



mississippi river corridor critical area

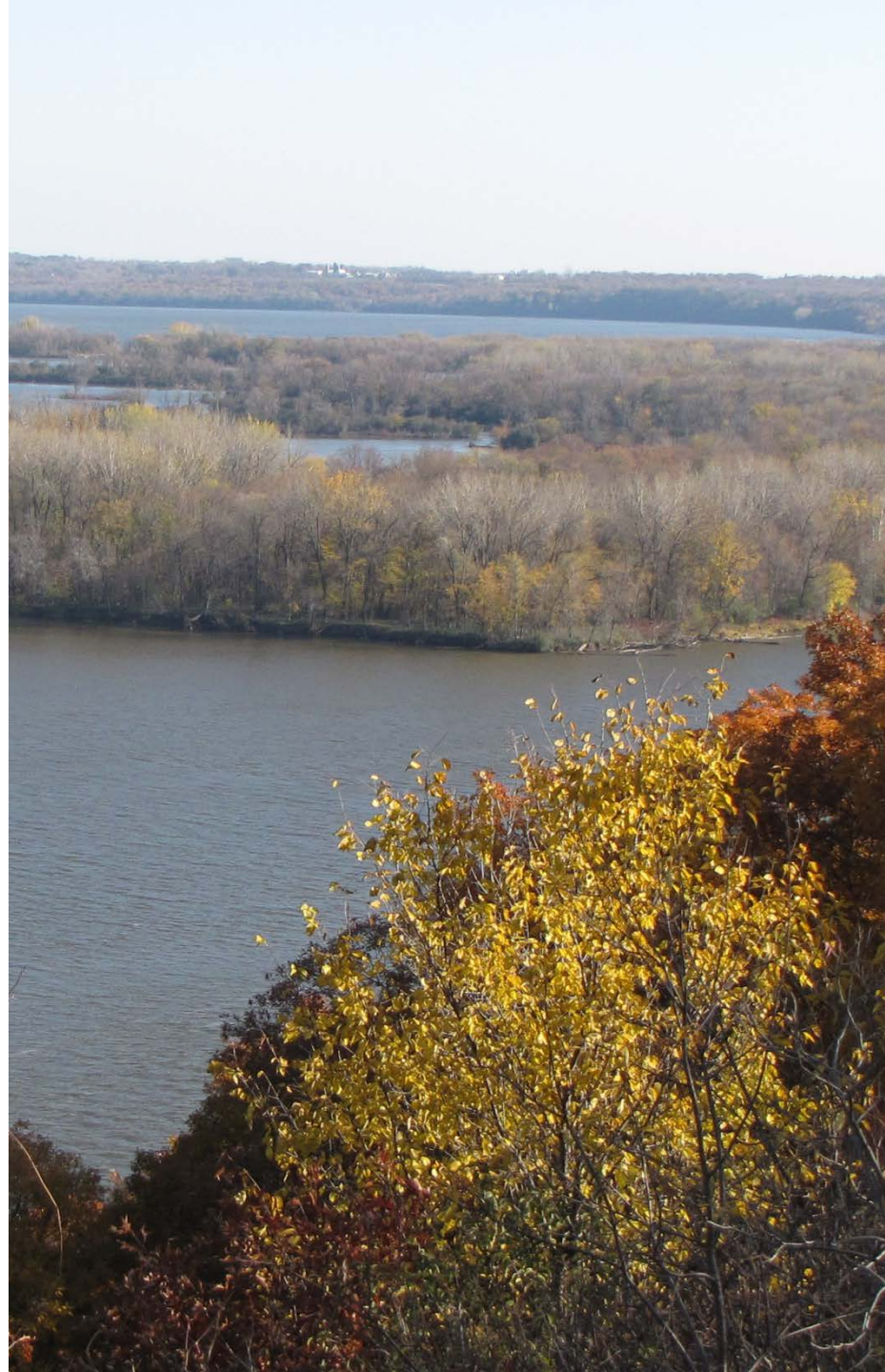


2013-2014 Rulemaking Project

October 17, 2014 – St. Paul
Planning Commission

AGENDA

1. Regulatory framework
2. Rulemaking process
3. St. Paul's key concerns
 1. Districts
 2. Bluffs
 3. Subdivisions



EXECUTIVE ORDER – TWO COMPONENTS

1. **Standards & Guidelines for preparing plans & regulations**
 1. **Roles**
 2. **What**
 3. **Performance guidance**
2. **Interim Development Regulations**
 1. **More specific guidance for developing plans & regulations**
 2. **Four districts**
 3. **In effect until LGU adopts**

