

Executive Summary of the Environmental Assessment Worksheet and the Findings of Fact and Record of Decision Document for The Wave Project

Located at 304-320 First St. S. in the City of Minneapolis
Hennepin County, Minnesota

1.0 About the Project, the Environmental Assessment Worksheet and the “Findings Document,” and the EAW Process

1.1 Brief Project Description

Omni Investment (Developer) has proposed to construct a mixed-use project (Project) that includes 38 residential units, a 9,400 sq. ft. spa, a 9,600 sq. ft. restaurant, and structured parking for 195 vehicles on the site of the former Fuji Ya Restaurant and vacant land to the west currently owned by the Minneapolis Park and Recreation Board (MPRB). The Wave Project Area is within the St. Anthony Falls Historic District (District), a district listed on the National Register of Historic Places (NRHP). The site is also within the boundaries of the locally designated St. Anthony Falls Historic District.

1.2 The EAW Process

The City of Minneapolis prepared a mandatory Environmental Assessment Worksheet (EAW) for the Project according to the Environmental Review Rules (Rules) of the Minnesota Environmental Quality Board¹ (EQB) under 4410.4300 Mandatory EAW Categories, Subpart 31 Historical Places because the Project would destroy or move properties that are listed on the NHRP.

The purpose of an EAW is to disclose the potential environmental effects of a project and this EAW focuses on the Project’s historical effects. To complete the EAW process, the City developed the Findings of Fact and Record of Decision (Findings) Document. The Findings Document provides a summary of the EAW and the EAW process, it includes the comments received on the EAW documents and provides responses to those comments, and it includes additional information if needed. The Findings Document also includes the analysis to enable the City Council to make an adequacy determination.

¹ The EQB is the state board responsible for managing the state’s environmental review program and regulations.

Attention: If you want help translating this information, call - **Hmong** - Ceeb toom. Yog koj xav tau kev pab txhais cov xov no rau koj dawb, hu 612-673-2800; **Spanish** - Atención. Si desea recibir asistencia gratuita para traducir esta información, llama 612-673-2700; **Somali** - Ogow. Haddii aad dooneyso in lagaa kaalmeeyo tarjamadda macluumaadkani oo lacag la’ aan wac 612-673-3500

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On August 14, 2006, the City published and distributed the EAW to the official EQB Official Distribution List and to the Project's Official Distribution List.² The transmittal letter for the EAW included information about obtaining the EAW documents, the Public Comment Period (which closed on 9/13/06), the Public Comment Meeting (held 9/6/06), the EAW Contact Person, and the method to comment. The EQB published notice of availability in the *EQB Monitor* on that same day. On February 7, 2007, the City published and distributed the Draft Findings of Fact and Record of Decision (Findings) Document to the official EQB Official Distribution List and to the Project's Official Distribution List.

1.3 City Decision on the EAW

The Council and Mayor have three options as regards the EAW:

Option 1: Conclude that the EAW is adequate and that the development of an EIS for the Project is not necessary. This is called a Negative Declaration.

Option 2: Conclude that the development of a Discretionary EIS (per 4410.2000 Subp. 3a) for the Project is necessary, called a Positive Declaration.

Option 3: Conclude that the EAW is not adequate because more information is needed. The City must then define what additional information is needed to make it complete and postpone its decision on the need for an EIS until that information is available.

City staff has considered the extensive environmental review record for the Project, which includes the EAW and the Findings Document, and recommends the City make a Negative Declaration (Option #1).

The staff recommendation for Option #1 is based on the fact that, through its ongoing regulatory authority (including the authority to deny needed permits for the Project), the City can require the implementation of mitigation measures that eliminate the potential for what would otherwise be significant environmental effects. As such, the City can conclude that there is no potential for significant environmental effects and conclude no EIS is needed. In its review of the Project and determination of the required mitigation, modifications, and amendments necessary for approval, the City will have the opportunity to initiate similar studies, have similar information made available, and provide similar opportunities for public participation as would be provided in an EIS process.

2.0 Issues Identified in the EAW and Comparison of Potential Impacts with Evaluation Criteria

The following are general categories that group the issues identified in the EAW and those identified by the reviewers and commentators:

² The Official Distribution List is a constantly updated list that includes all people who attended the Public Comment meeting or have commented on or requested information regarding the EAW documents.

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- Effects on historic properties on the Project site
- Land use, height, massing, scale, and shadow effects
- Visual effects
- Consistency with applicable plans, policies, and regulations
- No Build Alternative

State Rules require the City to determine whether the Project has the potential for significant environmental effects and whether an EIS is needed. The Rules define the following four criteria with which to evaluate the environmental effects that may be reasonably expected to occur from the Project:

2.1 Type, Extent, and Reversibility of Environmental Effects

2.1.1 Effects on historic properties on the Project site: The Project site includes important archeological and historic resources; namely, the ruins of parts of the foundations of three mills (Bassett, Columbia, and Occidental), railroad artifacts, and possibly artifacts of the adjacent Wheelhouse and power shaft.

