



Metropolitan Airports Commission

6040 - 28th Avenue South, Minneapolis, MN 55450 • 612-726-8100 • metroairports.org

September 25, 2019

Lisa Fay
EAW Project Manager
MN Department of Natural Resources
500 Lafayette Road, Box 25
St. Paul, Minnesota 55155

RE: Upper Post Flats Environmental Assessment Worksheet

Dear Ms. Fay:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Upper Post Flats Project in Fort Snelling State Park, Minnesota. The Project includes construction of up to 215 housing units, a commons area with outdoor swimming pool, sidewalks, landscaping, park facilities, new streets, stormwater infiltration basins, utility improvements, and reconstruction of existing streets and driveways. The Metropolitan Airports Commission (MAC) has discussed the Project with the Minnesota Department of Natural Resources (MN DNR) over the past several months and submits this comment letter on the EAW document.

The MAC has expressed concerns about the development of residential properties on the Upper Post Flats because of the impact of existing aircraft noise from the adjacent Minneapolis-St. Paul International Airport (MSP). The proposed project area is bounded to the south and west by MSP. The MAC is opposed to such development in aircraft noise impact areas, as it would expose numerous new residents to an unacceptable noise environment as defined by both the Federal Aviation Administration (FAA) and the Metropolitan Council. This position is consistent with federal guidelines regarding incompatible land uses in the 70+ DNL.

The MAC's concerns are based upon compatibility planning issues as well as actual experience in the geographic area. These concerns include:

- In 2018, MSP Airport had an average of 1,114.8 aircraft arrivals and departures each day with 120.3 of the arrivals occurring after 10:30 p.m. and before 6:00 a.m. Aircraft operating on Runway 12L/30R are both visible and audible from the proposed development site. This runway is located within 700 feet from the nearest proposed residential building. During 2018, Runway 12L had an average of 118.5 arrivals and 81.5 departures each day. During the same timeframe, Runway 30R had 119.0 arrivals and 118.4 departures each day. This combined total of 437.4 average daily operations accounts for nearly 40 percent of total operations at MSP. Aircraft activity at MSP is expected to grow at a compounded annual growth rate of 1.2 percent between now and 2040, resulting in more frequent flight operations overall as well as on Runway 12L/30R.

- There is no nighttime curfew at MSP. Because it is a public-use airport and relies upon federal grant funding, the MAC is not able to impose any aircraft access restrictions, including a nighttime curfew, without going through a rigorous federal review and approval process under Federal Aviation Regulation Part 161. No U.S. airport has received approval from the FAA for access restrictions on aircraft certificated at Stage 3 and higher since Congress passed the 1990 Airport Noise and Capacity Act. All non-military aircraft operations at MSP are conducted in Stage 3 certificated aircraft or higher. For more information about federal aircraft noise stage certification, please visit the FAA website at https://www.faa.gov/about/office_org/headquarters_offices/apl/noise_emissions/airport_aircraft_noise_issues/levels/.
- The established preferential Runway Use System (RUS) at MSP prioritizes Runways 12L and 12R as the first priority for aircraft departures and Runways 30L and 30R as the first priority for aircraft arrivals. The RUS is in place to reduce noise impacts to residential and other sensitive land uses surrounding the airport. Compatible land use underlying the aircraft overflights to the southeast render the RUS unlikely to change.
- According to the MAC's 2018 Annual Noise Contour Report which models noise exposure from actual aircraft operations, the Project's proposed development area is exposed to aircraft noise ranging from 58 dB Day Night Average Sound Level (DNL) to 72 dB DNL.
- The Project would introduce approximately 20 residential units inside the 70 dB DNL noise contour. The Land Use Compatibility Guidelines established by the Metropolitan Council lists multiplex/apartments with shared entrances within the 70-74 dB DNL area as "Incompatible," which means the use is unacceptable even if acoustical treatment were incorporated into the structure and outside uses were restricted. The 2018 Actual Noise Contour Report reveals that there were no existing single family or multi-family residential units within the 70 dB DNL contour anywhere surrounding MSP.
- According to federal Airport Noise Compatibility Planning rules (14 CFR Part 150), the FAA's Aircraft Noise and Land Use Compatibility Guidelines state "Residential, other than mobile homes and transient lodgings" within the 70-74 dB DNL area are not compatible and should be prohibited. These guidelines also state "Where the community determines that residential or school uses must be allowed, measures to achieve outdoor to indoor Noise Level Reduction (NLR) of at least 25 dB and 30 dB should be incorporated into building codes and be considered in individual approvals." The FAA's Land Use Compatibility Guidelines go on to state that the use of NLR criteria will not eliminate outdoor noise concerns. Outdoor noise issues are likely to occur under the Project because the proposed development includes an outdoor swimming pool, walking paths, landscaping and park facilities. The MAC agrees with both the FAA's and Metropolitan Council's Land Use Compatibility Guidelines that residential uses in the 70-74 dB DNL area are not compatible with the airport environment.
- On an average day in 2018, the number of times aircraft noise exceeded 65 dB maximum noise level (L_{max}) on the exterior of the structures ranged from 100 to 400 at the Project site. These noise levels are known to interrupt speech for neighbors conversing outside.
- Several variables may increase future noise exposure at the Project site. For example, changes in aircraft activity levels, airport construction, aircraft fleet, and airline scheduling may result in increased noise exposure in the Project area above currently existing levels. No mitigation assistance is available from the MAC for such increased noise, and the FAA will not provide corrective actions for a new development so close to MSP.

