

**AVAILABILITY OF THE FINDINGS OF FACT AND RECORD OF DECISION
REGARDING THE SCOPING DECISION DOCUMENT FOR THE PILLSBURY A MILL
COMPLEX PROJECT ENVIRONMENTAL IMPACT STATEMENT**

After the City of Minneapolis prepared an Environmental Assessment Worksheet (EAW) for the Pillsbury A Mill Complex Project (Project), the Minneapolis City Council and the Mayor ordered the preparation of an Environmental Impact Statement (EIS) for the Project (7/8/04). The next step is the preparation of a Scoping Decision Document which describes the issues, impacts, and the alternatives to be addressed in the EIS; the expected schedule for completion; and any studies that are necessary.

St. Anthony Mill, LLC is the Project proposer. The site is on the east bank of the Mississippi River in Minneapolis, Minnesota and is bounded north and south by 2nd Street SE and Main St. SE, east and west by 3rd Avenue SE and 6th Avenue SE. Upon full development, the site would contain 1,095 residential units, and 105,000 square feet of commercial space. The proposed Project will consist of nine new residential buildings with 1,798 internal and 34 surface parking stalls for residents and visitors. Some ground floor retail spaces will be provided for resident and neighborhood amenities. The site features several noteworthy historical buildings, which are scheduled to be renovated and reused to accommodate housing and commercial tenants, and the demolition of the existing white concrete elevators which are also historic. The new construction will vary in height from 8 to 27 stories and will include a landscaped plaza, fronted by townhouses.

Documents related to the EAW and the EIS Scoping Decision for the Project are available for review at the downtown Minneapolis Public Library located at 250 Marquette Ave, the Southeast Community Library located at 1222 SE 4th Street, and in the office of the City Planning Division at 210 City Hall. Documents related to the EAW are also available on the City of Minneapolis web site:
<http://www.ci.minneapolis.mn.us/planning/pillsbury-mill.asp>

The Zoning and Planning Committee of the City Council will consider the draft Scoping Decision Document at its regular meeting on 8/26/04. The meeting begins at 9:30 am in Room 317 City Hall, 350 S. 5th St.

For further information, contact J. Michael Orange, Principal Planner, Minneapolis Community Planning and Economic Development Department—Planning Division, Room 210 City Hall, 350 S. 5th Street, Minneapolis, MN 55415-1385, by telephone at 612-673-2347, or E-mail at michael.orange@ci.minneapolis.mn.us.

**If you need more information or have special needs, please call the
Minneapolis Planning Division at 612-673-2597.**

FINDINGS OF FACT AND RECORD OF DECISION
For the
SCOPING DECISION DOCUMENT
Prepared for the
PILLSBURY A MILL COMPLEX PROJECT
ENVIRONMENTAL IMPACT STATEMENT
First distributed 8/19/04, approved by City Council and Mayor 9/9/04

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A. Purpose of this Report

After the City of Minneapolis prepared an Environmental Assessment Worksheet (EAW) for the Pillsbury A Mill Complex Project (Project), the Minneapolis City Council and the Mayor ordered the preparation of an Environmental Impact Statement (EIS) for the Project (7/8/04). The Project site is bounded on the north and south respectively by 2nd Street SE and Main St. SE, and on the east and west respectively by 3rd Avenue SE and 6th Avenue SE.

This document is the “Findings” Document for the Draft EIS Scoping Decision Document. It describes the public comments received regarding the Draft Scoping Decision Document at the Public Comment Meeting and in written form, and provides responses to them. (Exhibit 2 includes the written comments received and Exhibit 3 is the sign in sheet.) It also provides the official Record of Decision for the Scoping Decision portion of the EIS process (Exhibit 1). It has been prepared consistent with Minn Rules 4410.2100.

This document will be distributed on 8/19/04 to the Official EQB Mailing List and the Official Project Mailing List developed for the Project (refer to Exhibit 4).

