

September 11, 2019

Lisa Fey
Planner Principal
Ecological and Water Resources
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155

Re: Upper Post Flats Affordable Housing, Fort Snelling State Park Environmental Assessment
Worksheet

Dear Lisa Fey:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Upper Post Flats Affordable Housing project (Project) at Fort Snelling State Park, Hennepin County, Minnesota. The Project consists of the rehabilitation of 26 historic buildings into rental housing units. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility or other interests, the MPCA staff has the following comments for your consideration.

Noise (Item 17)

The MPCA agrees with the Minnesota Department of Natural Resources' (DNR) assessment that overall changes to noise in the vicinity of the Project, due to Project development, would be unnoticeable. The MPCA also appreciates the extensive work that the DNR, the proposed lessee, and the noise consultant put into examining existing noise in the area, as well as the identification of potential mitigation techniques that could be applied to the historic buildings and common areas as they are converted to new residential uses.

As a residential development, the proposed Project falls under Noise Area Classification (NAC) 1 (with the sole exception of the community center building, which would fall under NAC 2). Minn. R. ch. 7030.0050, subp. 3 allows for application of NAC 2 standards to a NAC 1 area if all three of the following criteria are met:

1. Sound level attenuation is added to buildings,
2. Year-round climate control is added to buildings, *and*
3. No areas outside the buildings are intended for outdoor activity

The MPCA agrees that significant building mitigation has been proposed that would satisfy the first two criteria. However, the MPCA does not agree with the statement in the EAW that the residential units do not have areas "that are intended for outdoor recreation" (p. 46). Each existing structure is surrounded by green space, with the intent that each will have, after Project development, what would functionally be considered to be a yard. It is impracticable to assume that residents would either willfully not use the space for outdoor activities, or would be barred from doing so.

Therefore, based on the MPCA's interpretation of Minn. R. ch. 7030.0050, subp. 3, and the information provided in the EAW, the Project, as proposed, does not meet all three criteria required to apply NAC 2 standards to a NAC 1 area. Thus, the Project does not meet the state noise standards.

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The Project can move forward, but the DNR, with the lessee, needs to seek and obtain a variance to the noise standards. The MPCA, under Minn. R. ch. 7030.0080, can grant such variances in instances "of exceptional circumstances" where the agency finds that "strict conformity with any provisions of any noise rule would cause undue hardship, would be unreasonable, impractical, or not feasible under the circumstances..." A variance application should conform to the provisions in Minn. R. ch. 7000.7000.

The MPCA recommends that the lessee disclose the noise variance to prospective tenants as a part of their rental agreements, to encourage transparency with those individuals. For questions related to noise issues or the variance, please contact Fawkes Steinwand at 651-757-2327 or Fawkes.Steinwand@state.mn.us.

We appreciate the opportunity to review this Project. Please provide your specific responses to our comments and notice of decision on the need for an Environmental Impact Statement. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EAW, please contact me by email at Karen.kromar@state.mn.us or by telephone at 651-757-2508.

Sincerely,



Karen Kromar
Project Manager
Environmental Review Unit
Resource Management and Assistance Division

KK:bt

cc: Dan Card, MPCA, St. Paul
Fawkes Steinwand, MPCA, St. Paul
Suzanne Hanson, MPCA, Duluth