



Minnesota Department of Natural Resources

500 Lafayette Road
St. Paul, Minnesota 55155-4010

July 16, 2003

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[Original to follow by U.S. Mail]

Barry Sittlow, City Administrator
City of St. Paul Park
600 Portland Avenue
St. Paul Park, MN 55071

RE: Rivers Edge Draft Alternative Urban Areawide Review (AUAR)

Dear Mr. Sittlow:

The Department of Natural Resources (DNR) has reviewed the Rivers Edge Draft AUAR, a master planned community that includes urban residential development, a village center, and access to the Mississippi River.

When the DNR reviewed the Rivers Edge Project Scoping Document for the Draft AUAR, we had numerous comments on completeness and environmental concerns which were included in our letter to the City of St. Paul Park dated February 24, 2003. It appears that the majority of those concerns were not addressed in the current Draft AUAR. What follows are comments and questions that reiterate and elaborate on our earlier environmental concerns with the Rivers Edge Project.

Major Concerns and Recommendations within the Mississippi River Critical Area and National River and Recreation Area Corridor

The Mississippi River and adjacent Corridor lands in the Twin Cities Metropolitan Area was designated as a state Critical Area in 1976 to protect and preserve a unique and valuable national, state and regional resource for the benefit of the health, safety and welfare of the citizens for the state, region, and nation; prevent irreversible damage to this state, regional, and national resource; preserve its natural values for public use; and protect and preserve the biological and ecological functions of the Corridor. The same Corridor was also designated the Mississippi National River and Recreation Area (MNRRA) by Congress in 1988.

The proposed encroachment within 40 feet of the bluffline and other natural resources and construction on slopes greater than 12% will negatively affect the ecology of the river corridor by fragmenting habitats into isolated and small patches. There will be a loss of total habitat area and the resulting small patches will be less capable of supporting intact and diverse biotic communities. The corridor functions have been diminished by past activities and the proposed project will contribute further to cumulative impacts. We recommend a greater minimum bluffline setback for all

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development of at least 100 feet, slopes greater than 12% be protected without exception, and the setback area be restored through the removal of exotic plant species and planting of native species. Doing so would improve and protect the natural community functions, be more consistent with Critical Area and MNRRA Corridor goals, and provide an excellent amenity to be enjoyed by all of the residents of the community.

Item 6. Description

The statement on page 5, "under Scenario One, the bluffs, shoreline, and islands would remain in private ownership and ownership would be divided amongst 19 riparian lots owners," cannot be stated as fact or an assumption for one scenario consistent with the adopted comprehensive plan for that land. The comprehensive plan approved by DNR requires that all development will be consistent with Critical Area standards. For development of commercial, industrial, residential subdivisions, or planned developments, the developer is required to dedicate reasonable portions of riverfront access land (or other lands in interest therein), or in the case of difficulties, contribute an equivalent in cash to be used only for public services within the corridor. The apportioning in this Draft AUAR of only 1 acre of Park/Recreation in Scenario One cannot be assumed and is contradictory to the Critical Area standards, existing plan, and ordinance.

The DNR requests a copy of the flowage easements applicable to the project property to inform staff of the permitted uses and protected areas applicable for Scenarios One, Two and Three. The document should clearly show the coverage of all flowage easements, the rights held by the U.S. Corps of Engineers, and the rights of the property owner.

The existing zoning does not say that each riparian lot owner has the "right to access the river by constructing stairways, lifts, and/or landings," as stated on page 5, but rather that stairways, lifts, and landings are permitted encroachments into setback areas and are the only permitted alterations for achieving access up and down bluffs and steep slopes to shore areas. Although exceptions from setback requirements are permitted with stairways, approval would be dependent on compliance with all other existing zoning provisions such as general development standards, vegetation management, erosion control, and grading/filling prior to approval, as well as county shoreland ordinance design requirements.

Additionally, the "right to locate a dock in the shore area" is tempered by compliance with MN Rules, part 6115.0210 for structures in public waters that must be met by all owners. It is the goal of the DNR to limit the occupation of public waters by offshore navigational facilities in order to preserve the natural character of public waters and their shorelands.

In order to adequately compare and evaluate the scenarios presented, the land use categories in Tables 6-2, 6-3 and 6-4 should be as consistent as possible for non-residential uses. Each table should include separate acreages for open water, river islands, floodplain, bluffs (all slopes greater than 18%, as defined by Critical Area), and existing and potential roads. However, if Scenarios Two and Three have the "identical" footprint on the land of proposed building locations, as stated on page

25 (Item 10), Scenario Three has little meaning as an alternative scenario of urbanization since there is little difference in impacts on the land.

