Responses to Comments, Findings of Fact and Conclusions, and Record of Decision

for

The Parkway Neighborhood
Environmental Assessment Worksheet

Responsible Governmental Unit (RGU)

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INTRODUCTION

The Parkway Neighborhood residential/commercial development (herein referred to as "the Project") proposes a residential/commercial development on approximately 67.29 acres in the southwest quadrant of I-94 and Dayton Parkway in the City of Dayton, Hennepin County, Minnesota. The project will include 650 medium/high-density residential units, a commercial parcel with convenience store, gas station/car wash, and service retail building(s). The project will include a connection to the Rush Creek Regional Trail, recreational areas, internal roads, park amenities, and stormwater features.

The Project would include development on the current hayfields, cultivated fields, woodland, and a portion of wetlands. Other components of the Project include the construction of filtration basins to meet stormwater requirements (water quality, volume, and rate).

The Project is anticipated to be constructed in several phases, based on market demand. The Project Proposer is working with the City through the final plat process for Phase 1 (Parkway Apartments and the internal roadway). At a later date, subsequent phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's preliminary and final plat review processes.

EAW NOTIFICATION, DISTRIBUTION, AND COMMENT PERIOD

In accordance with Minnesota Rules 4410.1500, the Environmental Assessment Worksheet (EAW) was completed and distributed to persons and agencies on the official Environmental Quality Board (EQB) distribution list. The EQB published notice of availability of the EAW in the *EQB Monitor* on July 23rd, 2024, initiating a 30-day comment period that concluded on August 22nd, 2024. A hard copy of the EAW was made available for review during the comment period at the Dayton City Hall located at 12260 South Diamond Lake Road. A public notice was published in the local newspaper, the *Press and News*, on July 25, 2024. Appendix A includes copies of the comment letters and emails received. A copy of the published EAW is available at: https://cityofdaytonmn.com/resources/eaw/.

COMMENTS RECEIVED

The following comment letters or emails were sent to Rush Creek Development LLC:

Letter 1: Hennepin County Transportation Department
Letter dated August 21, 2024, from Chad Ellos, Transportation Planning Manager.

Letter 2: Minnesota Pollution Control Agency
Letter dated August 21, 2024, from Chris Green, Environmental Review Unit Project Manager.

Letter 3: Minnesota Department of Natural Resources
Letter dated August 22, 2024, from Melissa Collins, Regional Environmental Assessment Ecologist.

Letter 4: Metropolitan Council
Letter dated August 22, 2024, from Angela Torres, Senior Manager

RESPONSES TO COMMENTS

The following information and clarifications are provided in response to all EAW comments received during the 30-day comment period. Comments responses are provided in italicized text.

Letter 1: Hennepin County Transportation Department

Comment 1: Hennepin County supports creating compact, walkable and human-centered communities where people can walk, bike, take transit (when available), and drive to everyday destinations. Consider revising the site plan to better connect the land uses on the site to each other through layout and design, following walkable design principles and city's goals for its GMU-5 District. With a revised approach, the site could evolve into an engaging mixed-use neighborhood that better fosters future demand and value.

> ***Response:*** *The majority of the Project area is within the FEMA 100-year floodplain. While avoiding the wetland areas, providing adequate buffers, and mitigating for floodplain fill, there are limitations to building orientations. Section 1001.09 of the City's Floodplain ordinance imposes restrictions on uses for the Floodway District, Flood Fringe District, and the General Floodplain District. The area south/west of the interior roadway is intended to serve as floodplain fill mitigation. The Project Proposer is working with the City through the Preliminary Plat process for Phase 1 (Parkway Apartments and the internal roadway). At a later date, subsequent phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's Preliminary and Final Plat review processes. The Project Proposer will consider opportunities to further integrate walkable design principles and the City's goal for its GMU-5 District.*

Comment 2: The fourth line on Page 13 refers to "Hennepin County's Thrive MSP 2040 regional development guide required local governmental units…" It is the Metropolitan Council's guide, not the county's.

> ***Response****: So noted. Thank you for your comment.*

Comment 3: The second paragraph on Page 56 states that Hennepin County operates a dial-a-ride service. The county does not.

> ***Response****: So noted. Thank you for your comment.*

Comment 4: The EAW site plan shows land uses that are not mixed nor well connected to each other. The concept is very auto oriented; land uses are not well connected or walkable. With a mixed-use designation, expectations are for a more connected block pattern within the residential areas and robust connections to other areas on the site.

> ***Response****: The majority of the Project area is within the FEMA 100-year floodplain. While avoiding the wetland areas, providing adequate buffers, and mitigating for floodplain fill, there are limitations to building orientations. Section 1001.09 of the City's Floodplain ordinance imposes restrictions on uses for the Floodway District, Flood Fringe District, and the General Floodplain District. The area south/west of the interior roadway is intended to serve as floodplain fill mitigation. The Project Proposer is working with the City through the Preliminary Plat process for Phase 1 (Parkway Apartments and the internal roadway). At a later date, subsequent Phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's Preliminary and Final Plat review processes. The Project Proposer will consider opportunities to further integrate walkable design principles and the City's goal for its GMU-5 District.*

Comment 5: The current site plan does not appear to meet the intent of the city's mixed-use district. The city's desired characteristics for the area's mixed-use GMU-5 District (Page 12) include, "The placement of buildings and the relationship of the building, parking, landscaping and pedestrian spaces is essential

to creating the pedestrian-friendly environment envisioned in the GMU-5 District." The disconnected land uses, site design and lack of interior site connections do not seem to support these goals.

> ***Response**: The majority of the Project area is within the FEMA 100-year floodplain. While avoiding the wetland areas, providing adequate buffers, and mitigating for floodplain fill, there are limitations to building orientations. Section 1001.09 of the City's Floodplain ordinance imposes restrictions on uses for the Floodway District, Flood Fringe District, and the General Floodplain District. The area south/west of the interior roadway is intended to serve as floodplain fill mitigation. The Project Proposer is working with the City through the Preliminary Plat process for Phase 1 (Parkway Apartments and the internal roadway). At a later date, subsequent Phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's Preliminary and Final Plat review processes. The Project Proposer will consider opportunities to further integrate walkable design principles and the City's goal for its GMU-5 District.*

Comment 6: The EAW states (Page 4) that "The purpose of the development is to provide places for multiple age groups to live, shop and enjoy in Dayton." Excluding floodplain and wetlands, this site has only one non-residential use, a gas station/car wash. This use provides limited utility for residents as far as on-site services, and it cannot easily be accessed from within the site.

> ***Response**: The Project will provide a trail head for the Three Rivers Regional Trail System, providing direct access to the miles of Hennepin County's Tree Rivers trail system.*

Comment 7: The residential uses are not in the optimal location from a health and livability standpoint. The residential buildings are very close to Interstate 94, a source of air and noise pollution, and away from the site's positive natural features and good views. The residential uses are disconnected from each other and other site features and land uses by distance and isolation.

> ***Response**: While avoiding wetland areas, providing adequate buffers, and mitigating for floodplain fill, there are limitations to building orientations. Section 1001.09 of the City's Floodplain ordinance imposes restrictions on uses for the Floodway District, Flood Fringe District, and the General Floodplain District. The area south/west of the interior roadway is intended to serve as floodplain fill mitigation. Sound mitigation strategies may be considered for residential buildings during the design and permitting phases of development.*

Comment 8: Natural resources are lost for little community benefit. The project area is within a DNR-designated Metro Conservation Corridor. The EAW on Page 11 notes that Hennepin County's Natural Resources map designates a portion of site is a "Priority Natural Resource Corridor" with three ecologically significant areas. It appears the plan removes most of the trees on the site — more than 1,000 — to construct medium- and high- density housing. If laid out in a more sensitive and connected way, it may be possible to save more trees. See comments on greenhouse gases.

> ***Response**: The EAW documents the most intensive use of the site allowed by City code. Subsequent project phases will be finalized during the preliminary and final plat processes. The majority of the wetland impacts (northern portions of Wetlands 4 and 5) result primarily from the construction of the internal roadway. The current road stub off of Dayton Parkway is located offsite and a connection to the roadway must provide adequate safety vehicle access and maneuverability. Wetland impacts are subject to the approval of the Local Government Unit and the U.S. Army Corps of Engineers (for jurisdictional Waters of the United States). The Project may also require certification from the Minnesota Pollution Control Agency under Section 401 of the Clean Water Act.*
>
> *The Wetland Replacement Plan application was submitted to the City on September 5, 2024, by Eco Foresight. The City is reviewing the application and has initiated discussions with the Proposer, the U.S. Army Corps of Engineers, and the Wetland Conservation Act (WCA) Technical Evaluation Panel. Total wetland impacts and site plan details may be subject to change*

if the City determines that WCA wetland protection requirements are not met and/or that additional wetland impact avoidance or minimization is feasible.

In terms of tree removal, the City has established a tree removal threshold in residential and non-residential districts based on the total diameter inches of significant trees (healthy deciduous hardwood tree measuring a minimum of six inches in diameter (DBH), or a healthy common tree measuring a minimum of twelve inches in diameter (DBH), or an existing healthy coniferous/evergreen tree measuring a minimum of 12 feet in height). In non-residential districts such as the GMU-5 District, up to 60% of the total inches of significant trees DBH may be removed without replacement, removal beyond this threshold requires reforestation. Heritage trees require reasonable measures to preserve these trees and every diameter inch (DBH) removed requires replacement. The City also has a tree replacement policy which requires each inch of removal/disturbance to be replaced by one inch of new tree. If the reforestation cannot be met onsite, the City allows cash-in-lieu of replacement which funds reforestation projects within the City. Per subdivision 8 of section 1001.25, "City staff shall make recommendations for adjustment of locations of structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts."

- *Common Tree: "A deciduous overstory tree including cottonwood, poplars/aspen, box elder, willow, silver maple, elm, and any other tree species not defined as hardwood deciduous tree or a coniferous/evergreen tree or considered non-native to Minnesota."*
- *Heritage Tree: "A healthy hardwood deciduous tree measuring equal to or greater than 27 inches in diameter or a healthy coniferous evergreen tree greater than 50 feet in height."*
- *Note: Significant trees removed for water quality treatment ponds, public trails, sidewalks and collector or arterial roads are exempt from the removal threshold calculation.*

In accordance with section 1001.25 of the City code, a tree preservation plan will be submitted as part of the Preliminary Plat application for Phase 1 (Parkway Apartments and the internal roadway) of the Project. The submitted plan will propose removals less than the replacement threshold (33%) and intends to preserve 1,088 trees.

The southeast corner of the project area is where most of the existing trees are concentrated. The tree removal discussed throughout the whole EAW is based on the most intensive developed land use allowed by City code. The Proposer is committed to salvaging as many trees as possible and preserving large clusters of existing trees. In the future when subsequent phases of the Project go through the Preliminary and Final Plat processes a tree preservation plan will be submitted to the City. The Proposer will consider providing additional tree replacement beyond the City's replacement requirements.

Additionally, to mitigate for secondary impacts of tree removal, the Proposer will consider avoiding tree removal during certain times of year for future phases of development. For example, the MnDNR recommends that tree removal be avoided from June 1st through August 15th to limit impacts to federally listed bat species. Avoiding tree removal during the bat pupping season in June and July is recommended. To avoid impacts to the northern long-eared bat, tree removal during the winter (November 15th to March 31st) will be considered by the Proposer.

Comment 9: Wastewater – currently, there is not service to this site. (Pages 26 to 28). There is a lot of extraneous info provided about regional wastewater capacity, but the document doesn't adequately address the EAW site. It just states that a planned but unbuilt sanitary sewer stub would meet the demands of the site.

***Response**: As mentioned in the ninth Metropolitan Council comment, "An estimate of the project wastewater flow generated within the EAW project area was provided and appears to be appropriate for the planning of local infrastructure planning needs. The EAW outlines that direct wastewater service will be provided through a new sanitary sewer that will connect to a previously built sewer when Dayton Parkway was constructed around year 2000. That sanitary sewer (Dayton Parkway sewer) connected to the very upstream end of Metropolitan Council interceptor 900430. The interceptor at this location is a 27-inch fiber reinforced pipe constructed in 2016 to provide service to the City of Rogers."*

Comment 10: Stormwater – given the sensitive nature of hydrology and natural resources on the site, aspiring for something better than "typical of a suburban development" (page 30) seems achievable or at a minimum providing a more complete response so mitigation can be better addressed.

***Response**: The Project Proposer is working with the City through the Preliminary Plat process for Phase 1 (Parkway Apartments and the internal roadway). At a later date, subsequent Phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's Preliminary and Final Plat review processes. The City and Proposer will continue to discuss stormwater management during the site review and permitting process.*

Comment 11: A more connected site plan would help mitigate GHG emissions by reducing the number of short-distance trips taken by motor vehicles. (Page 48)

***Response**: The majority of the Project area is within the FEMA 100-year floodplain. While avoiding the wetland areas, providing adequate buffers, and mitigating for floodplain fill, there are limitations to building orientations. Section 1001.09 of the City's Floodplain ordinance imposes restrictions on uses for the Floodway District, Flood Fringe District, and the General Floodplain District. The area south/west of the interior roadway is intended to serve as floodplain fill mitigation. The Project Proposer is working with the City through the Preliminary Plat process for Phase 1 (Parkway Apartments and the internal roadway). At a later date, subsequent Phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's Preliminary and Final Plat review processes. The Project Proposer will consider opportunities to further integrate walkable design principles and the City's goal for its GMU-5 District.*

Comment 12: Atmospheric removals (Page 53) section addresses forestry practice. This plan is removing most of the site's trees (negative impact), but this is not clearly addressed in this section.

***Response**: The atmospheric removals section does extrapolate data because the United States Environmental Protection Agency does not readily have carbon sequestration rates for every land use type. The figures presented are high-end estimates based on estimates of final impervious surface estimates.*

The EAW documents the most intensive use of the site allowed by City code. Subsequent Project phases will be finalized during the Preliminary and Final Plat processes. The City has established a tree removal threshold in residential and non-residential districts based on the total diameter inches of significant trees (healthy deciduous hardwood tree measuring a minimum of six inches in diameter (DBH), or a healthy common tree measuring a minimum of twelve inches in diameter (DBH), or an existing healthy coniferous/evergreen tree measuring a minimum of 12 feet in height). In non-residential districts such as the GMU-5 District, up to 60% of the total inches of significant trees DBH may be removed without replacement, removal beyond this threshold requires reforestation. Heritage trees require reasonable measures to preserve these trees and every diameter inch (DBH) removed requires replacement. The City also has a tree replacement policy which requires each inch of removal/disturbance to be replaced by one inch of new tree. If the reforestation cannot be met onsite, the City allows cash-in-lieu of replacement which funds reforestation projects within the City. Per subdivision 8 of section 1001.25, "City staff shall make

recommendations for adjustment of locations of structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts."

