

# **APPENDIX F**

## **Comments on Draft AUAR and Responses to Comments on Draft AUAR**

# Appendix F

## Response to Comments on South Loop Alternative Urban Areawide Review (AUAR) Update – May 2017

On March 6, 2017 the City distributed the South Loop District AUAR Update Report to the official distribution list as required by State Statutes (Sec. 4410.3610). During the 30-day comment period, the City received comments from five agencies. Comments and responses are summarized below and the actual comment letters are attached.

### **Minnesota Department of Natural Resources, Rebecca Horton, April 19, 2017**

The Minnesota Department of Natural Resources comment letter focused on Section 11 – Fish, Wildlife and Ecologically Sensitive Resources

***Comments: The MnDNR requested that this section be modified to describe resources identified in the Minnesota Biological Survey Site of Biodiversity Significance and Central Regional Regionally Significant Ecological Areas. They also requested modification of the Mitigation Plan to discuss those features and potential impacts.***

***Response:*** A summary of the information in the County Biological Survey and the Regionally Significant Ecological Areas map will be added to Section 11. Almost all of the sensitive areas are located within the Minnesota River Valley National Wildlife Refuge and/or areas guided and zoned for conservation uses where development is not allowed. The Mitigation Plan will be revised to acknowledge these natural communities and the regulatory tools in place to protect these resources, including: the “Conservation” land use and zoning designations which significantly restrict development and related disturbances; the Bluff Protection overlay zoning district which applies to bluff adjacent properties and includes more stringent development standards; and the Flood Hazard Overlay district which applies to areas below the bluff and generally prohibits uses requiring structures, fill or storage of materials or equipment. In addition, the City’s stormwater management and grading regulations protect against erosion and water quality degradation.

### **Minnesota Department of Transportation, Michael J. Corbett, April 18, 2017**

***Comment: The letter from MnDOT did not provide specific comments but noted that AUAR review does not constitute approval of a regional traffic analysis and is not a specific approval for access or new road improvements. The letter provides details about the project and permit review process required by MnDOT.***

***Response:*** The City appreciates the reminder regarding the formal review process. The City has, and will continue to follow the required MnDOT approval process for road projects.

### **Minnesota Pollution Control Agency, Karen Kromar, April 18, 2017**

The Minnesota Pollution Control Agency’s comment letter focused on Section 24 – Odors, Noise, and Dust.

***Comment: The MPCA letter reminds the City that the state noise laws are based on measured noise, and that the noise area classifications (NACs) in state law are based on where the receptor hears the noise, noting NAC determinations are independent of municipal zoning laws.***

Response: We appreciate the reminder. The City's zoning restricts certain noise sensitive uses in areas with high noise levels and has required noise attenuation as part of some project approvals. The City plans to develop and adopt noise mitigation standards (later in 2017). In drafting those standards, we will reference state law regarding noise area classifications (NACs) as appropriate.

## **U.S. Fish & Wildlife Service, Tim Bodeen, April 19, 2017**

The USFWS provided comments on several sections of the AUAR as described below.

### **Section 6: Projects Description**

**Comment 1: *The letter implied that Metro Office Park might be retained as greenspace.***

Response: There appears to be a misunderstanding that Metro Office Park is not currently developed. The discussion in the AUAR about "removal" of the Metro Office Park site from the revised AUAR redevelopment scenario refers to this site being removed from the list of sites anticipated to undergo redevelopment before 2040. This site had been included in the redevelopment scenario in earlier AUARs. Since redevelopment of this site is not anticipated to occur before 2040, it was removed from the revised development scenario. However, the existing development is planned to remain in place, so additional greenspace will not be provided here. Reference was also made to the Runway Protection Zone (RPZ). Previous AUARs included the RPZ as a redevelopment site. However, since development is prohibited in the RPZ, it was removed from the revised AUAR redevelopment scenario.