The DNR has concerns about the calculations and the discussion of River Open Space on page 8. Under the Shoreland, Floodplain, Critical Area and Public Waters Permit programs, all 226 acres of the proposed river open space are already unbuildable. (According to information provided by Dahlgren, Shardlow, & Uban, Inc., 145 acres are in water below the Ordinary High Water Level (OHWL), approximately 63 acres are unbuildable floodplain islands, 11 acres are generally steep slopes and bluffs and approximately seven acres are mainland shoreline.) The Shoreland Management Rules require 50% open space for Planned Unit Development (PUD) approval. The preservation of water does not receive credit for calculating this required percentage. Under the proposed development scenario, the upland will be nearly 100% developed, which is contrary to the premises of cluster/PUD developments. Commercial PUDs must protect 50% of the shore impact zone in its natural or existing state. To receive full density bonuses, the setbacks of structures must be set back 50% greater than the minimum setback. Impervious surface coverage is limited to 25% in the Shoreland Management District. If the river open space system is 34% of the total project area, what percentage is the river open space system of the net developable area (i.e. lands able to be developed under all existing ordinance provisions)? What is the acreage and location of lands that will be publicly dedicated?

The bluff above the harbor on the north side is not appropriate for structure development described as part of the Village Center Mixed Use area. This area would be better preserved as passive recreational use for the enjoyment of the public and residents who will use the open space and trail connections.

Public workshops held by the developer and consultants have provided illustrations of private ownership and private lot lines of the lands south of the bay, similar to those depicted in the AUAR for Scenario One, riverward of the bluffs and shoreline. Will there will be private ownership and private lot lines similar to Scenario One anywhere in the riparian lands within Scenario Two or Three, or will the publicly-dedicated River Open Space include all shorelines, bluff, and bluff setbacks south of the bay?

The document does not properly address the impact of the location of large structures within the close-to-surface bedrock areas of the property. Rock must be mined out in a number of locations in order to install utilities and to build structures. The potential impacts to groundwater and the susceptibility of the fragmented limestone bedrock to potential contamination has not been adequately addressed.

Item 7. Project Magnitude Data

The document implies that the acreage of existing bluffs will not change from Scenario One to Scenario Two and Three, and that no bluffs currently protected will be developed. However, Item 14

states that currently protected bluffs (as defined by Critical Area) are proposed to be graded and/or developed. There are other references in the document to uses within the floodplain. Development intentions for bluff and floodplain areas need to be made clear.

Item 8. Permits and Approvals Required

The Department of Natural Resources items listed on page 16 should be corrected as follows (add underlined text):

Critical Area and Comprehensive Plan Amendments affecting lands within the Critical Area Corridor
Ordinance Amendments affecting lands within the Critical Area Corridor

Additionally, the following approvals must be added to the DNR list:

Shoreland Management District Ordinance Amendments for Washington County
Shoreland Management District Ordinance for St. Paul Park following annexation
Planned Unit Developments within Shoreland Management District of St. Paul Park

Item 10. Cover Types

A field visit by DNR staff on May 29, 2003, confirmed that the most significant native plant communities on the site are the floodplain forest, seepage areas, and cliff communities associated with the river, as mapped by the Minnesota County Biological Survey and summarized on pages 18-24 of the draft AUAR, with one exception. There is also an area of intact dry oak savanna near the mapped cliff communities on the north side of the proposed river access site, just above the river. This area includes bur oaks and northern pin oaks with open-grown savanna forms and an understory of relatively diverse dry oak savanna native plants, including pussytoes, starry false Solomon's seal, northern bedstraw, wild lily of the valley, and rock cress.

The protection of this oak savanna area, the cliffs, the floodplain, and the seepage areas are dependent on setbacks that ensure that there will not be erosion, invasion of non-native exotic species, unregulated foot traffic, and impediments to burning the savanna. A 40-foot bluff setback is not adequate for protection of these resources. Construction of a road and turn-around area to the river access would disturb an area of floodplain forest with a diverse native understory. Construction of a structure north of the proposed river access area and near the oak savanna could have strong negative effects on the native plant communities in this area. The Park and Open Space Concept Plan in Figure 25-1 essentially sets aside some of those areas that cannot be developed due to slope and floodplain restrictions and does not adequately protect these important habitats.

The most effective protection of the bluffs and floodplains would be to establish a much larger setback and permanent protection of the sensitive areas through a conservation easement or fee title owned by an organization or association that would manage the site as a natural area.

The dry prairie areas mapped in Figure 10-1 are accurate. They are small and have been heavily

impacted by past land uses. However, the prairie area near the railroad tracks at the north end of the site could be significant if the adjacent prairie to the north were protected and the whole grassland managed with controlled burning to decrease exotics and increase natives. It could potentially support rare animals such as loggerhead shrikes if managed and protected properly. Developing the flat areas at the top of the slope would fragment the grassland and make it very difficult to manage in the future.