- *Common Tree: "A deciduous overstory tree including cottonwood, poplars/aspen, box elder, willow, silver maple, elm, and any other tree species not defined as hardwood deciduous tree or a coniferous/evergreen tree or considered non-native to Minnesota."*
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- *Note: Significant trees removed for water quality treatment ponds, public trails, sidewalks and collector or arterial roads are exempt from the removal threshold calculation.*

In accordance with section 1001.25 of the City code, a tree preservation plan will be submitted as part of the Preliminary Plat application for Phase 1 (Parkway Apartments and the internal roadway) of the Project. The submitted plan will propose removals less than the replacement threshold (33%) and intends to preserve 1,088 trees.

The southeast corner of the project area is where most of the existing trees are concentrated. The tree removal discussed throughout the whole EAW is based on the most intensive developed land use allowed by City code. The Proposer is committed to salvaging as many trees as possible and preserving large clusters of existing trees. In the future when subsequent Phases of the Project go through the Preliminary and Final Plat processes a tree preservation plan will be submitted to the City. The Proposer will consider providing additional tree replacement beyond the City's replacement requirements.

Additionally, to mitigate for secondary impacts of tree removal, the Proposer will consider avoiding tree removal during certain times of year for future phases of development. For example, the MnDNR recommends that tree removal be avoided from June 1st through August 15th to limit impacts to federally listed bat species. Avoiding tree removal during the bat pupping season in June and July is recommended. To avoid impacts to the northern long-eared bat, tree removal during the winter (November 15th to March 31st) will be considered by the Proposer.

Comment 13: The document glosses over tree removal, which seems to be a significant number of more than 1,000.

***Response**: The tree removal discussed throughout the whole EAW is based on the most intensive developed land use allowed by City code. The majority of trees are concentrated in the southeast corner of the project area. When the subsequent Phases of the Project go through the Preliminary and Final Plat processes, a tree preservation plan will be submitted to the City. In accordance with section 1001.25 of the City code, a tree preservation plan will be submitted as part of the Preliminary Plat application for Phase 1 (Parkway Apartments and the internal roadway) of the Project. The submitted plan will propose removals less than the replacement threshold (33%) and intends to preserve 1,088 trees. The Proposer is committed to salvaging as many trees as possible and preserving large clusters of existing trees. The Proposer will consider providing additional tree replacement beyond the City's replacement requirements.*

Comment 14: Estimating 1 acre of new trees seems optimistic, taking many years to cover an acre with no guarantee that these will be provided or in a large enough grouping to make a difference.

***Response**: Tree preservation plans are still being developed for subsequent Phases, particularly the southeast corner of the project area. The final number of tree removal and required mitigation are still unknown at this time. The Proposer is committed to salvaging as many trees as possible and preserving large clusters of existing trees. The Proposer will consider providing additional tree replacement beyond the City's replacement requirements.*

Comment 15: This plan needs to better acknowledge the tree loss and impact so mitigation can be more directly identified.

***Response**: The EAW documents the most intensive use of the site allowed by City code. Subsequent project Phases will be finalized during the Preliminary and Final Plat processes. The City has established a tree removal threshold in residential and non-residential districts based on the total diameter inches of significant trees (healthy deciduous hardwood tree measuring a minimum of six inches in diameter (DBH), or a healthy common tree measuring a minimum of twelve inches in diameter (DBH), or an existing healthy coniferous/evergreen tree measuring a minimum of 12 feet in height). In non-residential districts such as the GMU-5 District, up to 60% of the total inches of significant trees DBH may be removed without replacement, removal beyond this threshold requires reforestation. Heritage trees require reasonable measures to preserve these trees and every diameter inch (DBH) removed requires replacement. The City also has a tree replacement policy which requires each inch of removal/disturbance to be replaced by one inch of new tree. If the reforestation cannot be met onsite, the City allows cash-in-lieu of replacement which funds reforestation projects within the City. Per subdivision 8 of section 1001.25, "City staff shall make recommendations for adjustment of locations of structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts."*

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Comment 16: A revised site plan that preserves more trees is preferred.

***Response**: The majority of the Project area is within the FEMA 100-year floodplain. While avoiding the wetland areas, providing adequate buffers, and mitigating for floodplain fill, there are*

limitations to building orientations. Section 1001.09 of the City's Floodplain ordinance imposes restrictions on uses for the Floodway District, Flood Fringe District, and the General Floodplain District. The area south/west of the interior roadway is intended to serve as floodplain fill mitigation.

The Project Proposer is working with the City through the Preliminary Plat process for Phase 1 (Parkway Apartments and the internal roadway). At a later date, subsequent Phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's Preliminary and Final Plat review processes.

Tree preservation plans are still being developed for subsequent Phases, particularly the southeast corner of the project area. The final number of tree removal and required mitigation are still unknown at this time. The Proposer is committed to salvaging as many trees as possible and preserving large clusters of existing trees. The Proposer will consider providing additional tree replacement beyond the City's replacement requirements.

Comment 17: In addition to roadways, the concept needs to address future walking and biking network and making a more connected network to meet the intention of the city's designated mixed-use district (Page 55).

***Response**: The Project Proposer is working with the City through the Preliminary Plat process for Phase 1 (Parkway Apartments and the internal roadway). At a later date, subsequent Phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's Preliminary and Final Plat review processes. The Project Proposer will consider opportunities to further integrate walkable design principles and the City's goal for its GMU-5 District.*

Comment 18: Vehicle counts were conducted on Feb. 2, 2024, which was a Friday (Page 55). Typically, Tuesdays through Thursdays are used, as they better reflect typical weekday patterns with fewer people taking long weekends or working from home.

***Response**: The February 2, 2024, date in the EAW is a typo. The turn movement data was collected on February 22, 2024, which was a Thursday. The turn movement data is included in the Traffic Impact Study appendix.*

Comment 19: At the intersection of Dayton Parkway and County Road 101 on PDF page 288, what are the queue lengths for southbound left turns as dual left turn lanes may be needed.

***Response**: The maximum queue length for the southbound left turn at CSAH 101/Dayton Parkway is 271 feet during the 2040 Build a.m. peak hour. This length is contained within the existing 500-foot southbound left turn lane at that intersection.*

Comment 20: On the bottom of PDF Page 293, under Dayton/Parkway/development access short-term, was a warrant analysis completed for traffic control? Have any other traffic control options besides a signal been considered and reviewed?

***Response**: The City is currently in discussions with Hennepin County regarding traffic control and signaling options in this area. Fiber conduit was installed with the interchange project to allow for future traffic signal connections.*

Letter 2: Minnesota Pollution Control Agency

Comment 1: It is planned that about 3 acres of wetlands will be impacted. The preferred method when wetlands are involved is to find alternative designs so that there are no adverse impacts to the wetlands.

Response: *The EAW documents the most intensive use of the site allowed by City code. Subsequent Project Phases (commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments) will be finalized during the Preliminary and Final Plat processes. The majority of the wetland impacts (northern portions of Wetlands 4 and 5) result primarily from the construction of the internal roadway. The current road stub off of Dayton Parkway is located offsite and a connection to the roadway must provide adequate safety vehicle access and maneuverability. Wetland impacts are subject to change and the approval of the Local Government Unit and the U.S. Army Corps of Engineers (for jurisdictional Waters of the United States). The Project may also require certification from the Minnesota Pollution Control Agency (MPCA) under Section 401 of the Clean Water Act.*

The Wetland Replacement Plan application was submitted to the City on September 5, 2024, by Eco Foresight. The City is reviewing the application and has initiated discussions with the proposer, the U.S. Army Corps of Engineers, and the Wetland Conservation Act (WCA) Technical Evaluation Panel. Total wetland impacts and site plan details may be subject to change if the City determines that WCA wetland protection requirements are not met and/or that additional wetland impact avoidance or minimization is feasible.

Comment 2: With much of the area being within the 100-year floodplain, special consideration should be made to prepare for climate changes that will produce larger rain events and to prevent flooding to the buildings.

Response: *The stormwater calculations were based on the assumed impervious cover of the most intensively developed land use allowed by City code. The calculations were based on the 100-year rain event. Floodplain filled for Project development will be mitigated for onsite. The proposed filtration basins have been established with a berm around the perimeter to maintain the current 100-year floodplain outside of the filtration basins. The basins have been designed such that the development meets stormwater requirements of the City, Elm Creek Watershed Management Commission, and the MPCA NPDES permit for both water quality and rate control.*

Comment 3: Section 9 – If an Army Corps Section 404 is required, you will also need the MPCA 401 Certification.

Response: *So noted. Thank you for the comment.*

Comment 4: Page 12 into 13 – The ECWMC [Elm Creek Watershed Management Commission] is actively working on their next generation Watershed Management Plan.

Response: *So noted. Thank you for the comment.*

Comment 5: Page 24-25: While this area is outside wellhead protection areas, it is within the Drinking Water Supply Management Area – Priority Area B for Minneapolis and St. Paul.

Response: *So noted. Thank you for the comment.*

Comment 6: Table 12: Impairments: Not all the impairments were listed. The impairments from the 2024 list for Rush Creek and South Fork Rush Creek are shared in the table below. There are TMDLs for all the impairments denoted by the EPA category of 4a.

- Special consideration should be included related to chlorides. With the increase in impervious surface, there is the likely increased usage of salt during winter maintenance. This area has shallow groundwater and so will quickly move chlorides to Rush Creek.
- If there are opportunities to increase habitat within Rush Creek by increasing the meander of the stream, that would help the aquatic life impairments.

Response: *So noted. Thank you for the comment. The updated table, provided in MPCA's comment, is included below.*

Water body name	Water body type	AUID	Affected designated use	Pollutant or stressor	Year added to List	Year TMDL plan approved	EPA category
Rush Creek	Stream	07010206-528	Aquatic Life	Benthic macroinvertebrates bioassessments	2014	2017	4A
Rush Creek	Stream	07010206-528	Aquatic Life	Dissolved oxygen	2010	2017	4A
Rush Creek	Stream	07010206-528	Aquatic Recreation	Escherichia coli (E. coli)	2010	2017	4A
Rush Creek	Stream	07010206-528	Aquatic Life	Fish bioassessments	2002	2017	4A
Rush Creek, South Fork	Stream	07010206-732	Aquatic Life	Fish bioassessments	2014	2017	4A
Rush Creek, South Fork	Stream	07010206-732	Aquatic Life	Benthic macroinvertebrates bioassessments	2014	2017	4A
Rush Creek, South Fork	Stream	07010206-732	Aquatic Life	Chloride	2014	2016	4A
Rush Creek, South Fork	Stream	07010206-732	Aquatic Recreation	Escherichia coli (E. coli)	2010	2017	4A

Comment 7: 12. Water Resources, a), iii) contains a good discussion of the local and regional sanitary sewer system, but it is not clear what the projected average daily design flow for the proposed development is. It would be helpful to have a listing of flow calculation by land use type for the proposed project.

> ***Response:*** *When the sanitary main under Dayton Parkway was permitted by Metropolitan Council, the City used high daily flow estimates and is comfortable that the Parkway Neighborhood project would be well within the estimated range. No Project-specific estimates have been completed at this point.*

Comment 8: The current description of noise effects, in Section 19, does not provide enough information to determine whether the project will conform with state noise standards. MPCA is particularly concerned about night-time noise standards at the proposed residential buildings because sleep disturbance can result in detrimental health effects.

While the project may not be a MN DOT Type 1 project, the proposer could still use information from a noise study to characterize existing noise levels in the area and assess whether a noise barrier or other measures would minimize or mitigate the effects of noise at the proposed residential buildings which would be located very close to I-94. Noise barriers could decrease both noise and air quality effects from traffic on I-94.

The RGU and any other land-use decision makers, should consider language in Minn. R. 7030.0030 that reads "[…] Any municipality having authority to regulate land use shall take all reasonable measures within its jurisdiction to prevent the establishment of land use activities listed in noise area classification (NAC) 1, 2, or 3 in any location where the standards established in part 7030.0040 will be violated immediately upon establishment of the land use." The Noise section of the EAW does not provide enough detail regarding current sound levels in the project area to determine whether an immediate violation of the state noise standards would occur if the project were approved, and the proposed residential buildings were constructed.

MPCA strongly recommends the proposer conduct a noise study and potentially evaluate methods to mitigate noise impacts to the proposed residential buildings.

> ***Response:*** *The City is not requiring a noise study at this time. The noise study may be reconsidered during the Preliminary and Final Plat applications for future Phases related to residential buildings close to the interstate freeway.*

Letter 3: Minnesota Department of Natural Resources

Comment 1: Page 4, Project Description. This section answers "no" to questions 6.e and 6.f, about previous and future environmental review. It is unclear from the project description how the Convenience Store/Gas Station/Carwash is being evaluated, and if it is considered as part of this project and EAW. It is also unclear from the EAW narrative what the term "ghost plan" means in this context. If a future project is being planned, but is not being evaluated at this time, it could require additional environmental review in the future as a connected and phased action.

> ***Response:*** *No future stages of this development on adjacent property is planned beyond those described in the EAW. The EAW encapsulates the entire Project, outlining the most intensively developed land use allowed by City code. Only the first Phase (Parkway Apartments and the internal roadway) has been submitted to the City as a Preliminary Plat application. At a later date, subsequent Phases, including the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments, will go through the City's Preliminary and Final Plat review processes. The commercial parcel is based on a "ghost plan", a hypothetical site plan based on a particular retailer's typical product. The gas station is part of the project evaluated in the EAW. A gas station was used as the most intensively developed land use for the northwest corner of the Project. A gas station with an underground storage tank would meet Subpart 9 of the MEPA mandatory categories.*

Comment 2: Page 9, Table 8, Permit Approvals, Applications, and Certifications. This table should include a DNR Water Appropriation Permit for potential construction dewatering. A DNR Water Appropriation Permit is required if the water pumped exceeds 10,000 gallons in a day, or one million gallons in one year. The DNR General Permit for Temporary Appropriation, with its lower permit application fee and reduced time for review, may be used for the dewatering if the dewatering volume is less than 50 million gallons and the time of the appropriation is less than one year.