**Comment 2: *Concerns about the impacts of increasing population, employees, and visitors on the Refuge.***

Response: The South Loop District Plan, adopted in 2012 recommended enhancing access to the Refuge through provision of new trailheads as well as improving signage and wayfinding in the district. These ideas were vetted through FWS staff, with the understanding that any new access/trailheads would be located and designed in cooperation with FWS. The SLDP describes four potential new trailhead locations, noting that actual locations require further discussion and review with FWS. The SLDP also recommends that care be taken in developing trailheads to ensure environmental impacts are minimized. The plan affirms the Refuge as an area of passive, nature-based recreation.

**Comment 3: *Concern about increased impervious coverage from the proposed development and impacts on the quality and quantity of water entering the Refuge.***

Response: The amount of development proposed on bluff adjacent sites in the revised development scenario is essentially the same as what was proposed in 2002 AUAR. All of these sites have been zoned and guided for urban/suburban intensity uses for many years. The City has development controls in place that address bluff protection and stormwater management. The City's Bluff Protection Overlay district has more stringent impervious limits and height limits. Portions of all the bluff adjacent sites are covered by the BP Overlay zoning.

Since the 2002 AUAR was approved, the City has adopted numerous stormwater-related requirements for new development and redevelopment designed to reduce pollutant loading to receiving water

bodies and enhance water quality. The City's Comprehensive Surface Water Management Plan was adopted in 2007. Section 4 of the CSWMP, related to the City's Stormwater Pollution Prevention Program (SWPPP), was updated in March 2015 and requires all new development/redevelopment to maintain surface water discharge rates at or below existing levels.

***Comment 4: Concerns about other development impacts, including: noise, lighting, and landscaping.***

***Response:*** Noise impacts in the area are primarily generated by vehicles and airplanes. Noise from aircraft has declined significantly from 2005 to 2015 as illustrated in Figure 24.2. While aircraft noise varies from year to year, it is not expected to exceed levels analyzed in the 2002 AUAR, generally due to quieter aircraft. However, noise from traffic could potentially increase, though not likely beyond what was reviewed in 2002. Given the decrease in overall development (2002 versus revised scenario) and increased transit mode share, future traffic levels are expected to decline from 2002 levels. In addition, newer vehicles are significantly quieter than older vehicles.

The City has development standards for lighting and landscape that will be enforced. The City will also encourage the use of best practices and low impact design. However, where development proposals meet development standards in City Code, the City has limited legal authority to require additional mitigation. The City will also seek out opportunities to utilize required park dedication to create buffer areas along the bluff.

***Comment 5: Concern expressed about increased amount of runoff outfall into ravines.***

***Response:*** As described in the response to comment #3 above, stormwater management regulations require new development to meet the existing rate of runoff and restrict over the bluff discharge. Onsite retention will likely be required on some sites to meet stormwater requirements. All redevelopment sites are connected to the municipal storm sewer system which conveys runoff to the regional stormwater areas. No new storm sewer discharge points are anticipated.

***Comment 6: Questioned why the USFWS is listed as a lead agency to implement the pedestrian crossing improvements at East Old Shakopee Road and 33<sup>rd</sup> Avenue.***

***Response:*** The tables in the AUAR describing proposed infrastructure improvements identified agencies the City intends to partner or consult with in the design of the improvement. Since the USFWS is not technically involved in implementation of this improvement, the USFWS will be deleted as "lead agency" on the two tables where this occurred (Table 6.7 and Table 21.6).

**Section 9: Land Use**

***Comment 1: This comment was listed under a heading "Groundwater and Wells", however it pertains directly to land use. The comment expressed the FWS desire for additional open space or conservation lands adjacent to the Refuge.***

***Response:*** Most of the properties above the bluff and abutting the Refuge are in private ownership. They have been zoned and guided for urban/suburban type development for decades and were identified as redevelopment sites in the original 2002 AUAR. Several of these sites are currently being marketed for redevelopment. While the City has no plans to acquire these properties, we will continue to enforce all existing development regulations to minimize impacts on the natural environment from redevelopment. We will continue to work with developers to achieve high quality and sensitive site

design. We will also consider application of required park dedication as land (rather than cash) to enhance buffer areas along the bluff where appropriate and effective.

