
FINDINGS OF FACT AND RECORD OF DECISION

ENVIRONMENTAL ASSESSMENT WORKSHEET

for

Downtown East Commons/Urban Park Project

**Location: 415 5th Street South and 500 5th Street South, City of Minneapolis,
Hennepin County, Minnesota.**

Responsible Governmental Unit (RGU): City of Minneapolis

Contact Information:

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BACKGROUND AND SUPPORTING INFORMATION

On January 22, 2015, the City of Minneapolis received a petition forwarded from the Minnesota Environmental Quality Board (EQB) that had been filed by Jerald Bahls, the petitioner’s representative. The petition requests the preparation of an Environmental Assessment Worksheet (EAW) for the project known as the Downtown East Commons/Urban Park Project proposed at 415 5th Street South and 500 5th Street South. The EQB determined that the City is the appropriate Responsible Governmental Unit (RGU) for the decision on the petition (Attachment 1). The EQB published the notice in the EQB Monitor on January 19, 2015, that the City was assigned as the RGU pursuant to Minn. Rules 4410.0500 subp. 3. The full petition and associated petition materials have been attached for reference (Attachment 2).

It is undisputed that the proposed project does not meet any of the mandatory EAW categories contained in Minn. Rules 4410.4300. Minn. Rules 4410.1000, subp. 3(B) indicates that a discretionary EAW shall be prepared in response to a citizen petition only when 1) the proposed project is not exempt under Minn. Rules 4410.4600 and when 2) the RGU determines that the proposed project may have the potential for significant environmental effects. Minn. Rules

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4410.4600, subp. 2 states that projects for which environmental review has already been completed are exempt from any additional review, including a citizen petition for an EAW. This Rule also exempts projects for which all governmental decisions have been made.

These exemptions make sense in light of the purpose behind the environmental review program, which is to disclose information about environmental effects and potential mitigation measures that can inform future governmental permitting decisions on a project. The utility of the program lies in the disclosure of information. The program itself has no approval authority over a proposed action, has no authority to enforce mitigation measures, and does not give any governmental unit authority over the decisions of others. In this manner, action or project approval and construction must take place in the future for the environmental review program to apply.

A. PROJECT DESCRIPTION

The project site is located on the one and two-thirds blocks located at 415 5th Street South and 500 5th Street South in downtown Minneapolis. The subject site currently contains a surface parking lot and the Star Tribune headquarters building. In December of 2013, the Minneapolis City Council approved development plans for the Downtown East Planned Unit Development (PUD) which included approximately 1.5 million square feet of office space, approximately 20,000 square feet of commercial space, 203 dwelling units, a principal parking facility and a park. As part of the approvals, Ryan Companies US, as the developer of the PUD, is required to deliver a basic park including seed and/or sod, sidewalks and street lights around the two blocks (Attachment 3).

Subsequently, in February of 2014, the Minneapolis City Council approved a Development Agreement between the City of Minneapolis, Ryan Companies US, and the Minnesota Sports Facilities Authority (MSFA) which further defined the design enhancements for the basic park. Those enhancements included standards comparable to Gold Medal Park, including mature trees, seating, lighting and pavement treatments, but without the mound as developed in Gold Medal Park. The design is to provide for flexible programming of the space with an open core with any permanent structures being located towards the perimeter of the park. At this time no further plans for the park, other than the plans Ryan Companies US submitted as part of the PUD application (seed and/or sod, sidewalks and street lights around the two blocks), have been submitted for review. Since the PUD has already been approved, which includes the basic park, no further review is required.

In January of this year the City of Minneapolis authorized staff to enter into a contract with Hargreaves Associates to begin the design process for both an “Opening Day Commons” and an “Ultimate Commons” park design. It is anticipated that the “Ultimate Commons” design will need to be reviewed as an amendment to the approved PUD by the City Planning Commission. The “Ultimate Commons” park should be completed in time for the February 4, 2018, Super Bowl so any necessary reviews must happen well in advance of this date.

Prior to the land use application process commencing for the PUD, the City of Minneapolis, as the RGU, ordered and the EQB approved that an Alternative Urban Areawide Review (AUAR)

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for the development be conducted. The boundaries of the AUAR include the Downtown East Commons/Urban Park Project. The AUAR is an alternative method of environmental review that substitutes for any EAW or Environmental Impact Statement (EIS) required for individual projects within the AUAR boundary. Minn. Rules 4410.3600, subp. 2 states, “[i]f the EQB accepts a governmental unit's process as an adequate alternative review procedure, projects reviewed under that alternative review procedure shall be exempt from environmental review under parts 4410.1100 [citizen petition for EAW] to 4410.1700, and 4410.2100 to 4410.3000.” The AUAR was adopted by the Minneapolis City Council on November 1, 2013, including the plan for mitigation (Attachment 4). The mitigation plan identifies the regulatory requirements and/or mitigation measures needed in order to reduce the level of potential impact of development. Because the Downtown East Commons park project was included in the AUAR, it is exempt from now completing an EAW as urged by the petitioner(s).