> ***Response:*** *See the revised permitting table below.*

Table 8. Permit Approvals, Applications, and Certifications

Unit of Government	Type of Application	Status
Federal		
U.S. Army Corps of Engineers	Approved Jurisdictional Determination	To be applied for
	Wetland Fill Permit	To be applied for
State		
Minnesota Pollution Control Agency (MPCA)	National Pollution Discharge Elimination System (NPDES) Permit	To be applied for
	Stormwater Pollution Prevention Permit (SWPPP)	To be applied for
	Sewer Extension Permit	To be applied for
	401 Certification	To be applied for if needed
Minnesota Department of Health (MDH)	Watermain Extension Permit	To be applied for
	Well Sealing Permit	To be applied for if needed

Table 8. Continued

Unit of Government	Type of Application	Status
State		
Minnesota Department of Natural Resources	Water Appropriations Permit	To be applied for if needed
	General Permit for Temporary Appropriations	To be applied for if needed
State Historic Preservation Office (MnSHPO)	Archeological/Historic Site Review[1]	See Footnote
Minnesota Department of Labor and Industry (MNDLI)	Site Utilities Review	To be applied for
Local		
Metropolitan Council	Metropolitan Council Environmental Services (MCES) Permit	To be applied for
Hennepin County	Plat Approval	To be applied for
Elm Creek Watershed Management Commission (ECWMC)	Wetland Alteration & Buffer Review	To be applied for
	Stormwater Management Plan Review	To be applied for
	Erosion and Sediment Control Plan Review	To be applied for
City of Dayton	EIS Need Decision	Pending
	Wetland Conservation Act (Boundary Approval)	Approved
	Wetland Impact Permit	To be applied for
	Preliminary and Final Plat	Pending
	Grading Permit	To be applied for
	Building Permit	To be applied for
	Land Disturbance Permit	To be applied for
	Development Application	To be applied for
	Sewer Availability (SAC) Determination	To be applied for

[1] The Minnesota State Historic Preservation Office is no longer providing formal responses to technical assistance requests. Instead, Minnesota's Statewide Historic Inventory Portal (MnSHIP), was used to identify any previously identified above-ground historic resources that may be located within/near the project area. MnSHPO encouraged enlisting the help of a consultant and Niewnow Cultural Consultants complete the recommended survey work.

Comment 3: Page 13, Section 10.iii. Zoning. The EAW states, "The MnDNR designates the shoreland classification for Rush Creek as "Tributary" and also does not meet the City's shoreland definition." It is unclear why the assumption was made that Rush Creek does not meet the City's shoreland definition. Shoreland is land located within 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The City's ordinance provides in 1001.08 Subd 11 that minimum requirements shall apply to all shorelands of the public waters listed in Subdivision 10. This includes Rush Creek in T120R22S31.

A portion of this proposed development is located within the a shoreland district, and therefore the information presented in this section of the EAW and other relevant sections is not complete. The EAW should be updated to reflect that the site is in a shoreland district and to evaluate the proposed development's consistency with dimensional standards and other requirements regarding: stormwater management, impervious surfaces, wetland impacts, tree removal, floodplain mitigation, climate adaptations, sediment and erosion control requirements, and relevant regulatory considerations.

Response: *The portion of Rush Creek adjacent to the southwest project area boundary is identified as a "Public Ditch/Altered Natural Watercourse" (M-0062-004). The portion of Rush Creek identified as a Public Water Watercourse is east of Interstate 94. Rush Creek is also identified as a "Public Ditch/Altered Natural Watercourse" in the City's 2040 Comprehensive Plan (Figure 3.4). As mentioned above, section 1001.08 of the City code lists Rush Creek in Subdivision 10 as a "Tributary Stream". The Project area is within 300 feet of Rush Creek and therefore a portion of the development is located within a shoreland district. Section 1001.08 of the City code outlines the use of any shoreland of public waters; the size and shape of lots; the use, size type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land.*

Comment 4: Page 29, Stormwater. This section does not discuss relevant requirements for projects located within a shoreland district. The EAW also references the Elm Creek Watershed Management Commission regulations that require infiltration/abstraction of the first 1.1 inches of runoff from impervious surfaces. However, no infiltration basins are shown on the site plan and it is unclear how the proposed filtration basins located within the 100-year floodplain comply with relevant regulations.
This section should also discuss in greater detail how the development will impact water quality in the adjacent Rush Creek, including impairment parameters.

Response: *The proposed filtration basins have been established with a berm around the perimeter to maintain the current 100-YR flood plain outside of the filtration basins. The basins have been designed such that the development meets stormwater requirements of the City, Watershed, and the MPCA NPDES permit for both water quality and rate control. Section 1001.08 of the City code outlines the use of any shoreland of public waters; the size and shape of lots; the use, size type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land. The Proposer will adhere to the City code and Elm Creek Watershed Management Commission stormwater management requirements, which will be enforced during the Preliminary and Final Platting process.. Relevant requirements outlined in City code include:*

- *Alterations of vegetation and topography will be regulated to prevent soil erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.*
- *Removal or alteration of vegetation, is allowed subject to the following standards:*
    - *Clear-cutting and intensive vegetation clearing within the shore impact zones, bluff impact zones and on steep slopes are not permitted. Intensive vegetation clearing for forestland conversion to another use outside of these areas is allowable as a conditional use if a soil erosion and control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located.*
    - *Note: The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or posed safety hazards.*
- *During subsequent permitting processes with the City, the following will be incorporated into grading and filling permits where relevant.*
    - *Alterations shall be designed and conducted in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible.*
        - *Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as weather conditions allow.*
        - *Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used.*
        - *Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local Soil and*

Water Conservation Districts and the United States Soil Conservation Service.

- *Fill or excavated material shall not be placed in a manner that creates an unstable slope. Plans to place fill or excavated material on steep slopes shall be reviewed by the City Engineer for continued slope stability and shall not create finished slopes of 30% or greater.*
- *Excavation and fills shall also be subject to all other provisions of the City Code related thereto.*

- *Grading and filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland shall be evaluated by the City to determine how extensively the proposed activity would affect the following functional qualities of the wetland:*
  - *Sediment and pollutant trapping and retention;*
  - *Storage of surface runoff to prevent or reduce flood damage;*
  - *Fish and wildlife habitat;*
  - *Recreational use;*
  - *Shoreline or bank stabilization; and*
  - *Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.*
- *When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.*
  - *Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible, and facilities or methods used to retain sediment on the site.*
  - *When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds shall be required. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities. Settling basins to intercept urban runoff shall be sized to a minimum of a 10-year storm design.*
- *Impervious surface coverage of lots shall not exceed 25% of the lot area, except in the RO District where impervious surface shall not exceed 30%. This may be increased provided the City has approved and implemented a storm water management plan affecting the subject site and a conditional use permit permitting an increase has been granted.*
- *When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local Soil and Water Conservation Districts.*
- *New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.*

Comment 5: Page 29, Stormwater. We recommend that BWSR-approved, weed-free, native seed mixes be used to the greatest degree possible in stormwater features and development landscaping in order to provide pollinator habitat. Native plants also require less irrigation and soil inputs than traditional landscaping.

> ***Response:*** *The Proposer will utilize BWSR-approved, weed-free, native seed mixes to the degree practical in stormwater features and development landscaping to provide pollinator habitat.*

Comment 6: Page 29, Stormwater. The development will significantly increase the amount of impervious surfaces within the project area, and consequently the amount of road salt used for winter maintenance.

Chloride released into local lakes, streams, and groundwater does not break down, and instead accumulates in the environment, potentially reaching levels that are toxic to aquatic wildlife and plants. Consider promoting local business and city participation in the Smart Salting Training offered through the Minnesota Pollution Control Agency. There are a variety of classes available for road applicators, sidewalk applicators, and property managers. More information and resources can be found at this website. Many winter maintenance staff who have attended the Smart Salting training — both from cities and counties and from private companies — have used their knowledge to reduce salt use and save money for their organizations.

We encourage the City of Dayton to consider requiring that developments with a significant area of impervious surfaces develop a chloride management plan that outlines what BMP's and strategies will be used to reduce chloride use within the project area and include this plan within Operations and Maintenance Agreements that are tied to the property. We also encourage cities and counties to consider how they may participate in the Statewide Chloride Management Plan and provide public outreach to reduce the overuse of chloride. Here are some educational resources for residents as well as a sample ordinance regarding chloride use.

Response: *So noted. Thank you for your comment.*

Comment 7: Page 37, Surface Waters. The EAW discusses the possibility of wetland mitigation in the southern part of the project area near Rush Creek. The EAW also discusses using this area for floodplain mitigation. These mitigation proposals and relevant regulations should be discussed in greater detail. Would these occur within the same area as a combined mitigation package? Is floodplain mitigation being proposed within the boundaries of the floodway?

Response: *The EAW outlines the most intensively developed land use allowed by City code. A Wetland Replacement Plan application has been submitted for the first Phase of the Project (Parkway Apartments and the internal roadway). Subsequent Phases must still be finalized during the City's Preliminary and Final Plat processes. Wetland impacts resulting from the commercial development, Three Rivers Regional trail head, mid-density residential, and the high-density, age-guided apartments are subject to change. All wetland impacts must be approved by the Local Government Unit (LGU) and the U.S. Army Corps of Engineers (for jurisdictional Waters of the United States). The wetland permitting process will require discussions to first avoid and minimize impacts. The wetland permitting process will also require mitigation. If mitigation cannot be achieved on site through wetland/upland creation/restoration or if the technical evaluation panel and the LGU concur that the purchase of banking credits would better achieve mitigation, then the Proposer will purchase wetland banking credits from an approved bank.*

Moreover, if the required floodplain mitigation easement requirements conflict with the management, establishment, or conditions of the wetland impact permits (required easements etc.) then the wetland mitigation would need to be met outside the floodplain mitigation area or via the purchase of approved wetland banking credits. All floodplain mitigation will occur outside the floodway.

The Wetland Replacement Plan application was submitted to the City on September 5, 2024, by Eco Foresight. The City is reviewing the application and has initiated discussions with the Proposer, the U.S. Army Corps of Engineers, and the Wetland Conservation Act (WCA) Technical Evaluation Panel. Total wetland impacts and site plan details may be subject to change if the City determines that WCA wetland protection requirements are not met and/or that additional wetland impact avoidance or minimization is feasible.

The City recently completed a hydrologic study to determine the floodway limits throughout the project area. It will be confirmed that any floodplain mitigation will be done outside the floodway.

Comment 8: Page 40, Contamination/Hazardous Materials/Waste. This section mentions the potential Convenience Store/Gas Station/Carwash proposed as a part of a future development, but does not evaluate this project in this section of the EAW. Underground fuel storage tanks are typical of these types of developments, and the gas station site is at least partially located within the 100-year floodplain. It is still unclear if this EAW is meant to analyze this future project. If so, much more information about the proposed gas station and tank storage is needed to evaluate this potential impact/risk.

> ***Response:*** *The gas station would be part of this development but has not yet been designed. As noted in EAW Item 13c, while petroleum tanks are not currently located within the project area, if/when they are constructed, they will be constructed and contained in accordance with all applicable local, state, and federal standards.*

Comment 9: Page 40, Rare Features. This section describes more general ecological subsections, but does not specifically discuss the habitat or wildlife present within or near the project area. The project is proposing to cut down 17 acres of trees, which is a significant amount within heavily developed or agricultural areas. A portion of the trees to be removed are located along Rush Creek within the shoreland district and floodplain. This section does not discuss the impacts of tree removal and how it will be minimized. This section also does not discuss potential impacts to migratory birds and bats.

> ***Response:***
> *The EAW documents the most intensive use of the site allowed by City code. Subsequent project Phases will be finalized during the Preliminary and Final Plat processes. The City has established a tree removal threshold in residential and non-residential districts based on the total diameter inches of significant trees (healthy deciduous hardwood tree measuring a minimum of six inches in diameter (DBH), or a healthy common tree measuring a minimum of twelve inches in diameter (DBH), or an existing healthy coniferous/evergreen tree measuring a minimum of 12 feet in height). In non-residential districts such as the GMU-5 District, up to 60% of the total inches of significant trees DBH may be removed without replacement, removal beyond this threshold requires reforestation. Heritage trees require reasonable measures to preserve these trees and every diameter inch (DBH) removed requires replacement. The City also has a tree replacement policy which requires each inch of removal/disturbance to be replaced by one inch of new tree. If the reforestation cannot be met onsite, the City allows cash-in-lieu of replacement which funds reforestation projects within the City. Per subdivision 8 of section 1001.25, "City staff shall make recommendations for adjustment of locations of structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts."*
>
> - *Common Tree: "A deciduous overstory tree including cottonwood, poplars/aspen, box elder, willow, silver maple, elm, and any other tree species not defined as hardwood deciduous tree or a coniferous/evergreen tree or considered non-native to Minnesota."*
> - *Heritage Tree: "A healthy hardwood deciduous tree measuring equal to or greater than 27 inches in diameter or a healthy coniferous evergreen tree greater than 50 feet in height."*
> - *Note: Significant trees removed for water quality treatment ponds, public trails, sidewalks and collector or arterial roads are exempt from the removal threshold calculation.*
>
> *In accordance with section 1001.25 of the City code, a tree preservation plan will be submitted as part of the Preliminary Plat application for Phase 1 (Parkway Apartments and the internal roadway) of the Project. The submitted plan will propose removals less than the replacement threshold (33%) and intends to preserve 1,088 trees.*
>
> *The southeast corner of the project area is where most of the existing trees are concentrated. The tree removal discussed throughout the whole EAW is based on the most intensive developed land use allowed by City code. The Proposer is committed to salvaging as many trees as possible*

and preserving large clusters of existing trees. In the future when subsequent Phases of the Project go through the Preliminary and Final Plat processes a tree preservation plan will be submitted to the City. The Proposer will consider providing additional tree replacement beyond the City's replacement requirements.

Additionally, to mitigate for secondary impacts of tree removal, the Proposer will consider avoiding tree removal during certain times of year for future Phases of development. For example, the MnDNR recommends that tree removal be avoided from June 1st through August 15th to limit impacts to federally listed bat species. Avoiding tree removal during the bat pupping season in June and July is recommended. To avoid impacts to the northern long-eared bat, tree removal during the winter (November 15th to March 31st) will be considered by the Proposer.

