reid  
Executive Director

cc: West Side Community Organization  
Council Member Dave Thune  
Planning Director Donna Drummond  
Principal City Planner Allan Torstenson



CITY OF SAINT PAUL

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October 31, 2014

TO: Barbara Wencil,  
Chair, Saint Paul Planning Commission

FROM: Mike Hahm  
Director of Parks and Recreation

RE: Mississippi River Critical Corridor Area (MRCCA) Proposed Rules



The Mississippi River parks in Saint Paul are all parts of the Regional Park System under the authority of the Metropolitan Council (MetC). Under state law, the Regional Park System consists of nature-based resources of a size which are developed to serve as significant recreation resources of regional impact, and are managed to protect and maintain the quality of the natural resources. Saint Paul Parks and Recreation is one of 10 Implementing Agencies (IA's) recognized by MetC to establish, develop, program, and maintain regional parks. The regional parks in Saint Paul which are part of the MRCCA include Mississippi River Gorge Regional Park, Hidden Falls-Crosby Farm Regional Park, Harriet Island – Cherokee – Lilydale Regional Park, Indian Mounds Regional Park, Battle Creek Regional Park, and Pigs Eye Lake Regional Park.

Requirements of the MetC include that the parks are implemented per approved master plans developed with significant citizen, local, state, and national government body involvements, that natural resources are inventoried, a natural resource management plan is developed, and that natural resource professionals be consulted for enhancement, development, and protection of the resources with an emphasis on achieving high-quality natural features. The requirements place high priority on restoration of degraded resources and maintenance of high-quality natural resource features, and specifically targets surface water and groundwater resources for protection. As one of the local Implementing Agencies (IA) of Regional Parks, Saint Paul Parks and Recreation has delivered on these goals for over 40 years.

As a group the IA's met with DNR staff on August 26 and September 12, 2014 to help them understand the nature of the Regional Park Master Plan goals and process. We discussed the implementation of these master plans, and examples of places where the proposed rules might become obstacles to implementation. The IA's proposed several initiatives which would help carry out the MetC and MRCCA goals for resource protection; these include:

- A. Place the river parks in a district called "Urban Parks", which would differentiate from the current Rural Open Space district. Regional Parks of the core cities are a prime example of intensive use, scientific analysis and planning, high-quality development, and professional management of these Urban Parks, and are stark contrast between undeveloped, private, and agricultural lands following the desires of individual owners in the Rural Open Space district. Development of approved plans and professional management would be required of parcels in this district.

- B. That the Urban Parks are developed and managed under performance-based guidelines instead of prescriptive regulations. These guidelines will allow the Master Plans and management decisions to meet the MRCCA goals and respond to environmental issues with evolving technologies and processes. It will also help permitting agencies to understand the desired outcomes of the resource protection and preservation.

Some of the Regional Park Master Plan proposals that are high priority for Saint Paul Parks and Recreation which may have potential issues with the prescriptive rules proposed include:

1. The Lilydale Regional Park Master Plan (Amendment 2009) development plan item #12 calls for "Erosion Control/Cave Protection." Implementation of erosion control would require work on bluffs and very steep slopes not allowed in the proposed rules.
2. The Great River Passage Master Plan calls for development of educational and resource access facilities near the existing Watergate Marina harbors. Facilities are shown to be built within the Shore Impact Zone (SIZ) not allowed in the proposed rules.
3. The Great River Passage Master Plan calls for the development of the Great River Balcony along the buildings built into the bluff face. Some of these buildings may be removed, and redevelopment of the buildings will be required for the Balcony to be implemented. These buildings, and thus the balcony, would not be allowed in the proposed rules.
4. The Indian Mounds Regional Park Master Plan calls for development of a stairway connection between the west end bluff overlook and the Bruce Vento Nature Sanctuary at the foot of the bluff. Construction within the bluff protection zone would not be allowed in the proposed rules.

The DNR staff meeting with the IA's were not initially receptive of these approaches. However, in the presentation made to the Saint Paul Planning Commission on October 17, they indicated that a number of changes are being incorporated into the proposed rules, and some may have been influenced by our meetings, but the changes have not been released for review at this time. It desired that further consideration is given to this important information.

The Saint Paul Comprehensive Plan Parks Chapter recognizes the importance of the unique and fragile river area resources to the quality of life and sense of place. Strategies in the Parks Chapter include leadership in environmental issues, making sustainable choices, and protecting our precious resources. Saint Paul Parks and Recreation seeks excellence in achieving these strategies. In order to do this, we utilize highly trained managers, certified arborists and ecologists, and licensed professional design staff and consultants to respond to the ever-changing environmental issues, community desires and needs, and technological advances, and initiatives of partner agencies.

The central theme in the core purposes of the MRCCA proposed rules is to protect, preserve, and manage the unique scenic, environmental, and recreational resources for the river corridor for the health, safety, and welfare of the public. This includes protecting the biological and ecological functions of the Mississippi River corridor.

The parallel of the goals of Saint Paul's Parks Chapter, the MetC IA goals, and MRCCA goals is significant to the proposed rules for MRCCA. Clearly, Saint Paul Parks and Recreation has been, and will continue to provide high quality professional standards of resource development, enhancement, and protection for the limited resources we have within our responsibility. The prescriptive regulations of the proposed rules may be a redundant layer of management, which in some cases could become an obstacle in response to ever-changing environmental challenges and public needs, and incorporation of evolving technologies and practices.

Since a significant portion of the MRCCA parcels are located within the City of Saint Paul, and a significant portion of those parcels are park land, and are located near the center of the MRCCA, we are aware that Saint Paul Parks and Recreation resources are a primary concern of the proposed rules. In order to continue to do what we do best, and within the parallel goals mentioned, latitude to achieve guidelines in a holistic and professional management system will serve the interests of local, regional, state, and national citizens best interests.

The rules being proposed would be implemented locally after incorporation into the City's ordinances. This will create a situation where the local ordinances will seek to micro-manage the activities of Parks and Recreation, and will add a layer of complexity to the work of the professional staff. It will also add work load to zoning and code officials to ensure that the professional decisions are tailored to meet the resulting ordinances.

It is our hope in Parks and Recreation, that a cooperative atmosphere can be built with the DNR staff that will lead to creation of the Urban Parks District with performance-based guidelines, which can be incorporated into the city's ordinances, and which will result in achieving shared goals of enhancing, protecting, and preserving the unique and fragile resources that we all value.