B. Public Comment Meeting on the Draft Scoping Decision Document and Responses to Comments

The City of Minneapolis held a public comment meeting on the Draft Scoping Decision Document. The meeting was opened at 5:10 pm with a summary by staff of the purpose of the meeting, the immediate schedule of City Council meetings where the proposed scope of the EIS will be discussed and approved, and the overall schedule for preparation of the EIS that is provided as Attachment 2 in the Draft Scoping Decision Document. Staff also reviewed the proposed scope noting that the issues and studies are those specifically ordered by the City Council in its July 2, 2004 action ordering an EIS be prepared for this project. This Council action is provided in the Draft Scoping Decision Document as Attachment 1. Staff went on to describe the three areas for additional study designated by the City Council:

- The historic impacts, both on the District and the A Mill complex buildings;
- The conformance or conflicts with adopted State Plans and statutes for the Critical Area and Shoreland area, the Federal Comprehensive Management Plan for the Mississippi National River and Recreation Area, and the City's adopted plans for the area; and,
- The issues related to the stationary source emissions generated by the University's steam plant and the potential for stormwater infiltration that may affect that plant.

Staff also reviewed the four build alternatives and the no action alternative proposed for study. The meeting was adjourned at 6:15 pm.

The following summarizes the comments received and staff responses to those comments:

1. Bill Huntzicker, 415 8th St. SE.

Mr. Huntzicker confirmed the elements of the process and the schedule, and the incorporation of statements and information provided during the EAW review process.

Staff response:

Staff confirmed that all previous materials and comments are part of the public record. They will be available for use by the public and staff as they consider and participate in the process of local land use approvals under the City's procedures that will follow the completion of the EIS process.

2. Michael Norton, 470 Pillsbury Tower, representing Bluff Development

Mr. Norton stated they would be providing written comments on the proposed scope, and had these comments and questions on these elements of the proposed scope of the EIS at the public meeting.

1. The detail provided in the Draft Scoping Decision was inadequate to allow meaningful review of the proposed scope of the EIS by not defining the specific studies to be conducted and the consultants who will conduct them.

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2. Mr. Norton interprets the Council's action to require the City to prepare a specific "master plan" for the project site that the City could adopt. This plan will guide the City's subsequent land use approval decisions. He stated that the proposed scope will not lead to the development of this "master plan."
3. The proposed accelerated time line will not permit preparation of a credible and adequate Draft or Final EIS.
4. The scope does not encompass the importance of the phasing of the project or binding incremental development to the adopted plan for the development of the site.

Staff response:

1. **Level of detail:** The proposed scope of the EIS was prepared and distributed under EQB Rules at 4410.1700 Subp. 3. The proposed scope outlines the issues to be addressed in the EIS and the other information required by EQB rule 4410.2100 Subp. 6. Attachment 1 to the Draft Scoping Decision provides additional background and information on the topics and studies necessary to complete the EIS. The consultant team assembled to prepare the extensive Pillsbury A Mill EAW and its amendments will continue in the preparation of the EIS. An internal outline of the work items and process has been prepared by staff to guide the consultants and City staff involved and to test the feasibility of the proposed schedule.
2. **Development of a "Master Plan:"** The EIS process will not result in a single, detailed master plan for the development of the site. That plan for development of this site will be the City approved plan for development of the site, most specifically in the planned unit development (PUD) plan that would be adopted as part of City's approvals. The local process that will lead to that plan begins upon completion of the EIS process. The EIS process will provide investigation, analysis, and additional public comment. This information will be used in the evaluation of the four alternatives for the development of the site identified in the proposed scope for the EIS. Informed by this analysis, the proposer will prepare their plan for the development of their site and submit it to the City for review and approval. The information in all the environmental documents generated by the environmental review process (including the EAW documents) will be available to the City and the public in its review for possible modification of the developer's plan prior to granting the necessary land use approvals for development of this site.
3. **Schedule for review:** Given the information about the site gained from the EAW process staff believes the schedule is reasonable and possible. If a credible and adequate document cannot be prepared on this schedule, the process will be postponed. We are confident any postponement would be measured by and limited to the two week period enforced by the *EQB Monitor* publication schedule.