As previously noted in Item 6, the assumption that no public ownership is contemplated, as mentioned again on page 25, is incorrect because of the public dedication requirements in the DNR-approved comprehensive plan. The DNR approval for that Plan was also contingent on ensuring permanent protections of other sensitive land and water resources identified in the Plan through ordinance amendments.

Information provided on page 25 regarding existing areas in private ownership regulated by Grey Cloud Island Township ordinance needs to also include presently undeveloped islands, natural habitats, backwaters, natural drainages, significant vegetative stands, and shorelines. Additionally, "converting existing land cover to another use for the area outside the protection zone" can only occur if the proposed conversion is to another permitted use and if the new use is in compliance with all provisions of the ordinance and conditions for site plan approval.

Options are currently available for enforcing the clean up of the dumps/storage areas for any noncompliance with the township's and county's ordinance provisions for exterior storage, refuse, and nuisances, rather than depending on a future overall development plan to clean up those areas.

Figure 10-2 does not depict the potential public dedication, all areas that are protected by the plan and ordinance, all slopes greater than 18%, nor all 40-foot setbacks from slopes greater than 18%. Additionally, Figures 10-3 and 10-4 do not include all slopes greater than 18% nor all the 40-foot setbacks from slopes greater than 18%. These items must be included for adequate review.

Also on page 25 under Scenario Two/Three, the characterization of "minor" deviations is subjective and will be effective only after a DNR approval decision as to the consistency of these proposed amendments with Executive Order 79-19. As noted above, Scenario One cannot be assumed to not have "much of the river open space system in public ownership and/or conservation easements." Comparison of Scenario One (Fig. 10-2) to the impacts of Scenario Two/Three (Figures 10-3 and 10-4) is skewed without full disclosure of potential private lot lines and parcels in Scenarios Two and Three.

The City's ordinance has not been upgraded and approved to implement the required bluff setbacks in the DNR-approved Comprehensive Plan affecting lands within the Corridor. The Draft AUAR has also described other uses that are proposed to be located within the 40-foot setback area in the entire project area. Those should not be omitted whether in St. Paul Park or Grey Cloud Island Township,

but added and acknowledged in this item.

Where in the township's ordinance is the stated consistency for roads and parking areas within the 40-foot bluff setback area, given all pertinent applicable provisions?

Item 11. Fish, Wildlife, and Ecologically Sensitive Resources

The Draft AUAR says no dredging is planned. However, recent conversations between DNR staff and the proposer/consultants have been to the contrary, alluding to future dredging for the river access area. A public waters permit will be needed for any dredging.

If there is a potential for dredging in the future, the AUAR needs to include information on the following:

- demonstration of need
- proposed depths, proposed cubic yards to be removed
- specific location of proposed dredging
- bathymetry
- detailed habitat; aquatic plant diversity; bottom substrate
- mussel survey
- analysis of sediment quality and characteristics because of the high risk of contamination
- alternatives and next steps if sediments are contaminated
- maintenance needs

Item 12. Physical Impacts on Water Resources

The document indicates on page 32 that a "...wetland delineation will likely be conducted during spring." The DNR would like to know if this has been done. If this information exists, it should be included in the AUAR.

We would like to know the alternatives considered for routes and locations of outfall structures. How do proposed routes provide rate control? (See other comments below on information also needed in the AUAR for stormwater components.)

The document notes the existence of seepage areas on the site. The primary seep is on the southeast side of the bay. It contributes to an intact, although not diverse, seepage meadow. A second seep is in the riparian area in the northwest part of the site. There may be other seeps as well. Although usually not protected by laws and ordinances, these features are ecologically important, particularly when they support plant communities.

According to the document (page 32), Dr. E. Calvin Alexander reviewed site information and is uncertain about the origin of the seeps; they may receive some water from the Jordan aquifer. In spite of this uncertainty, the document contends that a 70-foot buffer surrounding the seepage areas and springs and the preservation of 226 acres will minimize impacts to the seeps and springs. Lacking

a detailed analysis from which informed conclusions could be drawn, DNR staff has to conclude that this is speculation. There's no reason to believe that impacts will be minimized. It is possible that the land surface area contributing to the Jordan aquifer extends well east of the study area's boundary, in which case cumulative impacts come into play and should be addressed. This project, along with past and future developments in this part of Washington County all contribute to the alteration of recharge rates to the Jordan aquifer (or, possibly, the direct recharge of the seeps). It should also be noted that most of the 226-acre preservation area is down gradient of the springs (including islands and Mississippi River backwaters) and is unlikely to contribute to the seeps. Further information is needed on how the seepage areas and springs will be impacted and what the possible impacts may be to the seepage areas and springs for each of the development scenarios.