As originally proposed, the Project would have destroyed significant portions of the exposed and subsurface foundation ruins of the Columbia and Occidental mills. This would have constituted a significant adverse effect on these on-site resources and to the historic District. In response to the numerous substantive comments on this matter, the Developer made significant modifications to the Project design to avoid and mitigate these adverse effects. The design now includes the preservation *in situ* (in place) of all accessible ruins of the Bassett Mill and Columbia Mill and one wall of the Occidental Mill ruins. The design does not avoid the adverse effects of placing the building on top of other subsurface ruins of the Occidental Mill. To mitigate these adverse effects, the Project includes an archeological data plan, preservation of recovered artifacts, and a commitment to work with the St. Anthony Falls Heritage Board to create an interpretive station along the pedestrian path located on the north side of West River Road. The developer has agreed to fund a NRHP and local designation study for the Fuji Ya Building and renovate the building consistent with the Standards and the HPC's St. Anthony Falls Historic District Guidelines (Guidelines) for the West Bank Milling Area (WBMA). The Developer has committed to provide public access through the Project between 1st St. and the river side of the building, and to work the Public Works Department and MPRB staff to explore pedestrian and bicycle access between 2nd St. to West River Road via the former railroad right-of-way (now City-owned) that goes under 1st St. and abuts the Project site on the west.

It will be the responsibility of the City, through the permit review process of its Heritage Preservation Commission (HPC), to decide whether these proposed design changes and other measures are sufficient to avoid and mitigate the potential adverse effects on these on-site properties.

2.1.2 Land use, height, massing, scale, and shadow effects:

- **Height:** At 11 stories and 149 ft. above 1st St., the Project would be at least 8 ft. below the height limit in the HPC's Guidelines. As measured from the elevation of West River Road, the Project would rise the equivalent of 14 stories (three are parking levels) to 172 ft. The Zoning Code limits the height of structures in this area to 6 stories or 84 ft., whichever is less. To exceed this limit, the City would have to grant the Project a conditional use permit (CUP). This permit requires the City to conclude that the Project would not have a substantial effect on surrounding properties in regards to 1) access to light and air; 2) shadowing of significant public spaces; 3) incompatibility in terms of scale and character; and 4) preservation of views of landmark buildings, significant open spaces, or water bodies. During the permitting process, City decision makers would use the information in the EAW to judge the Project's consistency with all CUP requirements.
- **Massing:** The existing one-story height of the Fuji Ya would be maintained on the east side of the project site and the new construction would step up gradually from the Fuji Ya to 10 residential levels and one parking level above 1st Street for the westernmost 80 feet of the site. The variation and stepping up of the mass of the building avoids the more imposing presence that can result from a uniform stretch of a single, mid-rise building or a series of buildings of uniform height.
- **Shadow effects:** The shadow study indicates that the greatest additional shadow impacts on West River Road and the Mill Ruins Park that would be attributable to the Project occur in the late afternoon and early morning from late September through late March. At most other times of day throughout the year and particularly in summer when the park and other public spaces are in highest use, the Project would not cause significant additional shading of public spaces because the building shadow either does not fall on those areas or it falls within the larger shadows cast by the 20-story RiverWest Building and the 40-story Carlyle Building.

2.1.3 Visual effects:

- **Project effects on views of the river, parks and other public spaces, and historic resources:** From the north, the Project would be an addition to the downtown skyline view. While it would not block any views of the river, it would partially block views of historic buildings to the south of the site. From the south, the Project would block the current views of the wooded area to the west of the Fuji Ya building, the river, and the river environs on both banks. From the east and west, the Project would have no substantive effect on views of nearby historic buildings and views of the river, but it would block and eastward view of the southernmost portion of the historic 3rd Avenue Bridge.

- **Updated visual effects to off-site historic resources by the 106 Group:** The 106 Group provided a detailed historical analysis for the EAW (the City's web site includes the document), and, after the Developer modified the project, the 106 Group prepared a second analysis of the potential visual effects of the revised Project design on historic resources located off site. The 106 Group concluded that the revised Project would still have adverse effects related to the visual setting and/or views toward the following seven off-site historic resources: the West Bank Milling Area, the Hall and Dann Barrel Company Factory, the Minneapolis Eastern Railway Company Enginehouse, the Third Avenue Bridge, the Stone Arch Bridge, the East Bank Milling Area, and the contributing archaeological resources of the Mill Ruins Park.

In locations where the Project and the WBMA were clearly visible, the scale, massing, and materials of the revised Project were found to have an adverse effect on the setting of the historic district. The revised Project significantly affected the perceived use of the parcel, the perceived boundaries of the waterpower area, the linkages to other contributing properties to the WBMA and the St. Anthony Falls Waterpower Area, and the appearance of a cohesive historic district.

- 2.1.4 Consistency with applicable plans, policies, and regulations:** As is typical for larger projects, the Project is consistent with some and inconsistent with other adopted plans and policies. For example, the proposed uses (commercial, high-density residential, and shared parking) are consistent with the applicable housing and Downtown development aspects of the City's Five Year Goals and the City's Comprehensive Plan, the *Minneapolis Plan*. The Zoning Code allows the proposed use, density, and height subject to several important Conditional Use Permits (CUP) and other permits (refer to Section 2.1.2).