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4. **Regulating the actual, not planned, development of the site:** The consistency of the actual development of the site, including implementation of its approved envelope, character, phasing, and mitigation is the function of the City's regulations. The City's implementation of its approved development plan for this site will be assured by its ongoing regulatory authority, and specifically its Planned Unit Development regulations and subdivision and platting authority, which will reinforce the City's zoning authority. These controls are designed to apply to the original owner of the site and any subsequent owners of all or any portion of the site. These controls, like all City land use controls, are subject to future amendment by the petition of the owner and approval by the City.

3. **Jan Morlock, University of Minnesota**

Ms. Morlock asked for additional detail on the nature of the additional studies on the steam plant emissions and how the studies in the EIS will differ from the studies done as part of the EAW process. She also asked how the other previously identified issues and concerns of the University beyond the issues of stationary source emissions and groundwater infiltration will be addressed.

Staff response:

Staff responded by providing a summary of the internal work program on the specific issues she identified. Staff advised the University to specifically request the City Council include any additional issues in the scope for the EIS.

C. Written Comments Received and Responses to those Comments

The following summarizes the three written comments received and responses to those comments (Exhibit 2 includes the letters):

1. **Jeff Smyser**

Mr. Jeff Smyser's comment concerns the project and not the scope of the EIS. No further response is warranted.

2. **Dennis Gimmestad, State Historic Preservation Office**

1. We will appreciate the opportunity to consult with the city as the issues and impacts to be addressed in the EIS are further developed. This will ensure full consideration of the description of historic resources, the impacts to those resources, and appropriate minimizing/avoidance measures for impacts, as outlined in our 3 March 2004 comment letter on the Environmental Assessment Worksheet.
2. With regard to the selection of alternatives to be considered in the EIS:

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- a. It is important that an additional alternative which incorporates the preservation of the concrete grain elevators is included for study. As we have indicated previously, removal of these elevators, which contribute to the historic district, should be one of the primary effects analyzed in the EIS. Without the investigation of an alternative that would preserve the elevators, there will be no consideration of how to avoid the effect of demolition (or justification for demolition if preservation of the elevators is judged to be infeasible).
- b. I would also urge that the design for proposed alternative #4 encompass a lower density development which retains the primacy of the height and massing of the historic mill buildings along this stretch of the river. This approach probably means that only one or two buildings will match the height of the red tile elevator. Such an alternative provides a meaningful comparison with a very different scale of development for this part of the riverfront.

Staff response:

1. City staff will continue to share information as it is developed with those interested in this project and to consider fully all suggestions. The work program under development for the EIS will detail a collaborative process that staff will follow.
 2. a. A new proposed alternative reads as follows: “Alternative 6 assumes the Project is modified to allow the preservation of the elevators that are currently proposed to be demolished for the Project.”
 2. b. Alternative 4 has been amended according to this suggestion. It should be noted that the preliminary work on this alternative completed before the receipt of Mr. Gimmestad’s comment showed Alternative 4 to be in compliance with this suggestion. The following is the revised Alternative 4: “Alternative 4 **involves a lower density development which retains the primacy of the height and massing of the historic mill buildings along this stretch of the river. It** reduces the program for the Project significantly to stay within the density and massing permitted by the Industrial Living Overlay District and the density of the R5 Multiple Family District in the City’s Zoning Code. The heights of the buildings will not exceed that of the Red Tiled Elevator **and no more than two buildings will equal the height of the red tile elevator.**”
3. **Steve Minn, Minneapolis Stone Arch Partners, Inc.**

The following are the comments from Mr. Minn (sequentially numbered for easy reference instead of the original numbering):

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1. “Minneapolis Stone Arch Partners strongly supports an efficient and timely EIS process.”

Staff response: So noted for the record.

2. “This EIS must be substantive and complete. The Council Action of July 2, 2004, approved by the Mayor on July 8, 2004, identified material environmental issues that were not resolved by the EAW. If these are not eliminated or mitigated to the satisfaction of the City, residents, affected government bodies, and stakeholders, any site development is likely to be indefinitely delayed by litigation over inadequate EIS work. The City cannot rush an incomplete EIS to merely accommodate the proposer.”

Staff response: Staff addressed the proposed EIS schedule in the third above response to Mr. Norton’s comments. It has long been the practice of the Planning Department to include, as in this case, the fastest possible schedule for completion of an environmental review. All involved in this EIS have had since the July 8 decision of the Mayor and the City Council that ordered the EIS to begin work on it. As stated above, if additional time is needed to complete the EIS, the state Rules allow it and the City will take all the time needed to complete the EIS. The other comments are so noted for the record.