EXECUTIVE ORDERS

Executive Order No. 79-19

Continuing the Designation of the Mississippi River Corridor as a Critical Area; Repealing Executive Orders No. 130, 130A, and 130B

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Critical Area Act of 1973, Minn. Stat. ch. 116G, hereby issue this Executive Order:

Whereas, by Executive Order No. 130, dated October 18, 1976, Wendell R. Anderson, Governor of the State of Minnesota, pursuant to law designated the Mississippi River Corridor within the Twin Cities Metropolitan Area a critical area for a period no longer than three years; and,

Whereas, in Executive Order No. 130 it was established that the Mississippi River Corridor within the Twin Cities Metropolitan Area:

1. Met all the criteria outlined in MEQC 52(b) to be designated a critical area.
2. Satisfied certain characteristics outlined in MEQC 52(a) and Minnesota Statutes, Chapter 116G.
3. With unregulated development and uncoordinated planning would threaten the public interest.
4. With coordinated planning would achieve development as a multipurpose resource, resolve the conflicts of use of land and water, preserve and enhance its natural, aesthetic, cultural, and historical value for the public use, and protect its environmentally sensitive areas; and,

Whereas, by the enactment of Minn. Stat. § 4.035, Executive Order No. 130 expires on March 31, 1979; and,

Whereas, there is a need to continue the designation of the Mississippi River Corridor within the Twin Cities Metropolitan Area, a critical area under the terms and conditions of Executive Order No. 130;

Now, therefore, I order that:

1. The Mississippi River Corridor located within the Twin Cities Metropolitan Area continue to be designated a critical area.
2. The boundaries of the Mississippi River Corridor Critical Area are delineated in the legal description in the attached Appendices A and B that are incorporated into this Order.
3. The Standards and Guidelines to be followed by local units of government, regional agencies and state agencies in the preparation and adoption of plans and regulations for the Critical Area are attached and incorporated hereby into this Order.
4. The Interim Development Regulations to be followed in granting development permits during the Interim Period are attached and incorporated hereby into this Order.
5. The Department of Natural Resources shall prepare the Scenic and Recreational Plan for the

EXECUTIVE ORDER - IMPLEMENTATION

- EQB approved local plans and regulations
- These varied considerably
- Example – St. Paul
 - Districts
 - Height
 - Bluff line

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Comparison of Dimensional Standards



Existing Regulations – Executive Order 79-19

	Rural Open Space	Urban Developed	Urban Open Space	Urban Diversified
Height*	35'	35'	35'	Underlying zoning
River Setback	200'	100'	100'	Underlying zoning
18% Slope Setback	100'	40'	40'	40'
Use Restrictions	Interim Dev. Regs (IDR): barge facilities, comm'l/ind uses restricted adv. signs visible from river prohibited, etc.		IDR: Adv. signs restricted	-

