



Friends of the Mississippi River

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

October 2, 2008

Chair Brian Alton
St. Paul Planning Commission
1400 City Hall Annex
25 W 4th Street
St. Paul, MN 55102

Dear Chair Alton and Planning Commissioners,

Friends of the Mississippi River (FMR) is a local non-profit organization that works to protect and enhance the natural and cultural assets of the Mississippi River and its watershed in the Twin Cities. We have 1,400 active members more than 300 of whom live in St. Paul and 3,200 volunteers who care deeply about the river's unique resources.

St. Paul is one of twenty-five metro cities that comprise our local Mississippi River National Park. The Park's history, ecology, and natural beauty are what make it such a special regional and national asset. The Critical Area regulations adopted by local governments are the National Park Service's only means of ensuring the Park's ecological integrity and natural beauty.

We have been generally impressed by the considered approach St. Paul has taken to revising its Critical Area zoning code. Yet as you finalize these standards, there are two pivotal questions we hope you ask of yourself.

First, how can we establish height standards that ensure the river valley's unique natural and scenic qualities will be protected for future generations? We will investigate this question in depth on the City's West Side, and then in the River Gorge along the City's western edge. Second, how can we create zoning districts that protect the river's natural and scenic values as systems, and conform to the intent of state Critical Area law?

Protecting the West Side's Expansive Vistas

The promise of the West Side Riverfront is defined by two core values that are deeply held across all planning for St. Paul's future. First, we want to revitalize our unique riverfront by developing several new urban villages. Second, St. Paul wants to protect the expansive sense of

place found in the Mississippi River Valley – a place of natural beauty that has defined our City since its earliest days.

Today, the Planning Commission is the steward of these two core values. Yet some suggest that we must sacrifice one of these core values for the other. It is suggested that in order to redevelop the river valley, we must sometimes allow tall structures and thereby erode the expansive sense of place that the valley evokes.

If we are to open a door to erode one of our enduring civic values, there ought to be a convincing reason. Can a convincing reason be found in what's happened on the West Side?

For most of this decade, a single developer – Trooien's JLT – has had almost monopoly control of the West Side riverfront, limiting opportunities to open up a new market for development. JLT has had a contract since 2001 to develop the HRA-owned riverfront between Wabasha and Robert Streets into over 1,000 units spread across many buildings. But JLT has shown the public no inclination toward timely development there. JLT's contract will expire at the end of this year, freeing up other possibilities for the riverfront. Consider: does JLT's inaction in developing the West Side Flats substantially reflect marketplace realities? Or rather does it reflect the unique priorities and influence of the area's dominant developer – a developer whose rights to much of the riverfront could soon expire?

The only other developer in the market with rights to the West Side riverfront has taken a very different direction. Just last Thursday evening, George Sherman met with WSCO community members about a new mixed use rental project he is proposing at the base of the Wabasha Street bridge. Sherman is confident his new project will honor the river-sensitive height requirements, while providing him the profit needed to make the project attractive.

The Task Force's original recommendations protected core visual values with consistent height standards for the West Side Riverfront. The bluffs along the river rise to a fairly uniform maximum height. The Task Force rightly proposed a maximum height of 60 feet to protect key views across the West Side Flats. We find no evidence that justifies opening a path toward weakening this height standard, and failing to protect a core civic value.

Yet the PED proposal opens a path for major exemptions to the Critical Area height standards. It's not hard to imagine key development interests on the West Side dominating every opportunity to take advantage of these exemptions. Once we begin to issue exemptions in certain circumstances, it will be very difficult to put the genie back in the bottle. We begin to erode a core civic value. Because PED's language is included in the draft language you will consider on Friday, we strongly urge the Planning Commission to amend Section 78.245(d)(2) back to the Task Force's original recommendation.

The River Valley - and the distinct sense of place that it imparts to our city - is part of St. Paul's appeal to residents and developers, and part of our enduring identity. We find there is insufficient justification to open a path toward weakened height limits, and whittle away at this core civic value. We urge the Commission to return to the Task Force's original recommendation, which does not create any loopholes in the Critical Area height standards.

Protecting the Gorge's Scenic Quality

For many of the same reasons we disagree with weakening the height limits on the West Side flats, we disagree with the height recommendations in the Mississippi River Gorge, along St. Paul's western boundary with Minneapolis.

Though it runs through the heart of the Twin Cities, this section of river is remarkable for its sense of remoteness and natural beauty. The few places that degrade this sense of nature are buildings that have been built to extend above the treeline – such as buildings near the Marshall Avenue Bridge, and the tower at 740 Mississippi River Boulevard in Highland Park.

These buildings were built before the City's current 40-foot height limit came into effect within the River Corridor. Once built, it will be generations before such buildings come down, and the sense of the river gorge is fully restored. The proposal before you today has a 48-foot height limit, and we believe that is too tall to protect core scenic values in the Mississippi River Gorge. We recommend amending section 78.245(c)(2) to reflect a height maximum of 40 feet in the CA3 zoning district, and most especially in the Mississippi River Gorge west of I-35E.

Zoning that Honors Natural (and Legal) Systems

Each property within the Critical Area gets both a traditional zoning designation and Critical Area overlay zoning designation. While traditional zoning is used to define land uses on a fine-grained lot-by-lot basis, Critical Area zoning is designed to address large-scale scenic, cultural and ecological systems.


State law defines four Critical Area zoning districts to accommodate development appropriate to the urban, suburban and rural sections of the river corridor. In St. Paul's proposed Critical Area zoning, each stretch of the corridor includes two or more zoning districts, that usually run in layers parallel to the river. FMR believes this approach does not meet the intent of the state Critical Area designation, which defines the four districts and their boundaries by Executive Order. Specifically, we are opposed to dividing the corridor lengthwise, and we oppose changing land currently within the Urban Open Space District to the less protective Urban Developed District. The zoning standards should relate to the overall visions for the natural systems in each stretch of the river valley, rather than the uses on individual parcels of land.

Perhaps more importantly, the Minnesota Department of Natural Resources (DNR) recently solicited a legal opinion from the state Attorney General's office about whether it is even permissible to alter the critical area zoning districts set out in State Executive Order 79-19, which first established the Critical Area framework. A September 16th, 2008 DNR letter to the City of St. Paul Park concludes, "After reviewing the prevailing statutes and Executive Order 79-19, and discussions with counsel and other division staff, we conclude the DNR does not have clear authority to change the Critical Area district boundaries."

We believe it is legally imperative that St. Paul retains its existing Critical Area zoning district boundaries, and that the proposed zoning maps be modified accordingly.

Through careful work, St. Paul has advanced a strong vision for its part of the Mississippi River National Park in the Twin Cities. We have provided suggestions we believe not only protect the natural, historic, and ecological values of the Mississippi River National Park, but also protect values shared deeply by St. Paul. We hope you take our suggestions in the clear spirit of cooperation and deep appreciation for your efforts. Please, don't hesitate to call me or FMR's River Corridor Program Director Irene Jones with questions at 651-222-2193.

Best regards,

A handwritten signature in black ink, reading "Whitney L. Clark". The signature is written in a cursive, flowing style with a large initial 'W' and a distinct 'L'.

Whitney L. Clark
Executive Director