3. “The proposed EIS work program is rushed and incomplete. A public review draft of the EIS is proposed to be completed in three weeks. This is patently infeasible. Staff proposes accelerated review typically reserved for threshold projects which are not deemed controversial. The “A” Mill project is controversial. An EIS is an “analysis” document, not a just a disclosure document. The work program proposes to “identify” and “discuss” unresolved issues, but is largely ambiguous or silent as to how this will lead to sufficient technical analysis, and result in conclusions about mitigations. The scoping document fails to comply with the requirements in the environmental rules imposed upon the City with respect to scoping and preparation of an EIS. It fails to comply with the findings established by the City Council when ordering the EIS. The scope as proposed will be challenged in court as inadequate to the rules and the findings.

- “Sufficient time must be provided to carry out a substantive EIS.
- “All unresolved issues must be professionally evaluated by third-party professionals, not by the proposer’s consultants.
- “The City’s full fiscal exposure for every alternative must be fully identified.”

Staff response: Refer to the prior staff response regarding the proposed EIS schedule.

The draft Scoping Decision includes in its entirety the direction from the City Council and Mayor regarding the scope of the EIS.

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The EAW disclosed the demands on public infrastructure systems. To summarize the findings: the Project can be served by the City's existing water system with a new watermain link; storm water management on the site will be improved with the Project due to improved water quality and reduced volume, and the City's system has adequate capacity to serve the Project; sanitary sewer mains may have to be extended to cover the entire site; and the Travel Demand Management Plan concluded that, after mitigation, Project-related traffic impacts would not change future anticipated congestion at the ten intersections studied from an "acceptable" level to an "unacceptable" level. All costs to accomplish needed municipal infrastructure improvements will be at the developer's expense. The City's codes, regulations, assessing, and taxing authority provide for the recovery of all costs to the City that may result from a development.

Staff does not agree that "the City's full fiscal exposure for every alternative" must be included into the EIS Scoping Decision. The purpose of environmental review is to inform the permitting process. Since the developer has not requested City financing or grants for the Project, the permit processes that will follow the completion of environmental review would not normally include such a financial evaluation.

4. "The EIS is not adequately staffed. The failure to provide for the work of consultants in the scoping document is a critical flaw in the scope because of the failure of the Proposer to even remotely describe the potential impacts on historic resources, much less provide any reasonable mitigation measures for those impacts, during the EAW process. The proposed time limit and accelerated schedule for preparation in Section B of the Draft Scoping Document are neither appropriate nor reasonable and simply ignore the reality that it is not possible to conduct the necessary studies as required by Minn. R. 4410.2100 subp. 6G. The scoping document schedule effectively precludes hiring qualified consultants and eviscerates the council's direction that a comprehensive review of the project by an EIS be accomplished, a decision that was clearly prompted by the failure of the EAW to adequately describe the impacts of the Project.
 - "Professional consultants who are unconnected to proposer must be engaged for utilities engineering, urban design, historic preservation, and air quality analysis.
 - "The three week timeframe provided for in Attachment 2 will make it impossible to prepare an EIS which fully identifies the environmental impacts of the Project.
 - "The City's draft scope fails to meet the requirements to identify consultants to be hired by the City pursuant to Minn. R. 4410.2100 subp. 10."

Staff response: Minnesota Rules at 4410.2100 6 G. require the Scoping Decision to include the "identification of necessary studies requiring compilation of existing information or the development of new data that can be generated within a reasonable amount of time and at a reasonable cost." For clarity and for the reader's convenience, the draft Scoping Decision addresses this matter in detail in the section dealing with

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Minn. Rules at 4410.2100 6 A, six paragraphs earlier.

Minn Rules at 4410.2100 Subp 10 states, “The RGU shall be responsible for expediting the selection of consultants for the preparation of the EIS.” Nothing in the Rules precludes the City (the Responsible Governmental Unit or RGU in this case) from using the work provided by the developer and the developer’s consultants to fulfill its obligations to prepare the EIS.