Comment 10: Page 42, Rare Features. This section says that the proposer is still waiting for a Natural Heritage Review from DNR. Please note that an automated response was emailed to the proposer on March 6, 2024 (MCE#2024-00253) and contains the final letter and recommendations from DNR to coordinate with U.S. Fish and Wildlife Service and avoid tree removal from June 1st to August 15th. The Natural Heritage letter is attached.

This section also says that suitable habitat is not present for the federally endangered northern long-eared bat. According to the U.S. Fish and Wildlife Service letter provided in Appendix G, the wooded areas within the project area would be considered suitable habitat. The proposed 17 acres of tree removal is an activity that could impact suitable habitat, and a "no effect" conclusion is not accurate based on the determination key. It is likely that restrictions for the timing of tree removal will apply to this project.

Response: *A review of the DNR Natural Heritage Information System (NHIS) database was conducted to determine if any rare natural features could be impacted by the Project. Correspondence dated March 6th, 2024 (Correspondence MCE No. 2024-00253) indicated that the proposed Project will not negatively affect any known occurrences of rare features. The DNR recommended that tree removal be avoided from June 1st through August 15th to avoid negative impacts to federally listed endangered bats.*

The U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) tool was used to identify other potential sensitive resources near the project. The IPaC identifies the northern long-eared bat (Myotis septentrionalis) (NLEB) as potentially being within the vicinity of the Project Area. The NLEB Range wide Determination Key was completed and it was determined the "Project is not reasonably certain to cause incidental take of the northern long-eared bat." This determination was made on March 12th, 2024 and specified unless the service advises you within 15 days of the date of this letter that your IPaC-assisted determination was incorrect, "this letter verifies that the Action is not likely to result in unauthorized take of the northern long-eared bat." No follow-up communication was received by the USFWS. To avoid impacts to the northern long-eared bat, tree removal during the winter (November 15th to March 31st) will be considered by the Proposer. Avoiding tree removal during the bat pupping season in June and July is recommended.

Letter 4: Metropolitan Council

Comment 1: Item 6. Project Description (Colin Kelly, 651-602-1361)

One unit of the Regional Parks and Trails System is in the vicinity of the proposed development. The planned Rush Creek Regional Trail (Three Rivers Park District) is proposed to traverse the development. The EAW acknowledges the relationship between the proposed development and regional trail in the project description.

- The project will include a connection to the Rush Creek Regional Trail, recreational area, internal roads, parks, and stormwater features."(pg. 1)

- "A third phase will incorporate the commercial development with retail space, a gas station/carwash (2.54 acres)… and the mid-density residential development with up to 140 units... The third phase will also include a trail head for the Three Rivers Regional Trail System… this new section of the Rush Creek Regional Trail provides direct access to the miles of Hennepin County's Three Rivers trail system." (pg. 2)

The proposed Parkway Neighborhood development will not have an adverse impact on the Rush Creek Regional Trail or the Regional Parks and Trails System more broadly. To the contrary, the proposed residential and commercial development integrates and will help to implement the build out of the Rush Creek Regional Trail.

Response: *So noted. Thank you for your comment.*

Comment 2: Item 7. Climate Adaptation and Resilience (MacKenzie Young-Walters, 651-602-1373, Jen Kader, 651-602-1114)

The discussion of climate trends is adequate; however, additional adaptations should be implemented. For example, the project proposer should commit to the use of native plants in the required greenspaces and landscaping, as these tend to be more able to assist in managing stormwater and to be more resilient than traditional turf grasses. Additionally, although not directly discussed in the climate trends section, many models indicate that more erratic precipitation patterns will result in more frequent droughts and the use of drought resistant planting can reduce irrigation needs and the potential strain on water supplies during these periods.

For project design, in addition to preserving open space along with the development, please also consider strategies that reduce impervious surface such as permeable pavement, and smaller roadway and parking lot footprints. While water resources are referenced as addressed in Section 12, please consider incorporating high level notes for water-related mitigation efforts. For instance, in addition to stormwater management, it would be useful to see discussion of items not described in Section 12 that are relevant to climate impacts, such as drought management, smart salting practices appropriate for warming winters (especially given the shallow depth to groundwater and potential for surface water-groundwater interaction), and elaboration on strategies relevant to extreme storm and rainfall events that are being considered.

Response: *The Proposer will utilize BWSR-approved, weed-free, native seed mixes to the degree practical in stormwater features and development landscaping to provide pollinator habitat. Native plants are more resistant to frequent droughts and may reduce irrigation needs and the potential strain on water supplies during these periods.*

Regarding impervious surface, the EAW represents the most intensive developed land use allowed by City code. The first Phase (Parkway Apartments and the internal roadway) has completed the preliminary plat review with the City. The subsequent phases are subject to the City's Preliminary and Final Plat review processes. The City will consider these items during the planned unit development & permitting process.

Comment 3: Item 8. Cover Types (MacKenzie Young-Walters, 651-602-1373, Jen Kader x1114)

Given the proposed filling of wetlands, presence of an area of 1% annual flood chance, and site's proximity to additional water resources, the project proposer should commit to including additional green infrastructure. This is especially important given the acknowledged increases in precipitation events that are anticipated to occur within the project's lifespan. The use of green roofs, permeable pavements, and other technologies can significantly mitigate the increased impervious surfaces and tree loss associated with the proposed project.

With the project's location fully within a conservation corridor, we appreciate the tree preservation and shading of parking lots referenced in Section 7. However, with the loss of 17 acres of woodland forest and

complete loss of grasslands, we encourage preservation of mature trees where possible and further incorporation of green infrastructure (such as tree trenches and bioswales) to mitigate habitat loss, limit urban heat island impact, and loss of roots that are able to provide deeper infiltration.

Response:
The EAW documents the most intensive use of the site allowed by City code. Subsequent project Phases will be finalized during the Preliminary and Final Plat processes. The City has established a tree removal threshold in residential and non-residential districts based on the total diameter inches of significant trees (healthy deciduous hardwood tree measuring a minimum of six inches in diameter (DBH), or a healthy common tree measuring a minimum of twelve inches in diameter (DBH), or an existing healthy coniferous/evergreen tree measuring a minimum of 12 feet in height). In non-residential districts such as the GMU-5 District, up to 60% of the total inches of significant trees DBH may be removed without replacement, removal beyond this threshold requires reforestation. Heritage trees require reasonable measures to preserve these trees and every diameter inch (DBH) removed requires replacement. The City also has a tree replacement policy which requires each inch of removal/disturbance to be replaced by one inch of new tree. If the reforestation cannot be met onsite, the City allows cash-in-lieu of replacement which funds reforestation projects within the City. Per subdivision 8 of section 1001.25, "City staff shall make recommendations for adjustment of locations of structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts."

- *Common Tree: "A deciduous overstory tree including cottonwood, poplars/aspen, box elder, willow, silver maple, elm, and any other tree species not defined as hardwood deciduous tree or a coniferous/evergreen tree or considered non-native to Minnesota."*
- *Heritage Tree: "A healthy hardwood deciduous tree measuring equal to or greater than 27 inches in diameter or a healthy coniferous evergreen tree greater than 50 feet in height."*
- *Note: Significant trees removed for water quality treatment ponds, public trails, sidewalks and collector or arterial roads are exempt from the removal threshold calculation.*

In accordance with section 1001.25 of the City code, a tree preservation plan will be submitted as part of the Preliminary Plat application for Phase 1 (Parkway Apartments and the internal roadway) of the Project. The submitted plan will propose removals less than the replacement threshold (33%) and intends to preserve 1,088 trees.

The southeast corner of the project area is where most of the existing trees are concentrated. The tree removal discussed throughout the whole EAW is based on the most intensive developed land use allowed by City code. The Proposer is committed to salvaging as many trees as possible and preserving large clusters of existing trees. In the future when subsequent Phases of the Project go through the Preliminary and Final Plat processes a tree preservation plan will be submitted to the City. The Proposer will consider providing additional tree replacement beyond the City's replacement requirements.

Additionally, to mitigate for secondary impacts of tree removal, the Proposer will consider avoiding tree removal during certain times of year for future Phases of development. For example, the MnDNR recommends that tree removal be avoided from June 1st through August 15th to limit impacts to federally listed bat species. Avoiding tree removal during the bat pupping season in June and July is recommended. To avoid impacts to the northern long-eared bat, tree removal during the winter (November 15th to March 31st) will be considered by the Proposer. Opportunities to anticipate and mitigate for climate change impacts would be considered with the tree plan.

Regarding the incorporation of green infrastructure, the City will consider these items during planned unit development and permitting process. Moreover, the Project is being built to a high standard in efficiency and low carbon output and will qualify for PACE financing which requires numerous improvements in product and equipment specifications.

Comment 4: Item 9. Permits and Approvals (Jen Kader, 651-602-1114)

Please also include well sealing permits (Minnesota Department of Health) in the event abandoned wells are discovered during construction, as well as a temporary dewatering permit (Department of Natural Resources) if this is determined to be needed.

Response: *So noted. Thank you for your comment.*

Comment 5: Item 10. Land Use (Todd Graham 651-602-1322, Freya Thamman x1750, Olivia Boerschinger x1327); Traffic Analysis Zones (TAZ)

The EAW site is part of TAZ #871. The City's 2040 Comprehensive Plan (Plan) indicates that Zone #871 is forecasted to add no households, no population, and no new jobs during 2020 – 2040. Should development of the EAW site be pursued, the TAZ allocations for households and population will need to be revised higher, by +650 households and +1,400 population at timepoints 2030 and 2040. Employment is anticipated to be +10 jobs. Council staff also advise a similar adjustment to the communitywide forecast, at the time of the next comprehensive plan amendment.

Response: *So noted. The City is currently in the process of amending their 2020-2040 Comprehensive Plan in consultation with the Metropolitan Council.*

Comment 6: Item 10. Land Use (Todd Graham 651-602-1322, Freya Thamman x1750, Olivia Boerschinger x1327)

The EAW identifies the planned land use for the project area as Mixed Use, which is intended to provide a mix of uses including residential, commercial, and service. The City's 2040 Plan indicates residential density for the Mixed-Use category shall occur at an average of 12-20 units per acre with the assumption that a possibility of 60% of the area will be residential uses. The EAW states that the project complies with residential density range; however, it is difficult to assess net acres. The City needs to ensure consistency with the Mixed-Use category's allowed uses and net residential density range following the Council's net residential density guidelines. If the density is outside of the allowed range, a comprehensive plan amendment would be required.
https://metc1new.metctest.state.mn.us/Handbook/Files/Resources/Fact-Sheet/LAND-USE/Net-Residential-Density.aspx.,

Response: *So noted. The City is currently in the process of amending their 2020-2040 Comprehensive Plan in consultation with the Metropolitan Council.*

Comment 7: Item 10. Land Use (Todd Graham 651-602-1322, Freya Thamman x1750, Olivia Boerschinger x1327); Housing

The development is guided Mixed Use, which allows for medium to high density residential among other uses. The City's share of regional housing Need is 333 units and the City currently has enough Land Guided for Affordable Housing to far exceed the City's need for the 2021-2030 decade (1,683 units). So far this decade the City has built 23 units of affordable housing. The proposed development anticipates approximately 650 new housing units of varying type and density. Although not required, it is encouraged to consider affordable units in this development to continue making progress towards the City's Need Allocation and provide housing for households at all income levels in the community.

Response: *So noted. Thank you for your comment.*

Comment 8: Item 11, Geology, Soils, Topography (Jen Kader, 651-602-1114)
If sod is being anticipated alongside below-grade water storage, please consider designing for stormwater capture and use to manage the volume of stormwater and reduce potable water needs for irrigation. In addition to selecting vegetation for soil suitability, please also consider their suitability for drought and future climate conditions.

Response: *So noted. Thank you for your comment.*

Comment 9: Item 12. Water Resources (Kyle Colvin, 651-602-1115, Jen Kader, 651-602-1114); Wastewater

An estimate of the project wastewater flow generated within the EAW project area was provided and appears to be appropriate for the planning of local infrastructure capacity needs. The EAW outlines that direct wastewater service will be provided through a new sanitary sewer that will connect to a previously built sewer when Dayton Parkway was constructed around year 2000. That sanitary sewer (Dayton Parkway sewer) connected to the very upstream end of Metropolitan Council interceptor 900430. The interceptor at this location is a 27-inch fiber reinforced pipe constructed in 2016 to provide service to the City of Rogers.

Response: *So noted. Thank you for your comment.*

Comment 10: Item 12. Water Resources (Kyle Colvin, 651-602-1115, Jen Kader, 651-602-1114); Surface Water

If wetland mitigation cannot be achieved onsite, please coordinate with Elm Creek Watershed Commission to pursue banking in the same sub-watershed if possible.

Response: *So noted. Thank you for your comment. The City of Dayton is the Wetland Conservation Act (WCA) Local Government Unit (LGU), not Elm Creek Watershed Management Commission.*

Comment 11: Item 12. Water Resources (Kyle Colvin, 651-602-1115, Jen Kader, 651-602-1114); Water Appropriation

Please include anticipated water demand from each phase of the development, with confirmation that existing water supply is able to meet that demand.

Response: *The City is requiring a looped water connection for this property and the City has assured that there should be sufficient water to supply this development. No estimates have been completed at this point.*

Comment 12: Item 14. Fish, Wildlife, and Ecological Resources (Jen Kader, 651-602-1114)

In addition to compliance with tree replacement requirements, please incorporate a variety climate-adaptive tree species to improve resilience to climate impacts such as heat, drought, pests, and disease.

Response: *Opportunities to anticipate and mitigate for climate change impacts would be considered with the tree plan. The Proposer may incorporate a variety climate-adaptive tree species to improve resilience to climate impacts such as heat, drought, pests, and disease.*

Comment 13: Item 18. Greenhouse Gas Emissions (GHG)/Carbon Footprint (MacKenzie Young-Walters, 651-602-1373, Jen Kader, 651-602-1114)

The discussion of GHG should be strengthened. It appears that the scope 2 and 3 operational emissions only contemplate the residential portion of the project and that the proposed commercial component is not included. Additionally, this section mentions the use of energy efficient building materials and appliances

as well as some tree planting and forest preservation as mitigation strategies but does not discuss other mitigation measures. Examples of possible ways to mitigate the project's GHG emissions would be solar and EV ready building design, the latter of which is especially important given the estimated 50-year life span of the project.