The AUAR also needs to include the following information:

- dye testing of the surficial groundwater table
- detailed groundwater analysis to determine which areas (within or outside of the project area) affect the seeps; alter the recharge rates; or provide groundwater recharge
- analysis of the impacts on the seepage areas and springs by the excavation of the dolostone for the utilities, grading, and development throughout the project
- analysis of the impacts on the seepage areas and springs by the proposed boat ramp, docks, and increased public access and boating
- analysis of the impacts on the seepage areas and springs by the proposed nearby two outfalls as shown in Figure 17-1 and stormwater components
- analysis of the impacts on the seepage areas and springs by additional water demand and additional wells discussed in Item 13
- analysis of the impacts on the seepage areas and springs by the proposed trails and by the proposed boardwalk
- analysis and information on the derivation of the AUAR's conclusion that the average 70 ft. buffer would minimize impacts
- detailed groundwater analysis to determine what optimal buffer width is needed to prevent impacts
- information on how the portions of the 226-acre open space area that are down gradient of the area will minimize impacts and how those portions upstream of the area will minimize impacts
- mitigation proposals to avoid and prevent adverse impacts
- any other alternatives considered

Discussion of the River Bay section (in Item 12 or Item 15) needs to include information on the proposed size and materials of the boat ramp and parking areas; proposed uses for the boat ramp; proposed location of the boat ramp and parking facilities; details of potential dredging (as mentioned in Item 11); a demonstration of need for the boat ramp and docks; proposed size, configuration, length, and location of docks; visual analysis of the docks, proposed number, types, and size of craft; duration of mooring and use of docks; location of the potential pond "destined to capture runoff from

the ramp"; the associated commercial uses with the access area; the associated fueling, repair, and storage areas; and alternatives considered for the boat ramp, docks and parking areas. Information is also needed on the impacts of the boat ramp and motorized boats for the potential for contaminants, introduction of exotic species, habitat disruption, and erosion of the islands in the area.

The paved boat access is unnecessary if kayaks, canoes and "small" fishing boats are the true intent. Owners of such boats do not need a paved road and turn-around to access the river. The more highly developed the access site is, the more likely other types of watercraft will try to use it. By developing the access site to a lesser degree, the need to cut through the bluff is greatly decreased if not eliminated. The Shoreland and Critical Area programs both require preservation of steep slopes and restrict grading activities. The Shoreland program prohibits structures and accessory facilities located within a bluff impact zone.

It is also possible that the commercial development above the access area will alter and perhaps eliminate the springs on the site. Certainly runoff from all hard surfaces will degrade water quality over time, even with storm water treatment. Trash from the commercial properties will also ultimately degrade the bay and shoreline areas.

Item 13. Water Use

The Draft AUAR does not adequately address water supply issues. A number of questions still need to be answered, such as: Where will the new wells be drilled to supply this development? Will seepage and spring areas be affected by this additional pumping? What aquifers will be used to meet this increased need and have those aquifers been tested to see if they can handle the additional pumping? Will any adjacent private wells be affected?

State law requires cities of over 1000 people to have and implement a water conservation plan. This plan will have to be amended to address the new growth. What conservation measures will the city require in the AUAR area? The DNR expects that the city will require extra conservation measures and these measures must be addressed in the mitigation plan.

Item 14. Water-related Land Use Management Districts

Under authority of the Critical Areas Act of 1973, the Mississippi River and its adjacent Corridor was designated a State Critical Area in 1976, reaffirmed through Executive Order 79-19 in 1979, and made permanent by action of the Metropolitan Council later in 1979. The purposes of designating the Mississippi River as a Critical Area include:

- a) protecting and preserving 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;
- b) preventing and mitigating irreversible damage to this resource;
- c) preserving and enhancing its natural, aesthetic, cultural, and historical value for public use;
- d) protecting and preserving the river as an essential element in the national, state and regional

- transportation, sewer and water and recreational systems; and
- e) protecting and preserving the biological and ecological functions of the corridor.

As noted in our February comments, Figure 14-1 incorrectly shows the boundary between the Rural Open Space District and the Urban Developed District. What is the source and date for that information? Was that source map approved by EQB Critical Area staff or DNR Critical Area staff as accurate? How does the boundary shown relate to the City of St. Paul Park's Plan, including the District classification, approved by EQB in 1982, and DNR in 1999?

The City of St. Paul Park does not have a state approved Shoreland Ordinance, but Grey Cloud Island Township does under Washington County. Washington County considers the entire pool (19-5) to be classified as a Natural Environment Lake. Therefore, it has a 1000-foot shoreland district, rather than the 300-foot shoreland district that is shown in Figure 14-1. The minimum Shoreland District setbacks are 150 feet from OHWL in sewered areas. The maximum building height within the 1000-foot shoreland district is 35 feet.