B. ARGUMENTS OF THE PETITION

The petitioner cites two criteria that they believe will result in the potential for significant environmental effects should the project be constructed which include:

- (1) The potential to release potential hazardous material from, around and under the many buildings that will be demolished; and
- (2) The construction of a building containing about 190,000 sq. ft. of highly transparent and reflective glass adjacent to this proposed park in one of the largest migratory bird flyways in the world is a matter of very grave concern.

It is undisputed that the project does not meet any of the mandatory EAW categories contained in Minn. Rules 4410.4300; therefore, it is implied that the petitioner is urging the City to order the preparation of a discretionary EAW. However, as noted above, environmental review for the Downtown East Commons/Urban Park Project has already been conducted via the AUAR for the PUD and therefore the project is exempt from additional review.

The petitioner indicates that the park will be adjacent to the MSFA stadium that contains highly transparent and highly reflective glass that is known to result in bird-window collisions that result in migratory bird deaths. The Department of Natural Resources (DNR), among other agencies, received and had an opportunity to comment on the AUAR. The DNR did comment by saying that they had no comments. No other agency provided comments pertaining to migratory bird flyways. No environmental impacts pertaining to birds were identified through the AUAR process that was done for the PUD, so there are no specific mitigation steps identified.

The environmental effects associated with the construction of the Minnesota Multi-Purpose Stadium were addressed through the EIS that was completed by the MSFA as the RGU for that project in July of 2013. As part of that review the MSFA met with representatives of the Audubon Society to discuss potential mitigation measures to minimize bird impacts. In response to these conversations, the MSFA agreed to implement operational measures to minimize interference with migrating birds, such as turning off stadium lighting during the overnight hours in the spring and fall (Attachment 5).

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The City of Minneapolis approved the design for the stadium in August of 2013. Because environmental review for the stadium was completed and governmental decisions permitting the structure have been made, the stadium is also exempt from the citizen petition for an EAW. There is nothing that can be done via this citizen petition by the City to require the developer of the stadium to implement any mitigation measures related to birds.

The petitioner also notes that the park property will be acquired land that is part of an industrial development district intended to address blight caused by marginal property and thus must be investigated for the presence of potential hazardous materials. The environmental effects identified in the petition are localized, and have and can be mitigated through the existing regulatory process. A Phase I Environmental Site Assessment (ESA) was conducted as part of the AUAR process for the PUD and found that 26 petroleum underground storage tanks (USTs) were reported to have been previously removed and two release sites from the USTs were reported on the block located at 500 5th Street South. Abatement will also need to be done as part of the demolition of the Star Tribune headquarters building in order to remove any regulated materials. As part of the development process, the applicant is required to coordinate with the Minnesota Pollution Control Agency (MPCA) regarding the required plans, material handling and disposal of demolition materials and is required to operate consistently with the MPCA's Voluntary Investigation and Cleanup (VIC) Unit's policies and procedures relating to the investigation and remediation of hazardous substances, in any are identified.

DECISION ON THE NEED FOR AN ENVIRONMENTAL ASSESSMENT WORKSHEET

Based on the information in the above analysis, the City of Minneapolis concludes the following:

1. This "Findings" document and related documentation were prepared in compliance with the procedures of the Minnesota Environmental Policy Act and Minnesota Rules, Parts 4410.1000 to 4410.1700.
2. The project at issue, the Downtown East Commons/Urban Park Project, does not meet any of the mandatory EAW thresholds contained in Minn. Rules 4410.4300.
3. The Downtown East Commons/Urban Park Project is exempt from preparation of an EAW pursuant to Minn. Rules 4410.3600, subp. 2. The Minneapolis City Council adopted an AUAR for the PUD on November 1, 2013, including the plan for mitigation.
4. The Minnesota Multi-Purpose Stadium project is also exempt from the petition pursuant to Minn. Rules 4410.3600, subp. 2. Environmental review was completed, governmental review was completed, and substantial construction has already been completed for this project.
5. Any alleged effects pertaining to hazardous materials are localized and will be addressed through the existing regulatory process.
6. The City of Minneapolis makes the finding that the petition for an EAW for the Downtown East Commons/Urban Park Project on the properties located at 415 5th Street South and 500 5th Street South is denied.
7. The City of Minneapolis City Council shall adopt the proposed Findings of Fact and Record of Decision document.

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Attachments:

- 1) Letter from the EQB
- 2) Citizen Petition and supporting materials
- 3) Approved basic park site plan
- 4) AUAR mitigation plan and related comments
- 5) Excerpts from the Final EIS for the Minnesota Multi-Purpose Stadium