Please include a list of mitigation measures that will be included to reduce energy consumption, such as energy efficient appliances and building materials. As a part of that list, we encourage you to include water conservation and efficiency measures (indoors and outdoors) due to the energy-intensive nature of treating water to drinking water standards and then treating wastewater at a wastewater treatment plant.

> ***Response:*** *Regarding the residential portion, the Project is being built to a high standard of efficiency with low carbon output and will qualify for PACE financing which requires numerous improvements in product and equipment specifications. The Proposer will consider additional mitigation measures (solar, EV ready design, etc.) during subsequent permitting, Preliminary, and Final Plat processes. In terms of water conservation, the City code has provisions for water usage and conservation restrictions.*
>
> *The commercial parcel is based on a "ghost plan", a hypothetical site plan based on a particular retailer's typical product. The gas station is part of the project evaluated in the EAW. A gas station was used as the most intensively developed land use for the northwest corner of the Project. In order to estimate the Scope 2 emissions of the planned commercial building, factors from the U.S. Energy Information Administration 2018 Commercial Buildings Energy Consumption Survey (CBECS) were used. The survey found that together electricity and natural gas accounted for 94% of energy consumed in commercial buildings in 2018. The difference in average electricity and natural gas intensities varied across building types. The planned gas station best fit into the 'convenience store (with or without a gas station)' subcategory of the survey's 'food sale buildings.' "Food sales buildings were one the most energy intensive building types, with a mean energy intensity of 232.0 thousand British thermal units (MBtu) per square foot" (1). Given the 5,000 square foot ghost plan, the estimated annual and lifecycle emissions are summarized in the revised Table 32.*

Table 32. Revised Off-site Energy Production

GHG	Emission Factor[1]		Annual Household Energy Consumption[3]	Annual Emissions (metric tons CO_2eq)	Annual Food Sales Buildings Energy Consumption[5]	Annual Emissions (metric tons CO_2eq)
	lbs. CO_2/MWh	metric tons CO_2eq/MWh	Electricity	Electricity		
CO_2	936.5	0.4248	5.5390 MWh	2.3529	339,962.4414 MWh[6]	144,416.0451
CH_4	0.1020	0.0012		0.0064		407.9549
N_2O	0.0150	0.0020		0.0112		679.9249
Total Annual Emissions				1,540.8561[4]		145,503.9249
Total Lifecycle Estimate[2] (metric tons CO_2eq)				**77,042.8063**		**7,275,196.2460**

[1] The annual household site fuel consumption in the Midwest was reported in million British thermal units (Btu) per household. The consumption rates reported below were converted to megawatt hour (MWh).
[2] Based on 50-year expected lifecycle.
[3] The EIA survey included five housing unit types for annual household energy consumption for apartment buildings with 5 or more units.
[4] Per 650 units.
[5] The EIA survey lists 232.0 thousand million British thermal units (MBtu) per square foot as the mean energy intensity. Given the estimated roughly 5,000 square foot footprint, an annual energy consumption of 1,160,000 MBtu was used.
[6] 1,160,000,000 MBtu expressed in MWh.

> *For the purposes of this EAW, quantification of the Scope 3 emissions generated by the commercial gas station include those generated by employees commuting and off-site waste management. Additional Scope 3 emissions would be difficult to calculate at this time due to*

numerous unknown variables. The following estimates include several assumptions that may differ from actualized emissions.

According to California's Department of Resources Recycling and Recovery, an estimated 0.9 pounds of waste is generated per square foot per day at gas stations (2). For the simplification of calculations, it was assumed all waste was disposed of in a landfill. The rates of other disposal methods (recycling, composting, etc.) is unknown at this time. Emission factors from the EPA's Emission Factors for GHG Inventories (updated June 5th, 2024) were used, see the revised Table 35 below.

Table 35. Off-site Waste Management

Residential			
Estimated Population	**Municipal Solid Waste Generation**	**Emission Factor**	**Total**
1,300 Residents[1]	4.9 lbs./day	0.36 tons of CO_2eq/ 2,000lbs.	418.5090 tons of CO_2eq/year
Total Lifecycle Estimate[2]			**20,925.45 tons of CO_2eq**
Commercial			
Municipal Solid Waste Generation	**Estimated Gas Station Footprint[3]**	**Emission Factor**	**Total**
0.9 lbs./100 sqft/day	5,000 sqft	0.58 tons of CO_2eq/short ton of material landfilled	4.7633 tons of CO_2eq/year
Total Lifecycle Estimate[2]			**238.1625 tons of CO_2eq**

[1] Assuming 2 people per household
[2] Expected lifecycle (50-year)
[3] Based on the 'ghost plan' layout.

Scope 3 emissions are also generated by gas station employees commuting to work. Gas stations are often highly local employers, so it was assumed that employees travel approximately 15 miles to work. It was assumed no more than five employees would be commuting to the gas station per day. It was also assumed these employees will drive gasoline-powered, light duty vehicles. Per Business Wire, the average age of light duty vehicles in the U.S. reached 12.2 years as of May 2022 (3). Average mile per gallon values were selected based off the EPA's Center for Climate Leadership, Simplified GHG Emission Calculator. Emission factors were based on the EPA's Emission Factors for GHG Inventories (updated June 5th, 2024).

Table X. Employees Commuting

Vehicle	**Vehicle/ Day[1]**	**Miles/ Day[2]**	**Miles/ Gallon**	**Miles /Year**	**All Vehicles**		**Emission Factor**		
					Fuel Usage (gal/day)	**Fuel Usage (gal/year)**	**CO_2**	**CH_4**	**N_2O**
Gasoline Light Duty	5	15	23.6	5,475	3.1778	1,159.9554	8.78 kg CO_2/gal	0.0071 g CH_4/mile	0.0046 g N_2O/mile
Vehicle		**Metric Tons of CO_2eq**					**Annual Emissions**		
Gasoline Light Duty		CO2		CH4		N2O			
		10.1844		0.0010		0.0073	10.1927 metric tons of CO_2eq		
Total Lifecycle Estimate[3]							**509.6350 metric tons of CO_2eq**		

[1] Assuming five employees traveling per day
[2] Assuming highly local commute
[3] Expected lifecycle (50-year)

Mitigation details available at the time of the EAW have been provided. Consideration of mitigation opportunities will continue through planning, design, permitting.

1 U.S. Energy Information Administration, "Commercial Buildings Energy Consumption Survey (CBECS)." Accessed September 19th, 2024. Retrieved From: https://www.eia.gov/consumption/commercial/pba/food-sales.php

2 CalRecycle, Estimated Solid Waste Generation Rates. Accessed September 20th, 2024. Retrieved From: https://www2.calrecycle.ca.gov/wastecharacterization/general/rates#Service

3 Business Wire, "Average Age of Vehicles in the U.S. Increased to 12.2 years, according to S&P Global Mobility." Accessed May 27th, 2024. Retrieved From: https://www.businesswire.com/news/home/20220523005179/en/Average-Age-of-Vehicles-in-the-US-increased-to-12.2-years-according-to-SP-Global-Mobility

Comment 14: Item 21. Cumulative Potential Effects (Jen Kader, 651-602-1114)

As the area continues to develop, we encourage thoughtful review of increasing impervious surface further away from the creek. As the majority of the western half of the Parkway Neighborhood site is in a floodplain already, increased impervious surface further back and upstream in the sub-watershed could influence flooding impacts in the future, especially during extreme rain events. Additionally, as more development occurs in Maple Grove and Dayton, please continue to monitor water demand, available supply, and potential well interference issues for both these cities and surrounding communities.

Response: *So noted. Thank you for your comment.*

FINDINGS OF FACT

Proposed Project

The Project includes the development of approximately 67.29 acres within the City of Dayton, Hennepin County, Minnesota. The Project Area is located east of Brockton Lane North (CR 101), north of Rush Creek, south of Dayton Parkway, and southwest of I-94. The site is located in the southwest corner of Dayton with the City of Rodgers to the west, Corcoran to the southwest, and Maple Grove to the south. The Project proposes 650 medium/high-density residential units, a commercial parcel with convenience store, gas station/car wash, and service retail building(s) on two undeveloped parcels.

An EAW was prepared pursuant to Minnesota Rules Part 4410.4300, Subp. 19 (D), 27 (B) and 32. The EAW and the respective comments have been reviewed in accordance with Minnesota Rules 4410.1700 to determine if the project has potential for significant environmental effects.

Site Description and Existing Conditions

Under existing conditions, the Project Area consists of several wetlands, hayfields, cultivated fields, and woodland. A portion of the existing trees and shrubs would be removed to conduct site grading. A portion of the existing wetlands will be impacted (filled) to meet traffic safety requirements and to meet the required separation from the water table for the future commercial development.

Decision Regarding the Potential for Significant Environmental Effects

Minnesota Rules 4410.1700, Subp. 7 lists four criteria that shall be considered in deciding whether a project has the potential for significant environmental effects. Those criteria and the City's findings are presented below.

Criteria A: Type, Extent, and Reversibility of Environmental Effects

Minnesota Rules 4410.1700 Subp. 7 (A) indicates the first factor that the RGU must consider is the "type, extent, and reversibility of environmental effects." City of Dayton's findings are set forth below.

1. **Cover Types**. According to the U.S. Geologic Survey's National Land Cover Dataset, the project area currently consists of the following [67.28 acres total]; cultivated cropland (24.54 acres), deciduous forest (15.48 acres), hayfields (12.52 acres), emergent herbaceous wetland (10.52 acres), woody wetlands (2.00 acres), grassland (1.78 acres), open water (0.22 acres), and low-intensity developed Land (0.22 acres). As the design progresses the post-construction cover types will be refined. The developer will complete a tree preservation and replacement plan as required prior to construction activities.

2. **Shorelands and Floodplains**. The majority of the western portion of the project area is within the 100-year floodplain as outlined by the Federal Emergency Management Agency (FEMA). The portion of Rush Creek adjacent to the southwest project area boundary is identified as a "Public Ditch/Altered Natural Watercourse" (M-0062-004). The portion of Rush Creek identified as a Public Water Watercourse is east of Interstate 94. Subdivision 11 of the City's shoreland ordinance (Section 1001.08 of the City code) lists Rush Creek as a "Tributary Stream". The Project area is within 300 feet of Rush Creek and therefore a portion of the development is located within a shoreland district.

3. **Land Use**. The Project Area currently consists of several wetlands, hayfields, cultivated fields, and woodland. The City of Dayton has the project area and the land southwest of I-94 zoned for agriculture. The land north of I-94 and south of the railroad is zoned as industrial, agricultural, rural residential or vacant. Outside of the Dayton City limits, the surrounding municipalities have land zoned for agriculture, low-density residential, or undeveloped land. The project area is guided as 'General Mixed Use 5' (GMU-5) and is part of the City of Dayton's Southwest Mixed-Use District. The Project concept Plan has several elements aligned with the GMU-5 district's purpose. It plans to offer a mixture of medium and high-density residential rental housing, service retail, and a connection to the Rush Creek Regional Trail with opportunities for leisure and recreational uses. No parks are located within a quarter mile of the project area. The Three-Rivers Park District has a trail planned that will cross I-94 at the Dayton Parkway Interchange. No other trails are located within two miles of the Project.

4. **Geology and Soils**. Grading of the site would be required during construction. Soils within the project limits are not overly susceptible to erosion and are suitable for the proposed uses. Mitigation based on typical erosion control and sedimentation regulations will be provided.

5. **Water Quality**. The Project would increase impervious surface area compared to existing conditions by constructing parking areas, buildings, a trail head for the Rush Creek Regional Trail, and the interior roadway. Compliance with stormwater requirements will minimize and mitigate potential adverse effects on receiving waters. The Project will be designed to meet the stormwater quantity and quality standards and requirements set by the Elm Creek Watershed Management Commission (ECWMC) and the City of Dayton. The ECWMC reviews grading, stormwater, erosion & sediment control, and wetland buffer permits which regulate stormwater and floodplain management, erosion and sediment control. The City of Dayton reviews wetland requirements and will ensure that the wetlands are not being impacted without adequate justification and mitigation per the Minnesota Wetland Conservation Act (WCA). In addition to the ECWMC requirements, the City's zoning and stormwater management code plays a critical role in preserving natural resources.

6. **Wetlands and Surface Waters**. In 2023 the wetlands were delineated on both parcels and approved by the City of Dayton (Local Government Unit) on November 3rd, 2023. At the time of the delineation, the southern boundary of Wetland 5 did not extend fully to the project area boundary. A certified delineator from Kjolhaug Environmental Services completed a Level 1 delineation to determine the full extent of Wetland 5 (the offsite wetland boundary followed the 908-ft MSL contour) bringing the total onsite wetland acreage to 19.37. Based on the current Project concept plan, approximately 3.09

acres of wetland impacts are shown. The concept plan outlines the most intensive developed land use of the site allowed by City code. The final acreage of wetland impact will not be known until the subsequent phases go through the preliminary and final plat processes with the City. Proposed wetland impacts will require permitting under the Wetland Conservation Act and Section 404 of the Clean Water Act (if wetlands are deemed jurisdictional). A Wetland Replacement Plan application was submitted to the City on September 5, 2024, for the first phase (Parkway Apartments and the interior roadway) and is under review. Total wetland impacts and site plan details may be subject to change if the City determines that WCA wetland protection requirements are not met and/or that additional wetland impact avoidance or minimization is feasible.

7. **Wastewater**. The development intends to extend a public sanitary sewer from an existing stub under Dayton Parkway. The Dayton Parkway sewer is connected to the very upstream end of Metropolitan Council interceptor 900430. The interceptor at this location is a 27-inch fiber reinforced pipe constructed in 2016 to provide service to the City of Rogers. No public wastewater treatment plants are located within the City limits. The City of Dayton is serviced by the Metropolitan Council water treatment plant and ultimately the wastewater discharge will flow to the Metropolitan Wastewater Treatment Plant in St. Paul, Minnesota. This wastewater treatment plant has a capacity of 251 million gallons per day. Project wastewater flows appear to be appropriate for the planning of local infrastructure planning needs. The waste loading from the development is expected to closely match the composition of the existing wastewater loading to the treatment plant. Pretreatment measures only consist of those pretreatment measures prior to treatment at the wastewater treatment facility.

8. **Hazardous Materials**. Both the Minnesota Pollution Control Agency and the Minnesota Department of Agriculture “What’s In My Neighborhood” databases were reviewed to identify active hazardous waste generators and sources of agricultural chemical soil/groundwater contamination within one mile of the Project area. No instances of existing contamination or potential environmental hazards were identified in the project area. The Project area has been cultivated since the 1940s. Past land use activities may have included the application of pesticides and herbicides; however, no soil or groundwater contamination is anticipated.