If areas in Grey Cloud Island Township are annexed to St. Paul Park under the Settlement Agreement, the property would retain the shoreland classifications prior to annexation and the city of St. Paul Park would be required to adopt a Shoreland Management ordinance that includes the Natural Environment standards from the Washington County Shoreland Ordinance. Under the current scenario of ownership, the DNR would need to approve the PUD for the portion in St. Paul Park and Washington County would need to approve the portion in Grey Cloud Island Township. Figure 14-1 needs to be corrected to depict the 1,000-foot shoreland district for unincorporated areas under the Washington County ordinance, rather than the 300-foot area shown.

Appendix E omits key ordinance requirements and reframes and reinterprets the organization and context. This Appendix should not be titled a Summary, but rather Excerpts. This is an unreliable document that could be used erroneously as the actual complete ordinance. This should be omitted, or heavily annotated and cautioned on each page that landowners must check with their local zoning official for complete zoning ordinances that may apply to their property.

Under the paragraph for Scenarios Two & Three, the second sentence needs to be corrected to say that the proposed Rivers Edge project is proposed to deviate from components of the township's existing land use restriction in the Critical Area, which are partially shown on Figures 14-2 and 14-3. The Figures and text do not include all deviations that have been proposed by the Draft Plan we received, dated December 20, 2002. The proposal for deviations is subject to a separate legal process of DNR approval and determination of consistency with Executive Order 79-19. The fourth sentence is an incomplete and misleading interpretation of Executive Order 79-19 and should be omitted.

We appreciate that the sixth sentence was quoted, but the Draft AUAR has not revealed any plans for such clustering on areas able to be developed. It appears that the design of Scenarios Two and Three

has instead massed the most intense uses and highest density structures within the Corridor, areas where such uses will have the most impact. No alternatives have been developed to mass the highest density and intense uses substantially away from the river and natural resources, or outside of the Critical Area Corridor. No alternatives have been proposed to permanently protect equal amounts of additional upland areas that are not already protected under existing laws.

The DNR needs to emphasize that in a separate legal procedure and timing, we will be reviewing all proposed amendments to plans and ordinances that affect lands within the Mississippi River Critical Area Corridor, including the District boundary modification, that are submitted by the City of St. Paul Park, Grey Cloud Island Township, and Washington County. The Standards and Guidelines in Executive Order 79-19 as well as Minnesota Statutes and Minnesota Rules, are required to be followed by all local units of government in the Corridor when preparing, updating, or modifying plans and regulations that affect lands within the Corridor. Following Metropolitan Council review, the DNR will review and determine whether the proposed amendments are consistent with Minnesota Statutes, Minnesota Rules, and Executive Order 79-19. When DNR has completed the review, the DNR will either approve the amendments or deny and return them to the local units of government for modification and resubmission to achieve consistency. A local unit of government can enact only the plans, regulations, and amendments affecting the Critical Area that have the written approval of DNR.

The AUAR needs to include the following information on the conservation easements referenced for bluff, island, and shoreline preservation:

- what they would accomplish
- specific locations covered
- what uses and activities would the easements allow and prohibit
- differences from existing ordinance requirements
- proposed holder of the conservation easement
- justification of higher protection if holder is not a governmental agency
- who would have rights of entry and use, and where
- who would have the authority to amend the provisions/contract
- how would violations be prevented
- acreage/proportion/number and location of lots that would remain in private ownership under the easement
- acreage/proportion/number and location of lots that would remain in public ownership under the easement
- duration as per MN Statutes
- how perpetuity would be guaranteed

What is the acreage and locations of slopes greater than 18% throughout the Corridor that are proposed to be altered, or structures or development placed on them? How is the alteration proposal consistent with the Executive Order standard for plans and ordinances to protect such slopes and

have them remain in their natural state, thereby achieving bluff conservation? Have the 40 foot setbacks from all slopes greater than 18% been complied with for the "alterations ... at the edge of two bluff areas"?

As noted previously, the assumption cannot be made that the bluff would have remained in private ownership or without conservation easements under Scenario One; nor the automatic right for stairways, docks, or island disturbance. Even if subject to a conservation easement, how much and where of the bluff, shoreline, and islands will be subdivided amongst property owners under Scenario Two and Scenario Three? If so, how will that preserve these areas under decentralized private ownership?

Regarding shoreline and river island conservation, again, the assumption cannot be made that 0% of the shoreline or river islands in Scenario One would not have been preserved. How do the conservation easements for the river islands differ from protections of the existing ordinance? What incompatible recreation activities are assumed to be currently allowed under Scenario One?