### **Section 11: Fish, Wildlife, and Ecologically Sensitive Resources**

#### ***Comment 1: Suggested modification to language on p. 31 in AUAR regarding the trout stream.***

*Response:* The second full paragraph on p. 31 will be modified as suggested in the letter from USFWS. In the third paragraph, the following sentence will be modified as noted: “Even if “Ike’s Creek” is not designated as a trout stream, the City will continue to enforce current regulations to minimize development impacts on the stream and bluff habitat. Proposals to appropriate water from shallow wells or for dewatering purposes within proximity to the stream will continue to be reviewed by receive increased scrutiny from permitting agencies in accordance with existing regulations.”

The City believes that current regulations have successfully maintained the integrity of the stream over many years and the City will continue to enforce those regulation in the same manner into the future.

#### ***Comment 2: Concern expressed about dewatering impacts on stream and wetland habitats in the area.***

*Response:* Dewatering in excess of 10M gal/day or 1.0M gal/yr requires a permit from MnDNR who evaluates stream impacts as a result of dewatering activities. If a potential for impact is identified, MnDNR has indicated they will work with permit applicants to try to identify modifications to permit conditions that will still meet the applicant’s needs while protecting groundwater resources.

### **Section 12 – Physical Impacts on Water Resources and Section 13 – Water Use**

#### ***Comment 1: Concern about the overall increased water demand and impacts on groundwater. Specific concern about dewatering impacts and suggested that dewatering not be done during times critical for wildlife.***

*Response:* The proposed development in the South Loop will create an overall increase in demand on the City’s potable water system. This future increase in demand should not create any additional burden on the local groundwater due to the fact that Bloomington draws its groundwater from a municipal wellfield that is hydraulically disconnected from this development district. The City will continue to monitor the number and size of additional future private wells permitted to minimize detrimental impacts to local groundwater levels.

Projects requiring significant groundwater appropriations and dewatering permits are reviewed and permitted by the DNR and would need to meet all existing State requirements.

### **Section 17 – Water Quality – Surface Water Runoff**

#### ***Comment 1: Encourage use of BMPs to increase pervious surface area and improve water quality throughout the South Loop.***

*Response:* The City is committed to enforcing the stormwater and development regulations that are in place and to work with site developers to encourage them to minimize impervious surface cover and incorporate green infrastructure in their developments to the extent practical.

***Comment 2: Concern about granting variances to the City's Comprehensive Stormwater Management Plan and Bluff Protection (BP)-Overlay district requirement.***

Response: The CSWMP requirements are required to be enforced in order for the City to maintain compliance with the Municipal Separate Stormw Sewer System (MS4) permit. Generally the only variance allowed from the CSWMP would be for volume retention requirement if infiltration was not permissible either because of unsuitable soils or if infiltration of stormwater would potentially mobilize soil or groundwater contamination. If infiltration is unable to be accomplished, the City follows the Minimal Impact Design Standards (MIDS) alternative treatment flowchart.

The City adopted the BP Overlay district in 1982 and historically has not issued variances to these standards. Staff is not aware of any property owners or potential developers seeking variances to these requirements. When approached by prospective developers, staff informs them of the various regulations in place and generally encourages compliance with adopted standards. However, if a variance application is filed, the City is obligated to review in accordance with procedures established in the City Code, which would include notification to surrounding property owners. In approving variances, the City must make clear findings about the impacts and circumstances unique to the variance request.

***Comment 3: Concern expressed about mitigation in the area if Pond 30 is removed.***

Response: The storage volume provided by Pond 30 cannot be lost. When redevelopment occurs the pond will either be reconfigured or replaced to maintain or increase its storage volume. Some modeling of alternative infrastructure modifications has been done, which indicates that increased flood elevations may be successfully mitigated through extensive infrastructure upgrades.