Saint Paul River Corridor / Floodplain Management Districts

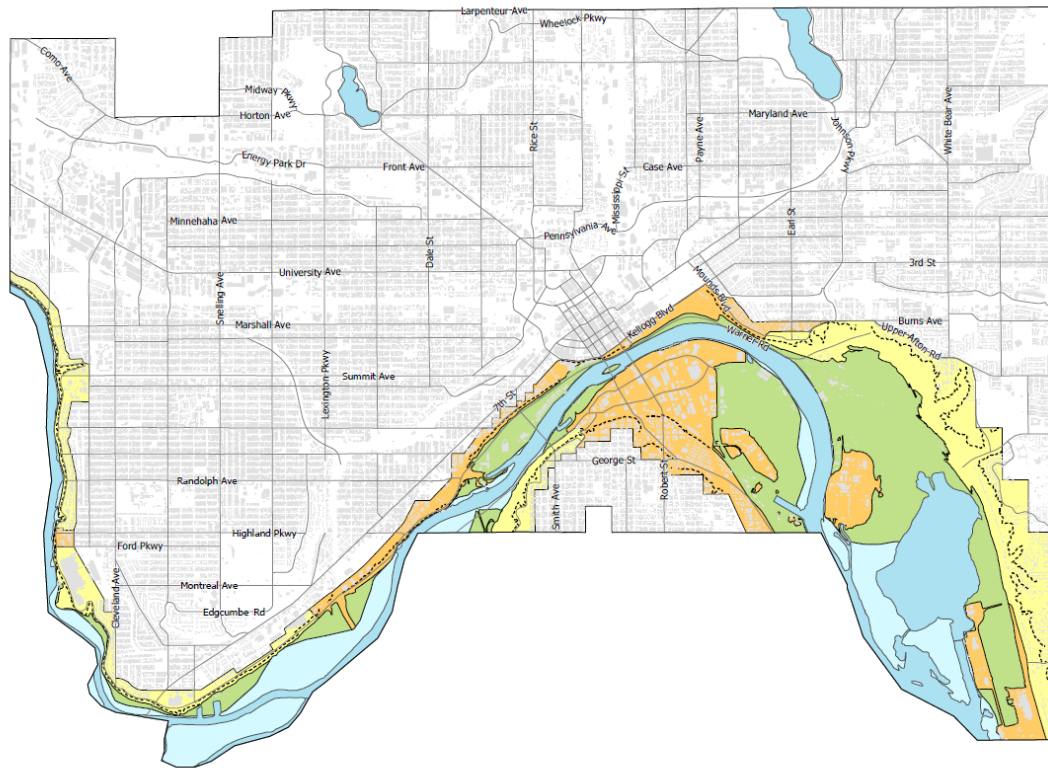
RC1 [Floodway]	RC2 [Flood Fringe]	RC3 Urban Open Space	RC4 Urban Diversified
n/a	n/a	40'	Underlying zoning
n/a	n/a	50' (shoreland)	50' (shoreland)
n/a	n/a	40'	40'
Floodplain restrictions (now ch. 72)	Floodplain restrictions (now ch. 72)	<ul style="list-style-type: none"> Comm'l /ind uses only landward of blufflines Mining prohibited 	

General Standards:

- Building setback from OHWL (river): 50' w/ public sewer
- No comm'l/ind development on slopes > 12%
- No residential development on slopes > 18%