Regarding restoration, the AUAR needs to include:

- information on how the comprehensive stormwater management plan will minimize runoff, both rate and volume within the entire Corridor;
- information on how the stormwater management plan will improve the quality of runoff discharged
- outfall and ponds locations
- method of construction of outfalls
- impacts and locations of stormwater plan components, including ponds and outfalls, on slopes greater than 18%, existing vegetation, and views
- information on how the stormwater plan components (outfalls, pipes, ponds, etc.) minimizes site alteration within the Corridor
- alternatives considered for avoiding impacts and noncompliance with Executive Order 79-19 standards

Regarding land use for Scenarios Two and Three, the AUAR needs to include the following for each Scenario within the Corridor:

- specific locations, and number of units and acreage in each location for each of the following: single-family; multi-family Mixed Residential; and Village Center multi-family homes of contiguous land use areas in the Corridor
- location and number of units of potential Village Center Mixed Use
- location and percentage of the proposed 226 acres for open space that is able to be developed under current ordinances today
- separate acreage figures for each of the following: islands, floodplain, and slopes greater than 18%
- percentage of types of impervious surfaces in the Corridor (subareas if % varies from land

- use to land use); percentage of impervious surfaces on net developable area
- approximate number of acres to be graded or topographically altered, and approximate cubic yards moved

The AUAR needs to include a discussion of the impacts; appropriateness of location within the Critical Area that meets all purposes and guidelines; and consistency with applicable Executive Order standards for the following development proposals:

Village Center	10 acres commercial, including consistency with bluff protections, minimization of site alteration and runoff, retention of existing vegetation, site plan approval criteria 23 Acres senior or multi-family, including view standards, retention of existing vegetation, site plan approval criteria
parking areas	consistency with bluff protections, minimization of site alteration and runoff, retention of existing vegetation, site plan approval criteria
trails, scenic overlooks	consistency with bluff protections, vegetation retention, site plan criteria, site plan approval criteria
pedestrian boardwalk	location information, site plan approval criteria
boat launch/access	compatibility of surface uses with natural characteristics; impacts on lands above the ordinary high water level, site plan approval criteria
proposed vegetative alterations	- consistency with retention of existing vegetation throughout the Corridor; buffering, landscaping, and revegetation site plan requirements, site plan approval criteria
proposed topographic alterations	- consistency with minimization of site alteration throughout the entire Corridor; minimization of runoff, improvement of quality, site plan approval criteria
utilities, stormwater, sewer	for outfalls and infrastructure of new or enlarged pipes in Corridor inside or outside project: consistency with minimization of site alteration throughout the entire Corridor; minimization of runoff (volume and rate), improvement of quality; utility standards; site plan approval criteria; capital improvement or public facilities program standards

roads

internal roads within development
realignment of Co. Rd. 75 to parkway and traffic circles
future 95th Street connection
intersection of Co. Rd. 75 and Grey Cloud Trail

consistency with bluff protections, minimization of site alteration and runoff, retention of existing vegetation, site plan approval criteria, transportation standards; capital improvement or public facilities program standards

Under Scenario One, the public dedication of open space and recreational potential is a possibility.

Regarding the proposed deviations, steep slope alterations, does the acreage of areas to be altered include those slopes greater than 18% with proposed structures placed on them, or just those that are graded or filled? Are there slopes greater than 18% not shown that will be altered?

The Critical Area definition for bluffline (and bluff) is a line delineating the top of a slope connecting the points at which the slope becomes less than 18%. More than one bluffline may be encountered proceeding landward from the water. If the areas proposed to be altered contain slopes greater than 18%, they are considered bluffs under Critical Area Executive Order 79-19. The term "non-bluff" is erroneous and should not be used nor should the acreage be divided using that phrase as shown in the parentheses. If any referenced "ravines" are slopes greater than 18%, they are also bluffs and subject to all protections.

Figure 14-2 and its legend need to be changed to omit the term "non-bluff" and reflect the impacted slopes greater than 18% equally throughout the Corridor as bluffs. As noted, the "anticipated deviations" are not the only amendments that have been proposed to us that are preliminarily reviewed as inconsistent with Executive Order 79-19.

Figure 14-3 contains omissions of some slopes greater than 18% and omissions of 40 foot bluff setback areas (not shown as deviations either).

What is the use and purpose of each of the developments affecting slopes greater than 18%, including the building and road/parking areas shown on Figure 14-3? The road/parking areas are not located at least 100 feet from the OHWL. What is the alternative and demonstration of need for each of these particular developments to be placed on or alter slopes greater than 18%?

Which buildings in the Village Center are proposed to be 55 feet tall? What is the maximum height contemplated for "5 stories"? How will cutting of existing mature trees in order to obtain clear views of the river be prevented? (See Item 25 for additional comments.)

What is the purpose and use of the "small commercial building within the Flood Fringe district"? In addition to its demonstration of need for placement on slopes and within bluff setbacks, what is the demonstration of need for that placement?

Item 15. Water Surface Use

The AUAR needs to discuss the potential for a future new barge loading facility, as referenced in the Draft Critical Area Plan amendments sent to DNR for informal review.

When during the year does the depth in the bay average 2 - 4 feet? What is the time period expected for use of the bay from the ramps and docks without dredging, given depths of less than 1 foot experienced by DNR staff? If the purpose is canoes and small angler boats, how will the use by larger watercraft be prevented?