5. “The City is allowing the proposer to perform the EIS. State law requires that the RGU, and not the proposer, perform the EIS. During the EAW process, staff recognized “there is inadequate staffing in the Public Works department and the Planning department including ...HPC” to carry out the City’s obligations pursuant to the Minn. R. 4410.2000 subp. 1. The City Council specifically directed staff to affirmably “invite comments from the Department of Natural Resources, the State Historic Preservation Office, the National Park Service and all other preservation organizations and others who provided comments during the EAW comment period.” Several of the representatives of these organizations offered their expertise in order to establish and assess the nature and extent of the impacts on the historic properties. The City must hire professional consultants, or avail itself of external resources from other stakeholders at the expense of the proposer to complete the required analysis.”

Staff response: Minn. Rules at 4410.2000 Subp. 1 define the purpose of an EIS as follows: “The purpose of an EIS is to provide information for the governmental units, the proposer of the project, and other persons to evaluate the proposed projects which have the potential for significant environmental effect, to consider alternatives to the proposed projects, and to explore methods for reducing adverse environmental effects.”

Contrary to the above assertion, staff do believe there is adequate staffing in the Public Works Department and the Planning Division, including HPC staff, to carry out the City’s obligations pursuant to the Minn. R. 4410.2000 Subp. 1. for this EIS as it has done for the previous 100+ environmental reviews.

The entire environmental review process focuses on obtaining the comments and assistance from interested parties. This EIS will be no different.

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6. “Substantive analysis requires explicit answers. If the intent of the EIS is to resolve outstanding issues, then the proposed work program is unworkable. Out of the 23 weeks between the Mayor’s approval and the Council’s action on an EIS, only 3 weeks are allotted to preparing the EIS. Critical city staff, especially for urban design and public works, are implied to be unavailable to work on the EIS. And even if proposer were not conflicted, he has no professional working experience in city planning. Most troubling, the scoping document is silent or at best ambiguous about how—or even if—the most-contested urban design issues are to be addressed. At face, this is not a record that would defend well against challenges to a hastily assembled EIS.
- “All outstanding issues must be professionally and thoroughly addressed.
 - “Urban design issues such as view corridors must be evaluated through site tests.
 - “A range of mitigation choices must be established for each outstanding issue.
 - “These choices must be thoroughly evaluated for their effectiveness.”

Staff response: The draft Scoping Decision in section A 4 and 5 includes the City Council and Mayor’s explicit directions to thoroughly analyze views and mitigation options. As regards the other comments, some were addressed in the EAW, the above staff responses addresses others, and the remainder are so noted for the record.

7. “Net value should be determined. Proposer’s central argument is that municipal planning codes and district environmental and historic-preservation protections should be waived for his development because it will result in a multi-million-dollar fiscal gain for the City. However, there is presently insufficient information to support this contention.
- “The possible net value of this proposal must be established in the EIS.
 - “Is proposer financially capable of undertaking timely development as scheduled in the EAW? If not, and the property is to be brokered to others for development, does a local absorption study confirm the market for development at this scale and timing, without causing serious impacts on other commercial sites within 2 miles of the site? This should include any temporary reduction in economic value, and thus assessed valuation, on affected parcels.
 - “What public support, municipal, county, state, and federal, would be required for the project? This would include direct and indirect development assistance, special reviews necessary because the development exceeds existing codes and regulations, and long-term monitoring as a part of any mitigations, by staff and consultants. If proposer contends that there will be no such public costs, does he agree to include this guarantee as an irrevocable part of all parcel sales to other developers? [c.f. Northstar Center 8th Floor public plaza] What public infrastructure improvements would be necessary because of this project?

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To be meaningful, infrastructure costs should be developed in the form of a preliminary project budget submitted by the City's Public Works Department. What practical mitigations will be required of the community and nearby property owners that are not covered by site developers? At what approximate cost?

- “Does proposer agree to establish a stipulated assessed valuation for the overall development, per the City Center agreement, and assent not to contest property tax assessments, including any successor owners?”
- “What gross revenues would the municipality receive as the direct result of this project? Subtracting direct and indirect municipal costs only, what is the net fiscal value to the City of Minneapolis of this project?”