Also, the MPRB Master Plan for the Mill District Park and West River Parkway (adopted by the MPRB in 1983 and modified thereafter) shows the Project site to be on land not needed for the park and parkway. The current plan for the Mill Ruins Park, when funding is available, calls for excavating and reopening the gatehouse, located northeast of the Project site, and the old canal walls, which are in place and served as the main control system for the water intake system. This will allow water to flow through the gatehouse to the existing rehabilitated tailrace canal down stream. This plan relies on replacing the need for the surface parking lot that occupies the Headrace Development area with 65 stalls to be leased by the Park Board in the Wave Project.

Of the ten plans that have jurisdiction over the development of the site, all call for the preservation of historic resources. The Project preserves most of the historic resources on site consistent with these plans; however, it also includes the destruction of other archeologically and historically significant resources. The Project is inconsistent with this policy to the extent the proposed measures are not

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able to mitigate the adverse effects on historic resources on the site. As stated above, the 106 Group has concluded that the height, massing, and scale of the revised Project would have adverse visual effects on the views from the seven historic properties in the area towards the Project site (refer to Section 2.1.3).

The City's Critical Area Plan has policies designed to prevent walls of tall buildings along the river corridor and to have buildings that step back from the river to avoid excessive shadowing public areas. The Project, at over 500 ft. long with no substantial setbacks perpendicular to the river, is inconsistent with these policies.

- 2.1.5 No Build Alternative:** The Developer has an option with the MPRB to purchase the Project site. Since this purchase agreement expires on March 17, 2007, it will likely expire before Omni could obtain the needed permits from the City. If the MPRB does not extend the expiration date for the Purchase Agreement, Omni could still exercise its right to purchase the site under the current agreement and accept the risk that the City will not approve a building permit for the Project as designed. In this scenario, Omni could then submit a significantly modified project that addressed the bases for the City's denials or sell the site to another developer. In the event that the MPRB and Omni allow the current purchase agreement to expire, it is not known what the MPRB would do with the property. They could initiate a new RFP process for the site, take measures to stabilize the site's historic resources, do nothing, and/or take some other action.

Several commentators prefer the No Build Alternative. Some suggested that the MPRB find the funds to add the site to the Mill Ruins Park. The MPRB's adopted 1983 Master Plan, which addresses the future use for the Project site, shows it to be outside of the proposed park boundary and it shows undefined private development to the east and west of the Fuji Ya site (refer to Section 2.1.3). The MPRB has continued to implement the elements of its Master Plan including the proposed sale of MPRB property.

An analysis of the use of the site as an expansion of the Mill Ruins Park would not even be required were the City to order the development of an EIS for the Project. Minnesota Rules at 4410.4300. G. Alternatives, require an EIS "compare the potentially significant impacts of the proposal with those of other reasonable alternatives to the proposed project" (emphasis added). While the Rules include alternative sites for the proposed project as a possible alternative to be considered in an EIS, they do not require the analysis of alternative uses of the proposed site. Furthermore, the Rules allow an alternative to be excluded from analysis in the EIS "if it would not meet the underlying need for or purpose of the project." The Rules state, "The alternative of no action shall be addressed" in an EIS. This is to examine the relative effects of no change on the site, not an invitation to speculate on unfounded future possible uses. The City has not made it a practice to fabricate projects that encompass a range of alternatives when no other options for a site have matured past the stage of preliminary planning. The No Build alternative

described is the only other scenario with a reasonable chance of occurring at this time.

2.2 Cumulative Effects of Related or Anticipated Future Projects

The EAW and this Findings Document include all of the potential environmental effects known at this time. As stated in the EAW, it is difficult and perhaps even questionable to attempt to predict potential cumulative effects beyond those described herein. At approximately 38 units, the Project is not expected to be a significant impetus for further development or for demand on local amenities.

2.3 Extent to which the Environmental Effects are Subject to Mitigation by Ongoing Public Regulatory Authority

The Project as a whole, has no “as of right” permissions or standing to construct a development resembling the Project without significant discretionary approvals and permits from the City (refer to Section 1.3). The City’s review process for this Project would have two sequential but interrelated reviews. First, the Minneapolis HPC would determine whether the proposed measures sufficiently avoid and mitigate the adverse effects of the Project. If approved, the HPC will also likely define additional mitigating measures if needed, and the specifics of the Preservation and Rehabilitation Plan as a condition of approval. Second, the City Planning Commission would review the multiple discretionary amendments and permissions identified in the EAW as necessary for development of the Project. These decisions are subject to appeal to the City Council

2.4 Extent to which Environmental Effects Can be Anticipated and Controlled as a Result of other Environmental Studies Undertaken by Public Agencies or the Project Proposer, or of Environmental Reviews Previously Prepared on Similar Projects.

Two prior environmental reviews are relevant to this EAW: The EIS prepared for the Pillsbury “A” Mill Complex and the EIS prepared for the West River Parkway Project. Relevant information from these analyses has been incorporated into this EAW and Findings Document.