Redevelopment on the Kelley Farm will need to manage the stormwater discharge rate to be equal to or less than the existing rate in order to meet existing stormwater rules. It is possible that new development will need to utilize underground storage as well as infiltration to maintain existing discharge rates, which should sustain area groundwater characteristics.

***Comment 4: Reference was made to the large ravine on the Kelley farm that is eroded and stated hope that this problem can be mitigated.***

Response: The City will work within existing ordinances at the time redevelopment occurs on this site to address any existing erosion and sediment problems that are currently affecting Ike's Creek and Long Meadow Lake.

***Comment 5: Suggestion that the City continue to collect data on phosphorus and sediment removal in Pond C and requested City send FWS a copy of our Pond C data.***

Response: The City has a monitoring station and engineering staff periodically collects samples from the Pond C outlet to help us characterize and evaluate the water quality of the Pond C discharge into Long Meadow Lake. We have not collected data from Pond C for the last couple of years. The City has shared this data with USFWS in the past and can send what we have if desired.

***Comment 6: Suggest that the City apply lessons learned from the Ceridian outfall project as future stormwater facilities are implemented along the bluff.***

Response: The Ceridian outfall project had several challenges including: tight alignment due to a narrow easement and sharp bends; groundwater seeps and odd pipe connections; and several small channels

that developed through wood chip areas that were left in place near the toe of the slope where it looked like erosion occurred.

Some things that would have helped the project include: using welded pipe (and possibly bends and/or additional welding locations); securing a wider and/or new permanent easement and establishing a better pipe alignment; using wood chips in a more deliberate erosion control method such as slash berms or use some unchipped wood to create habitat tangles out of the logs and brush. The City will consider applying these approaches on future projects, if appropriate to the situation.

In addition, we typically do projects in sensitive areas in the winter to minimize the environmental disturbance and reduce risks. However with changing weather patterns, winter work now requires us to take additional precautions and plan for how unusually warm winter weather will affect the project. The City routinely restores areas disturbed during project construction.

### **Section 18 – Water Quality – Wastewaters**

#### ***Comment 1: Concern about the impact of new/enlarged sanitary sewer pipes on the Refuge.***

***Response:*** Proposed upgrades to public sanitary sewer lines are limited to locations entirely within existing City right-of-way. New development will likely include extensions of private sanitary sewer mains/services into the development sites. Those types of service lines typically extend a relatively short distance from the receiving lines located in the public right-of-way. It is not proposed or anticipated that any sanitary sewer mains would be located within Refuge property. Construction of new pipes will be coordinated to the extent possible, with road improvements, and will follow all requirements regarding runoff and erosion control.

### **Section 25 – Sensitive Resources**

#### ***Comment 1: The FWS noted their opposition to creation of a dog park on the “triangle” site and expressed concern about inviting access to the Ike’s Creek ravine.***

***Response:*** The letter indicated some confusion as to the status, land use, and zoning designation of Forest Glen Park. This is not the “triangle” site, which is owned by the Metropolitan Airports Commission (MAC). The “triangle” site (fronting EOSR) was proposed in the South Loop District Plan to become a dog park, including a trail head and improvements to the existing ravine trail. The “triangle” site was also included in a recent fire station and park study. However, staff is recommending that the City not purchase the MAC parcels for either a fire station and/or park.

MAC is currently marketing the site for private development. These parcels are guided “public” and are zoned a mix of B-1 (Neighborhood Business), RO-50 (Residential-Office), and a small area is SC (Conservation). Changes to the land use and zoning designations will likely occur in conjunction with redevelopment.

Forest Glen Park, which encompasses a segment of Ike’s Creek ravine, is, and will remain a City park. It is zoned and guided for conservation uses and is intended to remain in a natural condition. There is an existing “deer path” trail through the ravine. Given the City is not proposing to buy and create a park on the site and FWS opposition, the City will not pursue improvements to the existing “deer path” ravine trail. However, the City is open to work with the FWS and other stakeholders to minimize natural resource impacts resulting from public use of the existing ravine trail.