Staff response: Should the City Council and Mayor desire consistent with the commentator's suggestions, they can scope such a requirement into the document. Staff do not recommend expanding the Scoping Decision to include financial and market evaluations of the Project as stated above for the reasons detailed in the staff response to Comment 3.

8. “Urban Design Issues must be professionally addressed. Urban Design is a distinct professional discipline, partly city planning, partly architecture, and partly landscape architecture. But it is also much more than the mere combination of these other fields. Strikingly, while many of the critical unresolved issues are urban design in essence, to date, neither has the City's staff urban designer been assigned to evaluate this project, nor have experienced outside urban design consultants (as distinct from architects or landscape architects who offer to provide urban design services) been engaged to evaluate the “A” Mill proposals.
- “Professional urban design expertise is essential to addressing EIS issues.
 - “Comprehensive district studies must be undertaken to resolve visual issues.
 - “Physical district interrelationships impacted by the proposal must be addressed.”

Staff response: As stated above in the staff response to Comment 6, the draft Scoping Decision in section A 4 includes the City Council and Mayor's explicit directions to thoroughly analyze views. Staff do not recommend an expansion of the Scoping Decision regarding the commentator's suggestions beyond the current directions for the Council and Mayor.

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9. Historic Preservation is more than building heights. The EAW grounded its historic preservation discussions in building heights and factual descriptions of the directly impacted historic fabric. However, the significant dimensions of historic preservation are perceptual and cultural. Literal descriptions do not, of course, capture these subjective values of historic sites. Yet these are what the public reacts to, and thus why historic preservation is a government function, rather than primarily private and scholarly—as it once was.
- The existing historic fabric should be evaluated as a comparative regional resource.
 - Existing buildings must be evaluated for their visual performance, not appearance.
 - New designs should transcend simply approximating existing rhythms and textures.

Staff response: Refer to the purpose of an EIS in the staff response to Comment 5.

10. Public Works is a critical aspect of the EIS. Massive new development poses problems and opportunities. Experience tells us that the unknown is often a significant problem for a municipality. This is because planning issues usually drive the approval process, and by the time public works engineers become involved, development agreements—or, in this case, variances—are already in place. This means the City can be exposed to cost overruns without practical recourse from developers. However, this does not have to be the case. When City Center was under consideration in the late 1970s, the City’s Public Works department developed careful infrastructure cost estimates to be incorporated into the project budget.
- The City must fully understand its potential infrastructure costs.
 - The source(s) of funding must be confidently identified.

Staff response: Refer to the staff response to Comment 3.

11. “The EIS will include a comprehensive description of the project including all of its phases and all of its alternatives identified herein.
- “The Scoping Document fails to address how the phasing of the Project will impact the phasing of the rehabilitation and preservation of the A-Mill complex. This issue was specifically described by a number of commentators in EAW process and was clearly troublesome to members of the city council.
 - “The Proposer must first stabilize and restore the A Mill historic structures as proposed. A phasing scope is required to guarantee that the Proposer will actually carry out the historic preservation of the A-Mill complex as promised.

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- “There is no scope requirement for a work plan to carry out restoration of the existing structures under the Secretary of Interior’s Standards and guidelines.
- “There are no meaningful “alternatives” offered in the Scoping Document’s Alternatives 1 and 3 since these alternatives violate the height requirements of the district. The “No Action” alternate is statutory, therefore only one scheme –yet-to-be-developed is proposed for review. This is inadequate.
- “Alternative 4, which purports to describe a project which complies with existing zoning and regulation should be required and disclosed in the scope.”

Staff response: As regards the comments concerning phasing, refer to the above fourth item in the staff response to Mr. Norton’s comments. The draft Scoping Decision Document outlines six alternatives for inclusion in the EIS (one has been added since Mr. Minn submitted his comments). Once the Scoping Decision has been approved by the City, staff will develop a detailed work program that further defines the alternative analysis.

12. “The Scoping Document proposes to analyze only the significance of the subterranean sluice ways in the vicinity of the project. This analysis must include impacts of these elements by proposed storm, sewer and potable water supply.”