9. **Ecological Resources**. The Project area consists of a variety of habitats and vegetation including wetlands, hayfields, cultivated fields, and woodland. The surrounding properties consist of cropland with agriculture cover and developed parcels with residential or commercial/industrial land uses. The Minnesota DNR shows the project area within a Metro Conservation Corridor. The Hennepin County Natural Resource Map also identified a portion of the site as a ‘Priority Natural Resource Corridor” (17). The map also identified three ecologically significant areas, a ‘moderate quality’ cattail marsh, a ‘moderate quality’ oak woodland/brushland and a ‘good quality’ oak forest.

   A review of the DNR Natural Heritage Information System (NHIS) database was conducted to determine if any rare natural features could be impacted by the Project. Correspondence dated March 6th, 2024 (Correspondence MCE No. 2024-00253) indicated that the proposed Project will not negatively affect any known occurrences of rare features. The DNR recommended that tree removal be avoided from June 1st through August 15th to avoid negative impacts to federally listed endangered bats.

   The U.S. Fish and Wildlife Service’s (USFWS) Information for Planning and Consultation (IPaC) tool was used to identify other potential sensitive resources near the project. The IPaC identifies the northern long-eared bat (*Myotis septentrionalis*) (NLEB), the tricolored bat (*Perimyotis subflavus*), the whooping crane (*Grus Americana*), salamander mussel (*Simpsonaias ambrigua*) and the monarch butterfly (*Danaus plexippus*) as potentially being within the vicinity of the Project Area. The NLEB Range wide Determination Key was completed and it was determined the “Project is not reasonably certain to cause incidental take of the northern long-eared bat”. This determination was made on March 12th, 2024 and specified unless the service advises you within 15 days of the date of this letter that your IPaC-assisted determination was incorrect, “this letter verifies that the Action is not likely to result in unauthorized take of the northern long-eared bat.” No follow-up communication was received by the USFWS. To avoid impacts to the northern long-eared bat, tree removal during the winter

(November 15th to March 31st) will be considered by the Proposer. Avoiding tree removal during the bat pupping season in June and July is recommended.

Based on the MN-WI determination key evaluations, it was determined that the Project will not likely adversely affect the tricolored bat and would have no effect on the monarch butterfly and whooping crane. It was determined the project will have no effect on the Salamander Mussel because no direct impacts to Rush Creek are planned (dredging, channelizing, etc.). Indirect impacts to the creek will be avoided by stormwater BMPs and structures.

10. **Historic Resources**. Niewnow Cultural Consultants (NCC) was contracted to review previous studies completed and determine portions of the landscape with moderate to high potential for intact pre-contact, contact, and post-contact archaeological sites. Based on the results of this research, a total of three archaeological sites were identified within one mile of the project area. Nearly half of the project area was previously surveyed for the Interstate 94 and Brockton Interchange. NCC recommended a Phase 1B archaeological survey be completed on the unsurveyed portions of the Project area (the remaining portions of the cultivated field and the tree covered upland on the eastern half of the site). NCC completed a Phase 1B Archaeological Survey of these areas on March 18th, 2024. No prehistoric cultural materials were observed during the pedestrian survey of the cultivated fields. Similarly, all three shovel tests within the wooded area (excavated to 60-70 cmbgs) were negative for cultural materials. NCC did not recommend any additional archeological efforts at this time.

11. **Visual Resources**. Any change from undeveloped to developed land will have an impact on the visual look of the property, but the Dayton Mixed-use Development is not anticipated to have an impact on specific scenic views or vistas within the community. The potential visual effects consist of tree removal. The Proposer is committed to adhering to the tree preservation and replacement code. Moreover, the development is clustered along Dayton Parkway and I-94 leaving the western portion as open space. The project is not anticipated to produce any intense lights (glare) or include industries that would emit vapor plumes.

12. **Air**. No stationary source of air emissions is proposed as part of the project. The residential units included in the development will include electric heating and cooling systems. The emissions produced will be in alignment with the planned future land use outlined in the City's Comprehensive Plan.

    Minor emissions generated from construction equipment will occur during the construction phase. Contractors will be responsible for ensuring equipment is properly maintained and not contributing to excess emissions. Following project completion, vehicle-related air emissions in the area - including carbon monoxide levels - will see a relatively small increase due to the increase in traffic to and from the site.

    The Project will not generate significant odors during construction or operation. Odors generated during construction will be mitigated by maintenance of the construction equipment to the manufacturers' specifications and by using appropriate fuel additives when necessary. Grading and construction will temporarily generate dust. BMPs and other standard construction methods will be used to reduce construction impacts such as intermittent applications of water to exposed soils as needed to reduce dust during dry weather.

13. **Greenhouse Gas Emissions (GHG)/ Carbon Footprint**. Average annual GHG emissions were calculated for construction and operation phases of the Project. Three types of emissions were evaluated; direct emissions released from the property, emissions associated with offsite generation of purchased electricity, and emissions from offsite provision of waste management. The Project is being built to a high standard in efficiency and low carbon output and will qualify for PACE financing which requires numerous improvements in product and equipment specifications.

14. **Noise**. A noise study was not completed for the preparation of this EAW. Project construction will result in a temporary increase in noise levels. The different phases of development will result in

varying noise levels depending on the amount of construction that occurs simultaneously, the time of operation, and the distance between construction equipment and receptors. Development would adhere to the City Code (Section 130-08) limits construction activities to specific times/days. The project is expected to minimize disturbances caused by construction noise and conform to Minnesota noise rule and standards (Minnesota State Statue 7030.0030). Construction equipment will be properly muffled and maintained in working order. The development will consist of multi-level apartment buildings and commercial space that would not emit noise levels exceeding state noise standards and is in alignment with the planned future land use.

15. **Transportation**. A Traffic Study was completed for the Project that evaluated a No-Build and Build condition for two design years, 2029, the estimated year after full completion of the project, and 2040 as the long-range planning horizon. The traffic operation analysis suggests there is sufficient capacity on the surrounding roadways to accommodate the traffic from this development. Mitigation measures for the poor level of service at the Dayton Parkway/development access intersection were recommended. Specifically, in the short-term constructing a separate left turn lane, through, and right turn lanes on the northbound/southbound approaches and installing a traffic signal were recommended.

Criteria B: Cumulative Potential Effects

Minnesota Rules 4410.1700 Subp. 7 (B) indicates the second factor the City must consider is "whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project." The City's findings are set forth below.

The potential cumulative effects on public infrastructure would include municipal water supply systems, sanitary sewer conveyance and treatment systems, stormwater management systems, and traffic and transportation systems. The City of Dayton has planned for growth and increased capacity to address these cumulative effects. The 2040 Comprehensive Plan proposes that this area of the City will develop into mixed use based on the 2040 Future Land Use Plan Map.

The parcel adjacent to the Project is also set for development. The development timeline is dependent on the Parkway Neighborhood development timeline. Utilities must be extended, and the interior roadway must be constructed to Dayton Parkway. The adjacent parcel is also part of the City of Dayton's Southwest Mixed-Use District, and the property is guided as General Mixed Use 5 (GMU-5). The planned development may include a gas station, retail space, residential buildings or other land-uses aligned with the Southwest Mixed-Use District. The development's intended use will be based on the free market and limited plan details are known at this time. The adjacent property is also within the floodplain of Rush Creek and dependent on the development footprint would involve both wetland and floodplain impacts. Both of which would need to be mitigated for either on or offsite. Development on the adjacent property would contribute to additional farmland conversion. As the City of Dayton continues to develop the conversion of farmland to other land uses is anticipated. Development in the southwest corner of the City in particular is outlined in both the 2040 Comprehensive Plan and the Small Area Plan Update. Similarly, the Metropolitan Council designates Dayton as an Emerging Suburban Edge community transitioning from rural to developed.

Both the conversion of farmland and wetlands to developed land uses would likely impact greenhouse gas emissions due to the loss of carbon sequestration potential with the increased impervious surface. The cumulative potential effects of greenhouse gases are anticipated to increase as the City of Dayton grows and nearby land is converted, removing potential carbon sinks from the landscape. The adjacent development will likely include additional impervious surfaces and would result in an increase in runoff to the nearby wetlands and Rush Creek. The parcel currently does not have any stormwater treatment. When the site is developed, treatment would need to meet or exceed NPDES permanent stormwater management requirements and local stormwater requirements. Likewise, construction activities may overlap with the Parkway Neighborhood construction and contribute to additional soil erosion and

sedimentation. Both drainage and erosion control plans would need to meet the MPCA NPDES construction stormwater permitting process. Best management practices would be required to be implemented to limit soil erosion and sedimentation. Based on the local requirements, the cumulative potential effects to water quality would likely be minimal.

Cumulative effects of land development on natural resources may include the loss of agricultural land, loss of wetlands, and the loss and fragmentation of wildlife habitat including woodlands and grasslands. Surface water runoff from the Project Area will be treated prior to discharge to wetlands and receiving waters. Stormwater regulations and water quality BMPs are expected to minimize cumulative effects of post-development runoff on downstream waters.

Criteria C: Extent to Which the Environmental Effects are Subject to Mitigation

Minnesota Rules 4410.1700 Subp. 7 (C) indicates the third factor the City must consider is the "extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority." The City's findings are set forth below.

Environmental effects on water quality, wetlands, and traffic are subject to additional approvals and/or mitigation through requirements of local, state, and federal regulations, ordinances, management plans, and permitting processes. The following permits and approvals are required for the Project addressed under the EAW. These processes will provide additional opportunities to require mitigation.

Potential environmental effects associated with this project will be mitigated in accordance with applicable rules and regulations. The City of Dayton therefore finds that potential environmental effects of the project are less than significant and "subject to mitigation by ongoing public regulatory authority."

Table 8. Permit Approvals, Applications, and Certifications

Unit of Government	Type of Application	Status
Federal		
U.S. Army Corps of Engineers	Approved Jurisdictional Determination	To be applied for
	Wetland Fill Permit	To be applied for
State		
Minnesota Pollution Control Agency (MPCA)	National Pollution Discharge Elimination System (NPDES) Permit	To be applied for
	Stormwater Pollution Prevention Permit (SWPPP)	To be applied for
	Sewer Extension Permit	To be applied for
	401 Certification	To be applied for if needed
Minnesota Department of Health (MDH)	Watermain Extension Permit	To be applied for
	Well Sealing Permit	To be applied for if needed
Minnesota Department of Natural Resources	Water Appropriations Permit	To be applied for if needed
	General Permit for Temporary Appropriations	To be applied for if needed
State Historic Preservation Office (MnSHPO)	Archeological/Historic Site Review[1]	See Footnote
Minnesota Department of Labor and Industry (MNDLI)	Site Utilities Review	To be applied for

Table 8. Continued

Unit of Government	Type of Application	Status
Local		
Metropolitan Council	Metropolitan Council Environmental Services (MCES) Permit	To be applied for
Hennepin County	Plat Approval	To be applied for
Elm Creek Watershed Management Commission (ECWMC)	Wetland Alteration & Buffer Review	To be applied for
	Stormwater Management Plan Review	To be applied for
	Erosion and Sediment Control Plan Review	To be applied for
City of Dayton	EIS Need Decision	Pending
	Wetland Conservation Act (Boundary Approval)	Approved
	Wetland Impact Permit	To be applied for
	Preliminary and Final Plat	Pending
	Grading Permit	To be applied for
	Building Permit	To be applied for
	Land Disturbance Permit	To be applied for
	Development Application	To be applied for
	Sewer Availability (SAC) Determination	To be applied for

[1] The Minnesota State Historic Preservation Office is no longer providing formal responses to technical assistance requests. Instead, Minnesota's Statewide Historic Inventory Portal (MnSHIP), was used to identify any previously identified above-ground historic resources that may be located within/near the project area. MnSHPO encouraged enlisting the help of a consultant and Niewnow Cultural Consultants complete the recommended survey work.

Criteria D: Extent to Which Environmental Effects can be Anticipated and Controlled

Minnesota Rules 4410.1700 Subp. 7 (D) indicates the final factor the RGU must consider is the "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, including other EISs." The City of Dayton's findings are set forth below.

1. The proposed project design, plans, EAW, related studies, and mitigation measures apply knowledge, approaches, standards, and best management practices gained from previous experience and projects that have, in general, successfully mitigated potential offsite environmental effects.

2. The EAW, in conjunction with this document, contains or references the known studies that provide information or guidance regarding environmental effects that can be anticipated and controlled.

3. Other projects studied under environmental reviews in Minnesota have included studies and mitigation measures comparable to those included in this EAW.

4. There are no elements of the project that pose the potential for significant environmental effects that cannot be addressed by the project design, assessment, permitting and development processes, and by ensuring conformance with regional and local plans.

5. The environmental effects of this development can be anticipated and controlled by the permit application and review processes of the state and local regulatory authorities.

6. Considering the results of environmental review and permitting processes for similar projects, the City of Dayton finds that the environmental effects of the project can be adequately anticipated and controlled.

RECORD OF DECISION

Based on the EAW, the Response to Comments and the Findings of Fact, City of Dayton concludes the following:

1. All requirements for environmental review of the Project have been met.
2. The EAW and the permit development processes related to the Project have generated information which is adequate to determine whether the Project has the potential for significant environmental effects.
3. Areas where potential environmental effects have been identified have included proper mitigative responses to be included within the final design of the Project. Mitigation will be required to be provided where impacts are expected to result from Project construction, operation, or maintenance. Mitigative measures will be required to be incorporated into project design and have been or will be coordinated with state and federal agencies during the applicable permit process.
4. Based on the criteria in Minnesota Rules part 4410.1700, the Project does not have the potential for significant environmental effects.
5. City of Dayton makes a “Negative Declaration;” and
6. An Environmental Impact Statement (EIS) is not required.

Appendix A: Comment Letters

HENNEPIN COUNTY
MINNESOTA

August 21, 2024

City of Dayton
Attn: Jon Sevald
12260 South Diamond Lake Road
Dayton, MN 55327

Re: The Parkway Neighborhood EAW

Mr. Sevald:

Please consider the following county staff comments regarding the EAW for The Parkway Neighborhood development of 67.29 acres in the City of Dayton.