RIVER CORRIDOR
AND FLOODPLAIN
MANAGEMENT
OVERLAY ZONING
DISTRICTS

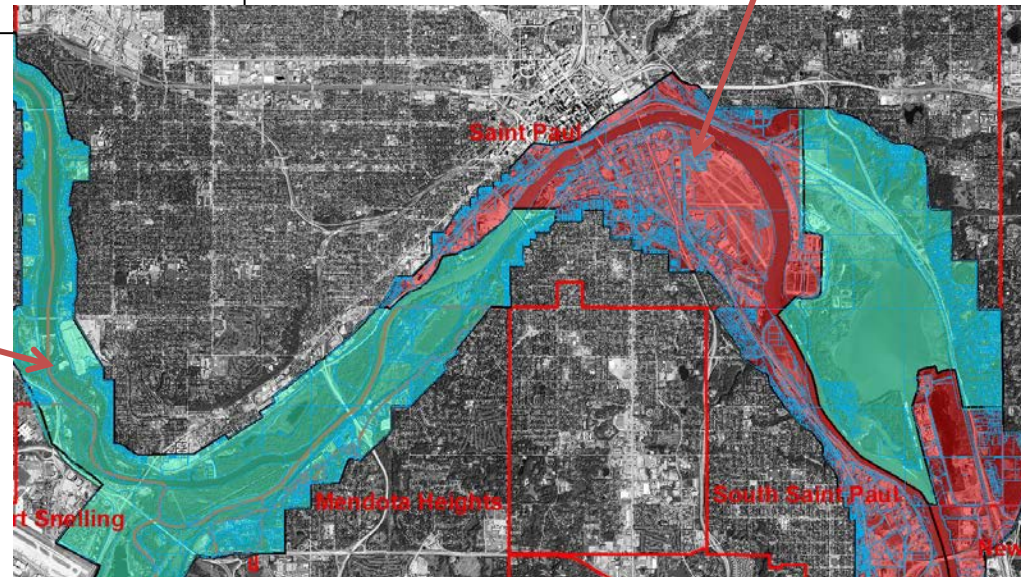
St. Paul's Approved MRCCA Map



Urban diversified

Urban open space

**EO 79-19
MRCCA Map**



2009-2010 RULEMAKING PROCESS

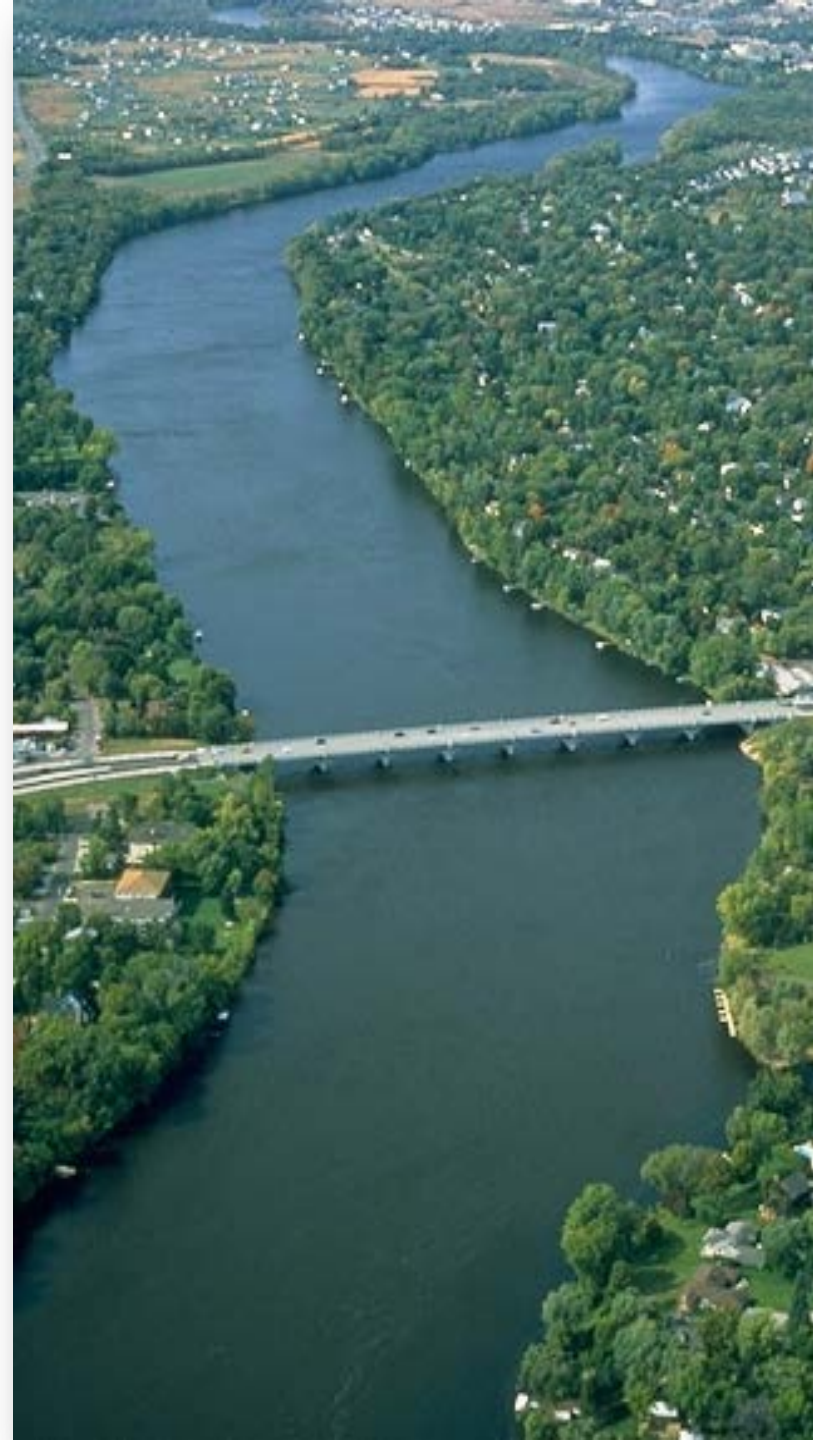
Directed by 2009 Legislature

Individual meetings with LGUs &
agencies

Advisory groups

Public meetings

2011 draft rules



2013-2015 MRCCA Rulemaking Schedule

Draft Rules

Output of
2009 - 2010 Process

PHASE I LGU Review

July 2013 - April 2014

Kick-off Meeting with LMC/Metro Cities
Jul 17, 2013

Meetings with LGUs to Identify
Opportunities for Improving Draft Rules
Aug - Sep 2013

Recap Meeting with LMC/Metro Cities
Oct 24, 2013

Revise Draft Rules*
Nov 2013 – March 2014

Recap Meeting with LMC/Metro Cities
April 16, 2014