Staff response: The draft Scoping Decision Document requires the preparation of a stormwater management plan that includes an evaluation of potential groundwater impacts of all phases of the Project on the nearby Southeast Steam Plant and on the surrounding natural and historic resources, including the sluice ways. This work will build on the analysis already completed by Braun Intertec for the EAW (refer to the letter from Braun Intertec dated 6/23/04 included as letter #26 in Exhibit D of the Findings of Fact and Record of Decision).

13. “There is no master plan basis for evaluation. The EIS has no comprehensive planning reference. Decisions requiring a comprehensive district master plan are being made in reference to incomplete preliminary architectural sketches for a proposal encompassing only a small part of the functioning Falls district. The scoping process intends to provide answers without first determining the relevant questions. This proposal triggers complex urban-design issues, including 3-dimensional interrelationships with the neighborhood, other nearby commercial properties, and both sides of the river corridor.”

Staff response: Refer to the second item in the above staff response to Mr. Norton’s comments.

14. “Historic impact mitigation plan: The scoping document requires that there be a description of possible measures to mitigate the impacts on the historic resources of the project. While this element of the scoping document purports to require

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analysis of restoration of the A-Mill as part of the first phase of the project, it is patently unclear how the Project is defined for purposes of analysis. Unless the Scoping Document requires the Proposer to define the Project with reasonable specificity, no meaningful description or analysis of an historic mitigation plan can be accomplished.”

Staff response: Contrary to the commentator’s assertion that, “it is patently unclear how the Project is defined for purposes of analysis,” the 350-page record prepared for this Project includes a comprehensive project description and a listing of potential mitigating measures. The draft Scoping Decision Document will require further analysis of potential Project impacts and additional possible mitigating measures for the Project as proposed and also for the five alternatives not proposed by the developer.

15. “Air quality study and mitigation plan: The scoping document requires additional air quality analysis and identification of any additional mitigating measures that may be required.

- “This air quality study cannot possibly be accomplished in the three week preparation period, and certainly not by a non-engineer like David Braslau.
- “The study must be accomplished by means of a professional engineer, given the identification of the inadequacy of city staff available to perform the study. Using the proposer’s consultant calls into question the independence of the findings.
- “The air quality analysis must be done from raw data collected at the site, and not extrapolated from downtown vehicle data provided as a generic annual baseline. This site requires specific data collection for specific impact analysis as provided by the rules.
- “While the Scoping Document appropriately describes what the air quality study should accomplish, the proposed EIS schedule, questionable qualifications and lack of consultant independence will preclude accomplishment of this objective.
- “Given that an air-quality study requires careful, scientific analysis of significant public-health issues, the proposed EIS schedule is fatally flawed in this respect alone.”

Staff response: The EAW completed for this Project included an air quality analysis of vehicular emissions based on the traffic analysis (refer to page 51). The analysis, completed by David Braslau (who holds a Ph D. and a Professional Engineer license contrary to the commentator’s assertion), concluded that the predicted one-hour and eight-hour concentrations of the pollutant of concern, carbon monoxide, would be well below the established ambient air quality standards, “therefore, no significant adverse air quality impacts are expected for the development” (p. 58). Since the five build alternatives proposed for this EIS will study projects that are equal to or smaller than the Project studied in the EAW, the air quality conclusion will hold for them as well. The

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City Council and Mayor did not scope in additional vehicular emissions studies and staff do not recommend them for the EIS because they are unnecessary.

As regards stationary emission sources, the Scoping Document requires the EIS include an analysis that will be more refined and detailed than that included in the EAW. It will be completed by Trinity Consultants, Inc., the firm that completed the original analysis on the Southeast Steam Plant for the facility's EIS, and David Braslau. David Braslau has a long record of completing air quality and other scientific analyses for numerous projects in the City that required environmental reviews and Travel Demand Management Plans.

As regards the other comments, some were addressed in the EAW, the above staff responses addresses others, and the remainder are so noted for the record.

16. "Storm water management plan: The scoping document requires that a storm water management plan be prepared to address the potential groundwater impacts of all phases of the project.