Overall

- Hennepin County supports creating compact, walkable and human-centered communities where people can walk, bike, take transit (when available), and drive to everyday destinations. Consider revising the site plan to better connect the land uses on the site to each other through layout and design, following walkable design principles and city's goals for its GMU-5 District. With a revised approach, the site could evolve into an engaging mixed-use neighborhood that better fosters future demand and value.

Corrections

- The fourth line on Page 13 refers to "Hennepin County's Thrive MSP 2040 regional development guide required local governmental units…" It is the Metropolitan Council's guide, not the county's.
- The second paragraph on Page 56 states that Hennepin County operates a dial-a-ride service. The county does not.

Hennepin County Transportation Project Delivery
Public Works Facility, 1600 Prairie Drive, Medina, MN 55340
612-596-0300 | hennepin.us

Hennepin

Land use

- The EAW site plan shows land uses that are not mixed nor well connected to each other. The concept is very auto oriented; land uses are not well connected or walkable. With a mixed-use designation, expectations are for a more connected block pattern within the residential areas and robust connections to other areas on the site.
- The current site plan does not appear to meet the intent of the city's mixed-use district. The city's desired characteristics for the area's mixed-use GMU-5 District (Page 12) include, "The placement of buildings and the relationship of the building, parking, landscaping and pedestrian spaces is essential to creating the pedestrian-friendly environment envisioned in the GMU-5 District." The disconnected land uses, site design and lack of interior site connections do not seem to support these goals.
- The EAW states (Page 4) that "The purpose of the development is to provide places for multiple age groups to live, shop and enjoy in Dayton." Excluding floodplain and wetlands, this site has only one non-residential use, a gas station / car wash. This use provides limited utility for residents as far as on-site services, and it cannot easily be accessed from within the site.
- The residential uses are not in the optimal location from a health and livability standpoint. The residential buildings are very close to Interstate 94, a source of air and noise pollution, and away from the site's positive natural features and good views. The residential uses are disconnected from each other and other site features and land uses by distance and isolation.
- Natural resources are lost for little community benefit. The project area is within a DNR-designated Metro Conservation Corridor. The EAW on Page 11 notes that Hennepin County's Natural Resources map designates a portion of site is a "Priority Natural Resource Corridor" with three ecologically significant areas. It appears the plan removes most of the trees on the site — more than 1,000 — to construct medium- and high-density housing. If laid out in a more sensitive and connected way, it may be possible to save more trees. See comments on greenhouse gases.

Water resources

- Wastewater – currently, there is not service to this site. (Pages 26 to 28). There is a lot of extraneous info provided about regional wastewater capacity, but the document doesn't adequately address the EAW site. It just states that a planned but unbuilt sanitary sewer stub would meet the demands of the site.
- Stormwater – given the sensitive nature of hydrology and natural resources on the site, aspiring for something better than "typical of a suburban development" (page 30) seems achievable or at a minimum providing a more complete response so mitigation can be better addressed.

Greenhouse gas emissions / carbon footprint

- A more connected site plan would help mitigate GHG emissions by reducing the number of short-distance trips taken by motor vehicle. (Page 48)
- Atmospheric removals (Page 53) section addresses forestry practice. This plan is removing most of the site's trees (negative impact), but this is not clearly addressed in this section.
- The document glosses over tree removal, which seems to be a significant number of more than 1,000.
- Estimating 1 acre of new trees seems optimistic, taking many years to cover an acre with no guarantee that these will be provided or in a large enough grouping to make a difference.
- This plan needs to better acknowledge the tree loss and impact so mitigation can be more directly identified.
- A revised site plan that preserves more trees is preferred.

Transportation

- In addition to roadways, the concept needs to address future walking and biking network and making a more connected network to meet the intention of the city's designated mixed-use district (Page 55).
- Vehicle counts were conducted on Feb. 2, 2024, which was a Friday (Page 55). Typically, Tuesdays through Thursdays are used, as they better reflect typical weekday patterns with fewer people taking long weekends or working from home.
- At the intersection of Dayton Parkway and County Road 101 on PDF page 288, what are the queue lengths for southbound left turns as dual left turn lanes may be needed.
- On the bottom of PDF Page 293, under Dayton/Parkway/development access short-term, was a warrant analysis completed for traffic control? Have any other traffic control options besides a signal been considered and reviewed?
- Under the Dayton Parkway/development bullet on PDF Page 293: Was fiber or conduit installed with the interchange project as there may be need to interconnect these traffic signals.

Please contact Dan Patterson at dan.patterson@hennepin.us for any further discussion of these items.

Sincerely,

Chad Ellos
Transportation Planning Manager
Hennepin County Public Works

MINNESOTA POLLUTION CONTROL AGENCY

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

Sent Via Email

August 21, 2024

Jon Sevald, Community Development Director
City of Dayton
12260 South Diamond Lake Road
Dayton, MN 55327
jsevald@cityofdaytonmn.com

RE: The Parkway Neighborhood – Environmental Assessment Worksheet

Dear Jon Sevald,

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Parkway Neighborhood project (Project) located in Dayton, Hennepin County, Minnesota. The Project consists of St. Louis County proposes to extend Progress Parkway in the City of Eveleth for a total distance of approximately 1.3 miles. The new roadway would begin approximately 0.15 miles east of the intersection of Hwy 53/Progress Parkway and extend south to Hwy 37. The project includes stormwater and drainage improvements, a paved pedestrian/bicycle trail, and a gravel off-road vehicle trail along the new roadway. A secondary access to the Rock Ridge Public Schools campus will be connected to the new roadway. The Mesabi Mountain Off Road Vehicle (ORV) trailhead parking lot will be relocated to the east side of the new roadway. The EAW is available for public review and copying during business hours at the following locations: Eveleth Public Library, St. Louis County Planning and Zoning - Government Services Center, St. Louis County Public Works, and Eveleth City Hall Offices. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility and other interests, the MPCA staff has the following comments for your consideration.

Watershed

- It is planned that about 3 acres of wetlands will be impacted.
  - The preferred method when wetlands are involved is to find alternative designs so that there are no adverse impacts to the wetlands.
- With much of the area being within the 100-year floodplain, special consideration should be made to prepare for climate changes that will produce larger rain events and to prevent flooding to the buildings.
- Section 9 – If an Army Corps Section 404 is required, you will also need the MPCA 401 Certification.
- Page 12 into 13 – The ECWMC is actively working on their next generation Watershed Management Plan.
- Page 24-25: While this area is outside wellhead protection areas, it is within the Drinking Water Supply Management Area – Priority Area B for Minneapolis and St. Paul.

- Table 12: Impairments: Not all the impairments were listed. The impairments from the 2024 list for Rush Creek and South Fork Rush Creek are shared in the table below. There are TMDLs for all the impairments denoted by the EPA category of 4a.
  - Special consideration should be included related to chlorides. With the increase in impervious surface, there is the likely increased usage of salt during winter maintenance. This area has shallow groundwater and so will quickly move chlorides to Rush Creek.
  - If there are opportunities to increase habitat within Rush Creek by increasing the meander of the stream, that would help the aquatic life impairments.

Water body name	Water body type	AUID	Affected designated use	Pollutant or stressor	Year added to List	Year TMDL plan approved	EPA category
Rush Creek	Stream	07010206-528	Aquatic Life	Benthic macroinvertebrates bioassessments	2014	2017	4A
Rush Creek	Stream	07010206-528	Aquatic Life	Dissolved oxygen	2010	2017	4A
Rush Creek	Stream	07010206-528	Aquatic Recreation	Escherichia coli (E. coli)	2010	2017	4A
Rush Creek	Stream	07010206-528	Aquatic Life	Fish bioassessments	2002	2017	4A
Rush Creek, South Fork	Stream	07010206-732	Aquatic Life	Fish bioassessments	2014	2017	4A
Rush Creek, South Fork	Stream	07010206-732	Aquatic Life	Benthic macroinvertebrates bioassessments	2014	2017	4A
Rush Creek, South Fork	Stream	07010206-732	Aquatic Life	Chloride	2014	2016	4A
Rush Creek, South Fork	Stream	07010206-732	Aquatic Recreation	Escherichia coli (E. coli)	2010	2017	4A

Wastewater
12. Water Resources, a), iii) contains a good discussion of the local and regional sanitary sewer system, but it is not clear what the projected average daily design flow for the proposed development is. It would be helpful to have a listing of flow calculation by land use type for the proposed project.

Noise
The current description of noise effects, in Section 19, does not provide enough information to determine whether the project will conform with state noise standards. MPCA is particularly concerned about night-time noise standards at the proposed residential buildings because sleep disturbance can result in detrimental health effects.

While the project may not be a MN DOT Type 1 project, the proposer could still use information from a noise study to characterize existing noise levels in the area and assess whether a noise barrier or other measures would minimize or mitigate the effects of noise at the proposed residential buildings which would be located very close to I-94. Noise barriers could decrease both noise and air quality effects from traffic on I-94.

The RGU and any other land-use decision makers, should consider language in Minn. R. 7030.0030 that reads "[…] Any municipality having authority to regulate land use shall take all reasonable measures within its jurisdiction to prevent the establishment of land use activities listed in noise area classification (NAC) 1, 2, or 3 in any location where the standards established in part 7030.0040 will be violated immediately upon establishment of the land use." The Noise section of the EAW does not provide enough detail regarding current sound levels in the project area to determine whether an immediate violation of the state noise standards would occur if the project were approved, and the proposed residential buildings were constructed.

MPCA strongly recommends the proposer conduct a noise study and potentially evaluate methods to mitigate noise impacts to the proposed residential buildings.

We appreciate the opportunity to review this Project. 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 actions 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 Chris.Green@state.mn.us or by telephone at 507-476-4258.

Sincerely,

Chris Green

This document has been electronically signed.

Chris Green
Project Manager
Environmental Review Unit
Resource Management and Assistance Division

CG:rs

cc: Dan Card, MPCA
Miranda Nichols, MPCA
Nicole Peterson, MPCA
Lauren Dickerson, MPCA
Innocent Eyoh, MPCA
Deepa deAlwis, MPCA
David Sahli, MPCA
Julie Henderson, MPCA
Brandon Smith, MPCA

DEPARTMENT OF NATURAL RESOURCES

Division of Ecological and Water Resources
Region 3 Headquarters
1200 Warner Road
Saint Paul, MN 55106

Transmitted by Email

August 22, 2024

Jon Sevald, Development Director
City of Dayton
12260 South Diamond Lake Rd.
Dayton, MN 55327

Dear Jon Sevald,

Thank you for the opportunity to review the Parkway Neighborhood Environmental Assessment Worksheet (EAW) in Hennepin County. The DNR respectfully submits the following comments for your consideration:

1. Page 4, Project Description. This section answers "no" to questions 6.e and 6.f, about previous and future environmental review. It is unclear from the project description how the Convenience Store/Gas Station/Carwash is being evaluated, and if it is considered as part of this project and EAW. It is also unclear from the EAW narrative what the term "ghost plan" means in this context. If a future project is being planned, but is not being evaluated at this time, it could require additional environmental review in the future as a connected and phased action.
2. Page 9, Table 8, Permit Approvals, Applications, and Certifications. This table should include a DNR Water Appropriation Permit for potential construction dewatering. A DNR Water Appropriation Permit is required if the water pumped exceeds 10,000 gallons in a day, or one million gallons in one year. The DNR General Permit for Temporary Appropriation, with its lower permit application fee and reduced time for review, may be used for the dewatering if the dewatering volume is less than 50 million gallons and the time of the appropriation is less than one year.
3. Page 13, Section 10.iii. Zoning. The EAW states, "The MnDNR designates the shoreland classification for Rush Creek as "Tributary" and also does not meet the City's shoreland definition." It is unclear why the assumption was made that Rush Creek does not meet the City's shoreland definition.

   Shoreland is land located within 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The City's ordinance provides in 1001.08 Subd 11 that minimum requirements shall apply to all shorelands of the public waters listed in Subdivision 10. This includes Rush Creek in T120R22S31.

A portion of this proposed development is located within the a shoreland district, and therefore the information presented in this section of the EAW and other relevant sections is not complete. The EAW should be updated to reflect that the site is in a shoreland district and to evaluate the proposed development's consistency with dimensional standards and other requirements regarding: stormwater management, impervious surfaces, wetland impacts, tree removal, floodplain mitigation, climate adaptations, sediment and erosion control requirements, and relevant regulatory considerations.

4. Page 29, Stormwater. This section does not discuss relevant requirements for projects located within a shoreland district. The EAW also references the Elm Creek Watershed Management Commission regulations that require infiltration/abstraction of the first 1.1 inches of runoff from impervious surfaces. However, no infiltration basins are shown on the site plan and it is unclear how the proposed filtration basins located within the 100-year floodplain comply with relevant regulations.

   This section should also discuss in greater detail how the development will impact water quality in the adjacent Rush Creek, including impairment parameters.

5. Page 29, Stormwater. We recommend that BWSR-approved, weed-free, native seed mixes be used to the greatest degree possible in stormwater features and development landscaping in order to provide pollinator habitat. Native plants also require less irrigation and soil inputs than traditional landscaping.

6. Page 29, Stormwater. The development will significantly increase the amount of impervious surfaces within the project area, and consequently the amount of road salt used for winter maintenance. Chloride released into local lakes, streams, and groundwater does not break down, and instead accumulates in the environment, potentially reaching levels that are toxic to aquatic wildlife and plants. Consider promoting local business and city participation in the Smart Salting Training offered through the Minnesota Pollution Control Agency. There are a variety of classes available for road applicators, sidewalk applicators, and property managers. More information and resources can be found at this website. Many winter maintenance staff who have attended the Smart Salting training — both from cities and counties and from private companies — have used their knowledge to reduce salt use and save money for their organizations.

   We encourage the City of Dayton to consider requiring that developments with a significant area of impervious surfaces develop a chloride management plan that outlines what BMP's and strategies will be used to reduce chloride use within the project area and include this plan within Operations and Maintenance Agreements that are tied to the property. We also encourage cities and counties to consider how they may participate in the Statewide Chloride Management Plan and provide public outreach to reduce the overuse of chloride. Here are some educational resources for residents as well as a sample ordinance regarding chloride use.

7. Page 37, Surface Waters. The EAW discusses the possibility of wetland mitigation in the southern part of the project area near Rush Creek. The EAW also discusses using this area for floodplain mitigation. These mitigation proposals and relevant regulations should be discussed in greater detail. Would these occur within the same area as a combined mitigation package? Is floodplain mitigation being proposed within the boundaries of the floodway?