- The Project proposes renting to individuals and families meeting state requirements for moderate income housing (incomes up to 60 percent of area median), with a preference for military veterans and their families. According to Executive Order 12898, the Presidential Memorandum on environmental justice and DOT Order 5610, an impact analysis on low-income and minority populations is required for airport development actions seeking Airport Improvement Program funding or for any airport action subject to FAA approval. The results of an environmental justice analysis may jeopardize future airport development projects or FAA actions. According to the U.S. Environmental Protection Agency's Office of Environmental Justice:

"The fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental effects resulting from industrial, municipal, and commercial operations or the execution of Federal, State, local, and tribal programs and policies."

The MAC understands that the MN DNR, under its National Landmark land acceptable requirements, has found the Project to be a unique situation warranting residential rehabilitation and use of all buildings in the Project area. The MN DNR also acknowledges that substantial noise mitigation is warranted in Project design and construction. The residential buildings will include sound attenuation to abate interior noise levels to 45 dB DNL or less. Additionally, the MN DNR has required the developer to provide noise attenuation for levels over 55 dBA, which are known to interrupt sleep. Upon completion of the Project, MN DNR will require testing to confirm the required levels of noise mitigation are attained in all units.

The MAC requests that MN DNR and the developer, Dominion, consider and respond to the following requests:

- To prevent the possibility of exposing a low-income or minority population to a disproportionate burden of negative environmental effects, the MAC encourages the MN DNR to adhere to its plan to rent the housing units to individuals and families that meet the state requirements for moderate income housing (incomes up to 60 percent of area median) or higher throughout the 99-year lease agreement.
- The MAC wishes to receive the post-development noise testing results.
- The MAC encourages the use of building materials to conform to a Sound Transmission Class (STC) of 40, which is the standard MAC uses in its residential noise mitigation program.
- The MAC would like the MN DNR and Dominion to consider whether it is appropriate and responsible to continue to develop residential areas within the 70 dB DNL contour based on the impacts observed in lower noise impact areas. Further, if MN DNR and Dominion continue to move forward after further consideration, the MAC requests the parties opt for a phased approach rather than the current construction schedule. A phased approach to developing and leasing the residential units, beginning with those located furthest away from the MSP Airport, would allow MN DNR and Dominion to more fully assess the impact on residential habitation in very close proximity to MSP.
- The MAC acknowledges and appreciates that the MN DNR has entered into negotiations with the MAC for a Memorandum of Agreement regarding the Project. The MAC requests that the MN DNR enter into such an agreement, as well as appropriate easements associated with the property, to achieve all of the following:

- Compliance with MSP Zoning Ordinance requirements for structure height limits and land use restrictions;
- Commit to future cooperation with the MAC and to other reasonable use restrictions to ensure safety of aviation operations at MSP;
- Commit to mitigate aircraft noise to the levels described above;
- Waive all claims against the MAC for current and future increased noise and air quality impacts;
- Provide MAC with reasonable access for inspections to investigate suspicious activity that may impact aviation safety and security;
- Provide existing and potential future tenants with notification of the proximity of the property to MSP and that these residential structures will not be eligible for MAC noise monitoring or any future noise mitigation measures; and
- Share regular and clear information with existing tenants on restrictions of materials, systems or devices that endanger the landing, take off, and/or maneuvering of aircraft.

The MAC appreciates this opportunity to comment on the Project. The MAC remains committed to working with the MN DNR and Dominion to ensure impacts to residents and resources of concern are adequately addressed and is available to discuss these comments. Please feel free to reach out to me with questions or to discuss the MAC comments at 612-725-8371 or via email at Bridget.Rief@mspmac.org.

Sincerely,



Bridget M. Rief
Vice President
Planning and Development