Item 16. Erosion and Sedimentation

On Figure 16-1 there are some omissions of slopes greater than 18% within the Corridor as defined by Critical Area on this map. A 2-foot contour map of the project site (without other elements that hide the contours), at a scale of 1 inch = 100 feet, will be required in order to accurately determine slopes, blufflines, and setbacks.

Tables 16-1 and 18-4 are inconsistent with Figure 16-2. Soil type number 1848B seen in Figure 16-2 seems to be missing from the tables and number 1847 is listed in the tables but not seen in Figure 16-2. The soil characteristics for slope also need to be made consistent.

The AUAR needs to address disposition and reuse of excavated dolomite and other earthen materials; location and length of storage of excavated materials; discussion of potential for commercial mining, as referenced in the Draft Critical Area Plan amendments sent to DNR for informal review.

Item 17. Water Quality – Surface Water Runoff

Related to the seep issue discussed above under Item 12, the mitigation plan on page 47 for impacts to surface water runoff states that the proposed development will not decrease the natural rate of absorption of stormwater and the quality of water infiltration to the water table will be as high after development as it was before the development of the site. The document does not, however, provide the required detailed analysis showing how these two outcomes will be achieved.

The AUAR needs to include an analysis of stormwater issues, including the quantity of site runoff before the project under a range of specified climatic events - peak flow and volume discharges; quality and quantity of site runoff after project; modeling used and results for fully developed conditions and "worst case scenario" for project subareas; modeling scenarios to bracket a range of flows under maximum and minimum conditions; amount of increase in impervious surfaces after the project; and an analysis of any existing and post-development runoff that is received from areas

outside the project area.

The proposed storm sewer river outfalls will require permitting by State and Federal agencies, not just permitting review.

Item 18. Water Quality - Wastewater

As noted in our February comments, a serious omission in this item that still needs to be discussed in detail in the AUAR is the relationship of the sewer system extension to the RGU's comprehensive sewer plan and to the Metropolitan Council regional systems plans.

Item 19. Geologic Hazards and Soil Conditions

Figure 19-1 does not show one or more pipelines crossing the southeastern portion of the AUAR property as described in Item 19. Correct to accurately show. See also rock mining comments in the last paragraphs of Items 6 and 16.

Item 25. Sensitive Resources

Figure 25-1 is inadequate in determining impacts on views within the Critical Area Corridor for all components of this project. Critical Area standards require minimization of interference with views of and from the river. The river includes all portions below the ordinary high water level, not just the main river channel. The AUAR must discuss and evaluate the impacts on views of and from all portions of the river. This should minimally include an array of views from potential vantage points of the bay, backwaters, main channel, National Park Service island, and all other public lands under:

- leaf-on and leaf-off conditions of existing vegetation and;
- leaf-on and leaf-off conditions of proposed retained vegetation following site preparation for each of the following:
 - the various types of proposed structures located in the Corridor including single-family, townhomes, rowhouses, four-plex to sixteen-plex, villas, senior housing, commercial uses;
 - potential structures throughout the project site at maximum heights of 35 feet, 45 feet, and 55 feet;
 - potential areas of clustered or massed structures;
 - the boat ramp and docks;
 - and proposed development within the setbacks.

Portions of this property are unique for their outstanding geologic features, including cliffs that overhang or drop straight into the river. Very few instances of these types occur in Minnesota outside of this vicinity, and are rarely seen again along the Mississippi River until Iowa. The AUAR must evaluate the impacts on these resources and include measures to avoid and prevent any impacts to these unique and fragile areas.

This stretch of the Mississippi River is unique to the Twin Cities metropolitan area in that it contains

geological and ecological conditions not found elsewhere in the area. The city and township should be encouraged to place high value on the water, landforms and plant and animal communities found along the river. The resources of value include the island, backwater channels, shore and bluff areas, cliffs, the woodland and grassland communities above the bluff, the backwater cove, and the springs and seepages. Cumulatively, these resources provide a diverse and robust complex of habitats. The destruction or diminishment of any part would effectively diminish the functions and values of the whole. In evaluating this project, the RGU should be careful to envision this as a whole system, not as parts that can be removed without paying a heavy ecological price. (Also see discussion in Item 14.)

The DNR is concerned that the alignment of a trail within or along the edge of the floodplain might be within the recommended secondary buffer zone for the eagle nest. DNR eagle guidelines recommend no human entry within that zone during the breeding season. No trail should be within the 660-foot buffer zone. In DNR's experience, it does not work to seasonally close a trail. People do not respect signs and resource protection requests. A trail should not be located in the lowland riparian areas. It may be acceptable to propose that the trail join up with the park land to the north of the site, but locating a trail in the uplands would be a preferred alignment.