8. Page 40, Contamination/Hazardous Materials/Waste. This section mentions the potential Convenience Store/Gas Station/Carwash proposed as a part of a future development, but does not evaluate this project in this section of the EAW. Underground fuel storage tanks are typical of these types of developments, and the gas station site is at least partially located within the 100-year floodplain. It is still unclear if this EAW is meant to analyze this future project. If so, much more information about the proposed gas station and tank storage is needed to evaluate this potential impact/risk.
9. Page 40, Rare Features. This section describes more general ecological subsections, but does not specifically discuss the habitat or wildlife present within or near the project area. The project is proposing to cut down 17 acres of trees, which is a significant amount within heavily developed or agricultural areas. A portion of the trees to be removed are located along Rush Creek within the shoreland district and floodplain. This section does not discuss the impacts of tree removal and how it will be minimized. This section also does not discuss potential impacts to migratory birds and bats.
10. Page 42, Rare Features. This section says that the proposer is still waiting for a Natural Heritage Review from DNR. Please note that an automated response was emailed to the proposer on March 6, 2024 (MCE#2024-00253) and contains the final letter and recommendations from DNR to coordinate with U.S. Fish and Wildlife Service and avoid tree removal from June 1st to August 15th. The Natural Heritage letter is attached.

    This section also says that suitable habitat is not present for the federally-endangered northern long-eared bat. According to the U.S. Fish and Wildlife Service letter provided in Appendix G, the wooded areas within the project area would be considered suitable habitat. The proposed 17 acres of tree removal is an activity that could impact suitable habitat, and a “no effect” conclusion is not accurate based on the determination key. It is likely that restrictions for the timing of tree removal will apply to this project.

Thank you again for the opportunity to review this document. Please let me know if you have any questions.

Sincerely,

Melissa Collins

Regional Environmental Assessment Ecologist | Ecological and Water Resources
Minnesota Department of Natural Resources
Phone: 651-259-5755
Email: melissa.collins@state.mn.us

CC: Michael Elzufon, Rush Creek Development, LLC

Equal Opportunity Employer

August 22, 2024

Jon Sevald, Community Development Director
City of Dayton
12260 South Diamond Lake Road
Dayton, MN 55327

RE: City of Dayton – Environmental Assessment Worksheet (EAW) – The Parkway Neighborhood
Metropolitan Council Review 22997-1
Metropolitan Council District 1

Dear Jon Sevald:

The Metropolitan Council received the EAW for the Parkway Neighborhood project in Dayton on July 23, 2024. The proposed project is located south of I-94 in the southwest corner of the City. The proposed development consists of approximately 67 acres with 650 residential units, a commercial parcel with convenience store, gas station/car wash, and service retail buildings. The project will include a connection to the Rush Creek Regional Trail, recreational area, internal roads, parks, and stormwater features. The EAW indicates the purpose of the project is to provide places for multiple age groups to love, shop, and enjoy in the City.

The staff review finds the EAW is complete and accurate with respect to regional concerns and does not raise major issues of consistency with Council policies. An EIS is not necessary for regional purposes. We offer the following comments for your consideration.

Item 6. Project Description *(Colin Kelly, 651-602-1361)*
One unit of the Regional Parks and Trails System is in the vicinity of the proposed development. The planned Rush Creek Regional Trail (Three Rivers Park District) is proposed to traverse the development. The EAW acknowledges the relationship between the proposed development and regional trail in the project description.

- The project will include a connection to the Rush Creek Regional Trail, recreational area, internal roads, parks, and stormwater features."(pg. 1)
- "A third phase will incorporate the commercial development with retail space, a gas station/carwash (2.54 acres)… and the mid-density residential development with up to 140 units... The third phase will also include a trail head for the Three Rivers Regional Trail System… this new section of the Rush Creek Regional Trail provides direct access to the miles of Hennepin County's Three Rivers trail system." (pg. 2)

The proposed Parkway Neighborhood development will not have an adverse impact on the Rush Creek Regional Trail or the Regional Parks and Trails System more broadly. To the contrary, the proposed residential and commercial development integrates and will help to implement the build out of the Rush Creek Regional Trail.

Item 7. Climate Adaptation and Resilience (*MacKenzie Young-Walters, 651-602-1373, Jen Kader, 651-602-1114*)
The discussion of climate trends is adequate; however, additional adaptations should be implemented. For example, the project proposer should commit to the use of native plants in the required greenspaces and landscaping, as these tend to be more able to assist in managing stormwater and to be more resilient than traditional turf grasses. Additionally, although not directly discussed in the climate trends section, many models indicate that more erratic precipitation patterns will result in more frequent droughts and the use of drought resistant planting can reduce irrigation needs and the potential strain on water supplies during these periods.

For project design, in addition to preserving open space along with the development, please also consider strategies that reduce impervious surface such as permeable pavement, and smaller roadway and parking lot footprints. While water resources are referenced as addressed in Section 12, please consider incorporating high level notes for water-related mitigation efforts. For instance, in addition to stormwater management, it would be useful to see discussion of items not described in Section 12 that are relevant to climate impacts, such as drought management, smart salting practices appropriate for warming winters (especially given the shallow depth to groundwater and potential for surface water-groundwater interaction), and elaboration on strategies relevant to extreme storm and rainfall events that are being considered.

Item 8. Cover Types (*MacKenzie Young-Walters, 651-602-1373, Jen Kader x1114*)
Given the proposed filling of wetlands, presence of an area of 1% annual flood chance, and site's proximity to additional water resources, the project proposer should commit to including additional green infrastructure. This is especially important given the acknowledged increases in precipitation events that are anticipated to occur within the project's lifespan. The use of green roofs, permeable pavements, and other technologies can significantly mitigate the increased impervious surfaces and tree loss associated with the proposed project.

With the project's location fully within a conservation corridor, we appreciate the tree preservation and shading of parking lots referenced in Section 7. However, with the loss of 17 acres of woodland forest and complete loss of grasslands, we encourage preservation of mature trees where possible and further incorporation of green infrastructure (such as tree trenches and bioswales) to mitigate habitat loss, limit urban heat island impact, and loss of roots that are able to provide deeper infiltration.

Item 9. Permits and Approvals (*Jen Kader, 651-602-1114*)
Please also include well sealing permits (Minnesota Department of Health) in the event abandoned wells are discovered during construction, as well as a temporary dewatering permit (Department of Natural Resources) if this is determined to be needed.

Item 10. Land Use (*Todd Graham 651-602-1322, Freya Thamman x1750, Olivia Boerschinger x1327*)
Traffic Analysis Zones (TAZ)
The EAW site is part of TAZ #871. The City's 2040 Comprehensive Plan (Plan) indicates that Zone #871 is forecasted to add no households, no population, and no new jobs during 2020 – 2040. Should development of the EAW site be pursued, the TAZ allocations for households and population will need to be revised higher, by +650 households and +1,400 population at timepoints 2030 and 2040. Employment is anticipated to be +10 jobs. Council staff also advise a similar adjustment to the communitywide forecast, at the time of the next comprehensive plan amendment.

Land Use
The EAW identifies the planned land use for the project area as Mixed Use, which is intended to provide a mix of uses including residential, commercial, and service. The City's 2040 Plan indicates residential density for the Mixed Use category shall occur at an average of 12-20 units per acre with the assumption that a possibility of 60% of the area will be residential uses. The EAW states that the project complies with residential density range; however, it is difficult to assess net acres. The City needs to ensure consistency with the Mixed Use category's allowed uses and net residential density range following the Council's net residential density guidelines. If the density is outside of the allowed range, a comprehensive plan amendment would be required. https://metc1new.metctest.state.mn.us/Handbook/Files/Resources/Fact-Sheet/LAND-USE/Net-Residential-Density.aspx.,

Housing
The development is guided Mixed Use, which allows for medium to high density residential among other uses. The City's share of regional housing Need is 333 units and the City currently has enough Land Guided for Affordable Housing to far exceed the City's need for the 2021-2030 decade (1,683 units). So far this decade the City has built 23 units of affordable housing. The proposed development anticipates approximately 650 new housing units of varying type and density. Although not required, it is encouraged to consider affordable units in this development to continue making progress towards the City's Need Allocation and provide housing for households at all income levels in the community.

Item 11, Geology, Soils, Topography (*Jen Kader, 651-602-1114*)
If sod is being anticipated alongside below-grade water storage, please consider designing for stormwater capture and use to manage the volume of stormwater and reduce potable water needs for irrigation. In addition to selecting vegetation for soil suitability, please also consider their suitability for drought and future climate conditions.

Item 12. Water Resources (Kyle Colvin, 651-602-1115, *Jen Kader, 651-602-1114*)
Wastewater
An estimate of the project wastewater flow generated within the EAW project area was provided and appears to be appropriate for the planning of local infrastructure capacity needs. The EAW outlines that direct wastewater service will be provided through a new sanitary sewer that will connect to a previously built sewer when Dayton Parkway was constructed around year 2000. That sanitary sewer (Dayton Parkway sewer) connected to the very upstream end of Metropolitan Council interceptor 900430. The interceptor at this location is a 27-inch fiber reinforced pipe constructed in 2016 to provide service to the City of Rogers.

Surface Water
If wetland mitigation cannot be achieved onsite, please coordinate with Elm Creek Watershed Commission to pursue banking in the same sub-watershed if possible.

Water Appropriation
Please include anticipated water demand from each phase of the development, with confirmation that existing water supply is able to meet that demand.

Item 14. Fish, Wildlife, and Ecological Resources (*Jen Kader, 651-602-1114*)
In addition to compliance with tree replacement requirements, please incorporate a variety climate-adaptive tree species to improve resilience to climate impacts such as heat, drought, pests, and disease.

Item 18. Greenhouse Gas Emissions (GHG)/Carbon Footprint (*MacKenzie Young-Walters, 651-602-1373, Jen Kader, 651-602-1114*)
The discussion of GHG should be strengthened. It appears that the scope 2 and 3 operational emissions only contemplate the residential portion of the project and that the proposed commercial component is not included. Additionally, this section mentions the use of energy efficient building materials and appliances as well as some tree planting and forest preservation as mitigation strategies but does discuss other mitigation measures. Examples of possible ways to mitigate the project's GHG emissions would be solar and EV ready building design, the latter of which is especially important given the estimated 50-year life span of the project.

Please include a list of mitigation measures that will be included to reduce energy consumption, such as energy efficient appliances and building materials. As a part of that list, we encourage you to include water conservation and efficiency measures (indoors and outdoors) due to the energy-intensive nature of treating water to drinking water standards and then treating wastewater at a wastewater treatment plant.

Item 21. Cumulative Potential Effects (*Jen Kader, 651-602-1114*)
As the area continues to develop, we encourage thoughtful review of increasing impervious surface further away from the creek. As the majority of the western half of the Parkway Neighborhood site is in a floodplain already, increased impervious surface further back and upstream in the sub-watershed could influence flooding impacts in the future, especially during extreme rain events. Additionally, as more development occurs in Maple Grove and Dayton, please continue to monitor water demand, available supply, and potential well interference issues for both these cities and surrounding communities.

This concludes the Council's review of the EAW. The Council will not take formal action on the EAW. If you have any questions or need further information, please contact Freya Thamman, Principal Reviewer at 651-602-1750 or via email at freya.thamman@metc.state.mn.us.

Sincerely,

Angela R. Torres, AICP, Senior Manager
Local Planning Assistance

CC: Tod Sherman, Development Reviews Coordinator, MnDOT - Metro Division
Judy Johnson, Metropolitan Council District 1
Freya Thamman, Sector Representative/Principal Reviewer
Reviews Coordinator

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Appendix B: City of Dayton Negative EIS Need Declaration Resolution

CITY OF DAYTON

RESOLUTION NO. 48-2024

RESOLUTION FINDING NO NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT (EIS) FOR THE PARKWAY NEIGHBORHOOD ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW)

WHEREAS, Minnesota Rules 4410.4300 Subp. 19.D requires that an EAW be prepared for projects proposing at least 375 attached dwelling units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan; and Minnesota Rules 4410.4300 Subp. 27.B requires that an EAW be prepared for projects proposing one acre or more of wetland impacts, regardless of type, excluding public waters wetlands, if any part of the wetland is within a shoreland area, a delineated floodplain; and Minnesota Rules 4410.4300 Subp. 32 requires that an EAW be prepared for projects proposing residential and industrial-commercial components if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 19, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the applicable industrial-commercial threshold of subpart 14, equals or exceeds one; and

WHEREAS, on July 11, 2024, an EAW was completed for the proposed the Parkway Neighborhood Project, which will consist of up to 650 residential units across three separate building complexes. The Project also proposes a community center, gas station/c-store commercial site, an extension of the Rush Creek Regional Trail, and various recreational amenities. Proposed residential square footage is approximately 880,000 ft^2 and proposed commercial square footage is approximately 5,000 ft^2; and

WHEREAS, on July 23, 2024, the EAW was publicly noticed in the EQB Monitor, commencing the 30-day public comment period; and

WHEREAS, on July 23, 2024, copies of the EAW were distributed to all persons and agencies on the official Environmental Quality Board (EQB) distribution list and other interested parties; and

WHEREAS, a press release or public notice was submitted to the Press and News Newspaper announcing the completion of the EAW, its availability to interested parties, and the process for submitting comments on the EAW; and

WHEREAS, the 30-day comment period ended on August 22, 2024, at 4:30 p.m., and the City of Dayton accepted and responded to all written comments received; and

WHEREAS, none of the comments received recommended preparation of an EIS, and none suggested the project had the potential to cause significant environmental effects.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Dayton that:

1. The EAW was prepared in compliance with the procedures of the Minnesota Environmental Policy Act and Minnesota Rules, Parts 4410.1000 to 4410.1700;
2. The EAW satisfactorily addressed the environmental issues for which existing information could have been reasonably obtained;
3. Based on the criteria established in Minnesota Rules 4410.1700, the project does not have the potential for significant environmental effects;
4. The City makes a "Negative Declaration;"
5. **An EIS is not required**; and
6. The City adopts the Response to Comments, Findings of Fact, and Record of Decision for Dayton Mixed Use Development Environmental Assessment Worksheet (Record of Decision) and directs the Community Development Director to maintain the Record of Decision and distribute it in accordance with Minnesota Rules.

Adopted by the Council of the City of Dayton this 24th day of December 2024.

Motion made by Councilmember Salonek, seconded by Councilmember Fashant.

Motion carried Unanimously

Dennis Fisher, Mayor

ATTEST:

Amy Benting, City Clerk