**Comment 2: Suggestion to provide additional buffer strips along MAC and Kelley properties.**

Response: The City's Bluff Protection Overlay zoning covers portions of the MAC and Kelley properties. This overlay zoning creates a de facto buffer along the bluff and Ike's Creek ravine. As discussed in previous responses, the City's existing development standards in the BP Overlay and the City's stormwater management plan require erosion and sediment control.

Other agencies have review and approval authority over certain types of permits. Those regulations may go above City requirements. The Lower Minnesota River Watershed District is currently working on a major plan amendment that addresses several items including a Bluff Management standard modeled after the Mississippi River Critical Corridor Area (MRCCA); which includes a 40 foot setback from the top of the bluff and prohibits land alteration within the bluff protection zone (defined as the bluff and land within 20 feet of the bluff). The Watershed District anticipates the amendment will be adopted by the end of 2017.

In addition, city staff routinely looks for opportunities to work with developers to improve their development proposals; including suggestions about use of native plants in their required landscaping and minimizing removal of existing high quality vegetation. However, if a development proposal meets all City Code standards and is not requesting deviations or public funding, the City has limited legal latitude to require additional mitigation measures.

**Comment 3: Suggestion to provide protections for trout stream, even if not formally designated.**

Response: The City and MnDNR are currently in discussions regarding a formal trout stream designation involving the stream informally know as "Ike's Creek". Irrespective of a formal trout stream designation, the City believes that current regulations have successfully maintained the integrity of the stream over many years and is committed to enforce those regulation in the same manner into the future.

**Comment 4: Concern about variances being granted that would allow development below the 760-foot elevation.**

Response: All of the bluff adjacent development sites are partly covered by the City's Bluff Protection Overlay District. The BP Overlay prohibits structures (floor elevation) below the 760-foot elevation. There is a provision that would allow a structure's basement floor elevation to go below the 760, but only if it is setback at least 50 feet from the bluff face. The BP Overlay was adopted in 1982 and historically the City has not issued variances to these standards. Staff is not aware of any property owners or potential developers seeking variances to these requirements. When approached by prospective developers, staff informs them of the various regulations in place and generally encourages compliance with adopted standards. However, if a variance application is filed, the City is obligated to review it in accordance with procedures established in the City Code, which would include notification to surrounding property owners. In approving variances, the City must make clear findings about the impacts and circumstances unique to the variance request.

**Comment 5: Emphasizing the importance of protecting the bluff habitat.**

Response: The amount and type of development proposed on the bluff adjacent sites in the revised AUAR development scenario is similar to what was proposed in the original 2002 AUAR. All of these sites have been zoned and guided for urban/suburban intensity uses for decades. As described in responses to several comments above, City has development controls in place that address bluff protection and stormwater management. The City's stormwater management regulations require new



development to meet the existing rate of runoff and require onsite stormwater retention. In addition, the City's Bluff Protection Overlay district has more stringent impervious limits and height limits. Portions of all redevelopment sites along the bluff are covered by the BP Overlay zoning.

The City also has development standards for lighting and landscape that will be enforced. The City routinely encourages the use of best practices and low impact design. However, where development proposals meet development standards in City Code, the City has limited legal authority to require additional mitigation. The City will also seek out opportunities to utilize required park dedication to create buffer areas along the bluff.

## **Metropolitan Council, LisaBeth Barajas, April 19, 2017**

The Metropolitan Council's comment letter found the document complete and accurate but offered comments on several sections of the AUAR as follows.

### **Section 6 – regarding transportation**

***Comment: Noted an omission in the list of transportation studies completed to date.***

*Response:* We will add the referenced study to the list on p. 11.

### **Section 6 – regarding sanitary sewer**

***Comments: Metro Council staff note that the Metropolitan Disposal System has adequate capacity to serve the development assumed in the AUAR development scenario. They also acknowledged that City staff have been working with Metro Council staff to address capacity constraints in the regional system that will be resolved through reconveyance to the City of several regional interceptors, which may occur in 2017.***

*Response:* Acknowledge comments.