Additionally, floodplains are inappropriate for recreational trails, whether paved or left natural. These trails will flood, resulting in trail damage and curtailment of public use at certain times. Often, the consequence is that the users then "blaze" their own route around the flooded portions. This will lead to continued and escalating costs for repair and degradation as erosion is often the result from trails in inappropriate sites.

A trail along the upland area, well set back from the bluff with an occasional "spur" to a vista or lookout over the river, would be more enjoyable, protective of natural resources (out of the bugs and the wetlands, away from the eagles and the more sensitive habitats) and less costly to maintain.

The AUAR needs to include alternatives considered for trails and the pedestrian boardwalk, and include an analysis of why trail impacts on wetlands cannot be avoided (as referenced in Item 12).

Item 27. Compatibility with Plans

As previously mentioned, the assumptions of Scenario One are incorrect and do not include all of the DNR-approved requirements in order for Scenario One to be compatible with the Plans. Scenarios Two and Three should indicate that the plans and regulations identified will be proposed to be amended.

Under Rivers Edge Comprehensive Plan Amendment, the AUAR omits information regarding DNR's approval over proposed amendments to Comprehensive Plans of the City of St. Paul Park, Grey Cloud Island Township, and Washington County approved by DNR in 1999 – 2001. Any proposed amendments to these local units of government's Comprehensive Plans approved by DNR, and any

other amendments to Comprehensive Plans that affect lands within the Critical Area Corridor, must be submitted, reviewed, and approved by DNR before becoming legally effective.

The height limitation of the current City of St. Paul Park Plan for the Mississippi River Critical Area Corridor is incorrect as stated on pages 66-67. The DNR's approval of the City of St. Paul Park's current plan did not approve that policy, nor accept the height limitation of all other buildings within the Critical Area to 45 feet. The approval stated that other changes would have to be made for the Urban Diversified District to approve 45 feet and for the Urban Developed District, 35 feet was most appropriate and amendments to that will not be approved. (Also see Item 14.)

It is possible there may be additional proposed amendments that reflect the Final AUAR, but the Final AUAR mitigation plan must commit to being consistent with and implementing all permit approvals and the DNR-approved plan amendments and ordinance amendments that implement the DNR-approved plan and Executive Order 79-19. The final DNR approval decision may differ from or be more restrictive than the final mitigation plan.

Item 28. Impact on Infrastructure and Public Services

Outfalls should be included in the summary of the stormwater system. This section should include discussion of the addition of other utilities such as electricity, phone and cable besides roads, sewer, stormwater, and water infrastructures.

Item 29. Cumulative Impacts

The RGU states, *no response is necessary because the entire AUAR process deals with cumulative impacts from related developments within the AUAR area.* This claim results in a missed opportunity for the RGU to fully explore the broader scope of activities that can affect a given resource. From the resource perspective, cumulative impacts are not limited to the effects of developments within a project site or study area. Cumulative impacts may in part arise from activities outside of these boundaries. If the AUAR's analysis were to include the corridor in Washington County, decision-makers should be able to see how much that corridor has been diminished by direct habitat loss and fragmentation resulting from past actions. That information (the effects of past actions) needs to be linked with the additional losses that will occur as a result of this project. To not require it would restrict the ability of the responsible governmental units to make fully-informed decisions regarding both the proposed project and future projects that may affect the same resources.

Item 31. Summary of Issues

The Executive Summary on Page vii is basically a project description and does not address EQB form guidance that "...major emphasis should be on potentially significant impacts, the differences in impacts between major development scenarios, and the proposed mitigation." Likewise, the draft Mitigation Plan is similarly weak, stating that development "may impact" various resources, not differentiating impacts between scenarios, and listing mitigation strategies that basically just comply with existing laws, regulations, and minimum standards. The Mitigation Plan and strategies must go

well beyond compliance by avoiding, minimizing, and compensating for environmental impacts to the Mississippi River corridor resources that are of regional, state and national significance.

Given that this project fits the mandatory EIS category and that MN Rules mandate that the AUAR must provide for a level of analysis comparable to that of an EIS, DNR is disappointed that the Rivers Edge AUAR items appear to be more descriptive and less rigorous in discerning impacts and analyzing alternatives than an EIS.

We request that the RGU notify DNR Waters Critical Area/MNRRRA Hydrologist Sandy Fecht (651-297-2401) upon receipt of applications for specific development projects and issues within the Critical Area and please contact Area Hydrologist Molly Shodeen at 651-772-7915 for projects and issues relating to Shoreland Management, Floodplain Management, Public Waters Permits, and Water Appropriations Permits.

Thank you for the opportunity to review this document. We look forward to receiving the Final AUAR and Mitigation Plan at a later date. Please contact me at 651-296-4796 with any questions regarding this letter.

Sincerely,

s/

Thomas Balcom, Supervisor
Environmental Policy & Review Section
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