- "The city's public works department has a single non-engineer designated to perform storm water management review. That person does not have sufficient time in his current workload to perform a project area study.
- "The tight schedule and absence of an identified professional engineering consultant to perform this work, will result in no useful data.
- "A storm water management plan for 7+ acres of development will include ponding or alternative retention systems designed by and/or reviewed by a professional engineer, licensed in the State of Minnesota. The RGU must provide an independent 3rd party at the expense of the developer."

Staff response: The City Engineer will be responsible for the approval of the storm water management plan. Refer also to the staff response regarding comment 12. As regards the other comments, some were addressed in the EAW, the above staff responses addresses others, and the remainder are so noted for the record.

17. "Scope must include other projects in the area that this project will impact. [2 ftm.1] "The Phoenix loft project is separate." The Diageo Site must be included The Diageo Site, currently "Phoenix Lofts," was an intrinsic part of proposer's "A" Mill land purchase, and as explicitly noted in the July 2 Council Action, still owned and controlled by proposer. If any property owner was able to arbitrarily remove land area from development parcels, no project, no matter how large in its entirety, would ever reach environmental review thresholds.

Staff response: This issue was raised and addressed several times throughout the EAW process (refer to the detailed staff response in section T (p. 22) of the Final Findings of Fact and Record of Decision). The Phoenix Lofts project does not meet the "connected or phased action" test included in the Minnesota Rules. The EAW process for the Phoenix

Findings of Fact and Record of Decision for the Draft Scoping Decision Document Prepared for the Environmental Impact Statement for the Pillsbury A Mill Complex Project

Lofts project is expected to be completed by 8/28/04. Consistent with best practices, the traffic analysis and vehicle-related air emissions study completed for the A Mill EAW included the Phoenix Lofts project traffic impacts as well. The City Council and Mayor required the Phoenix Lofts project be included in the A Mill EIS only as regards “cumulative impacts on historic resources” (refer to the draft Scoping Decision Document at section A 4). Each alternative, including the no-action alternative, will assume that the proposed Phoenix Lofts project and the proposed 520-520 ½ Second Street SE and 110 Fifth Avenue SE projects will be completed.

18. “The EIS should be remanded to the Environmental Quality Board as an alternate RGU, if the City is unwilling to scope the review properly.”

Staff response: So noted for the record.

19. “The City Council should therefore reject the proposed scoping draft and instead instruct the staff to prepare a non accelerated scope that adequately addresses the issues raised in the Council’s findings of inadequacy, when ordering the EIS.”

Staff response: So noted for the record.

D. Recommended Action

Staff recommend that the City Council and Mayor approve the Scoping Decision Document (most recent revision) for the Environmental Impact Statement to be prepared for the Pillsbury A Mill Complex Project.

Exhibits:

1. Record of Decision for the Scoping Decision
2. Letters received
3. Sign in sheet for Public Comment Meeting
4. Official mailing lists

EXHIBIT 1

Record of Decision

Scoping Decision for the Environmental Impact Statement for the Pillsbury A Mill Complex Project

CHRONOLOGY IN COMPLIANCE WITH THE PROCEDURES OF THE MINNESOTA ENVIRONMENTAL POLICY ACT

9/22/04

- 7/26: Notice of Positive Declaration and notice of time, date and place of scoping meeting to Environmental Quality Board (EQB).
- 8/2: Draft EIS Scoping Report prepared and distributed to Official mailing lists (included herein)
- 8/2: Notice of Positive Declaration notice of time, date and place of scoping meeting published in the *EQB Monitor*
- 8/16: Scoping Decision meeting (5:00 Room 220 City Hall)
- 8/26: Zoning and Planning Committee of the City Council considers draft EIS Scoping Decision
- 9/2: Close of public comment on the draft Scoping Decision Document
- 9/3: City Council approves EIS Scoping Decision (attached)
- 9/9: Mayor signs EIS Scoping Decision Document
- 9/11: Official publication of the EIS Scoping Decision
- 9/24: EIS Preparation Notice and Notice of Accelerated (less than 280 days) Review published in *StarTribune*
- 9/27: Final Scoping Decision, EIS Preparation Notice, and Notice of Accelerated (less than 280 days) Review published in *EQB Monitor*

EXHIBIT 2

Letters received

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5