### **Section 7 – Project Magnitude Data**

***Comment: Suggestion that AUAR development scenario be reflected in the City's Comp Plan update.***

*Response:* The development projections used for the AUAR are consistent with those the City is using in its Comp Plan update.

### **Section 9 – Land Use**

***Comment: It was noted that a recent Mall of America request for a land use amendment was not reflected in AUAR, although the development scenario closely matches the MOA request.***

*Response:* That is correct. The City received the MOA application after the AUAR draft was completed and released for public comment. Section 9 – Land Use will be amended to mention receipt of this land use amendment request, which is consistent with the AUAR development scenario.

### **Section 21 - Traffic**

***Comment 1: Met Council staff provided a suggestion and reminder that the road improvement proposed for the I-494/Thunderbird Road Eastbound Ramp may require review by the joint MnDOT/Metropolitan Council Interchange Planning Review committee and potentially an Interstate Access Request to the FHWA may be required.***

*Response:* We appreciate the reminder, which is duly noted. The City will follow all required review procedures for all the infrastructure projects identified in the AUAR.

***Comment 2: Met Council staff noted that some of the proposed improvements to expand road and intersection capacity run counter to the City's objective to increase mode share by non-SOV vehicles and increase in multi-use trips. Also suggested that the AUAR more strongly discuss the importance of transit and non-motorized improvements, trip reduction potential of mixed use development, and role of Travel Demand Management.***

*Response:* On p. 65 of the AUAR, there is discussion about various factors that make it challenging to accurately model future roadway needs very far into the future. In particular, changes in travel behavior resulting from technological improvements and autonomous vehicle use. The City will continue to monitor these factors, as well as changes in mode-share and multi-purpose trips, as part of the updates to the AUAR and related traffic model. Routine AUAR updates must occur every 5 years. In addition, some language will be added to Section 21 regarding the potential for increased mode share and multi use trips through mixed use TOD and a description of the City's TDM requirements will also be added.

#### **Section 25 – Sensitive Resources**

***Comment: Met Council staff state that the AUAR adequately addresses plans for the regional, state, and federal recreation facilities within or adjacent to the South Loop District.***

*Response:* Acknowledge comment.

#### **Appendix G: Mitigation Plan regarding regional transportation system**

***Comment: Metro Transit staff note that redevelopment of Adjoining Lands provides opportunities to break up that land block and install internal streets that could improve circulation.***

*Response:* The MOA owns the Adjoining Lands parcels and intends to incorporate future development on this property into the overall MOA concept (MOA Phase 3 is proposed for this site). To date, MOA has not submitted formal development plans for Phase 3. The South Loop District Plan supports internal streets to break up large blocks where appropriate and enhance circulation. However, the design and internal circulation within the property/block will depend on the nature of the proposed MOA Phase 3 development. One factor complicating the insertion of through streets is that the Adjoining Lands block is bound on both the east and south by the Blue Line LRT track. Creating additional at-grade track crossings presents safety concerns and other challenges. The City will continue to work cooperatively with Metro Transit to coordinate and enhance transit service in the SLD and throughout the City.

#### **Minnesota Historic Preservation Office – Sarah Beimers, January 25, 2017**

During preparation of the AUAR Update Report the City contacted the Minnesota Historic Preservation Office, as required by State Statutes, to obtain initial input regarding historic and archaeological

resources. In their January 2017 letter, the MHPO affirmed that the information provided in the draft AUAR was sufficient. They also made two recommendations in their comments:

***Comment 1: The MHPO recommended the City require archaeological surveys prior to development on the Kelley, Long Meadow Circle, and Apple Tree sites.***

***Comment 2: The MHPO recommended that the City promote adaptive reuse of the historic structures on the Kelley Farm site (primarily the stone residence) or, if not feasible, require appropriate mitigation (documentation, photography, etc.)***

**Response:** Both of these recommendations are included in the Mitigation Plan.