PHASE II Public Outreach & Rule Revision

May 2014 - October 2014

Publish Request for Comments (RFC)
May 2014

Notify all Property Owners
May 2014

Public Comment Period
(starts upon publication of RFC)
Spring/Summer 2014

Meetings with Interested Parties
Summer 2014

Public Meetings & Open Houses
Summer 2014

Revise Rules Based on Comments
Fall 2014

Revise SONAR
Fall 2014

PHASE III Formal Rule Adoption

November 2014 - Early 2015

Publish Notice of Intent to Adopt Rules
with a Public Hearing
Nov 2014

Notify all Parties on Mailing List
Nov 2014

30-Day Formal Comment Period
Nov – Dec 2014

Public Hearing
TBD

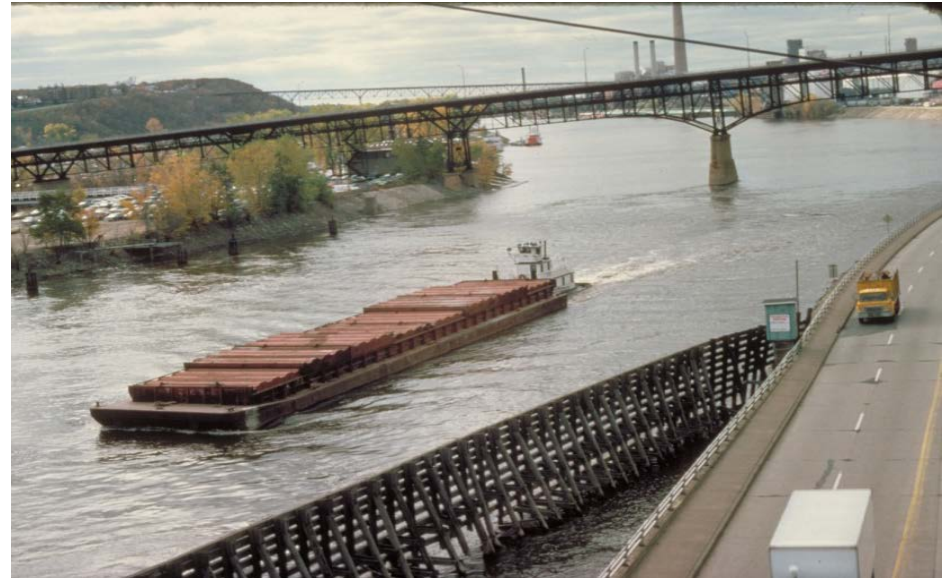
Respond to Comments/Rebuttal
TBD

Administrative Law Judge Report
TBD

Governor Review & Approval/Veto
TBD

Adopt Rule
TBD

DIVERSITY OF CHARACTER AND USES...



RULEMAKING PERSPECTIVE...

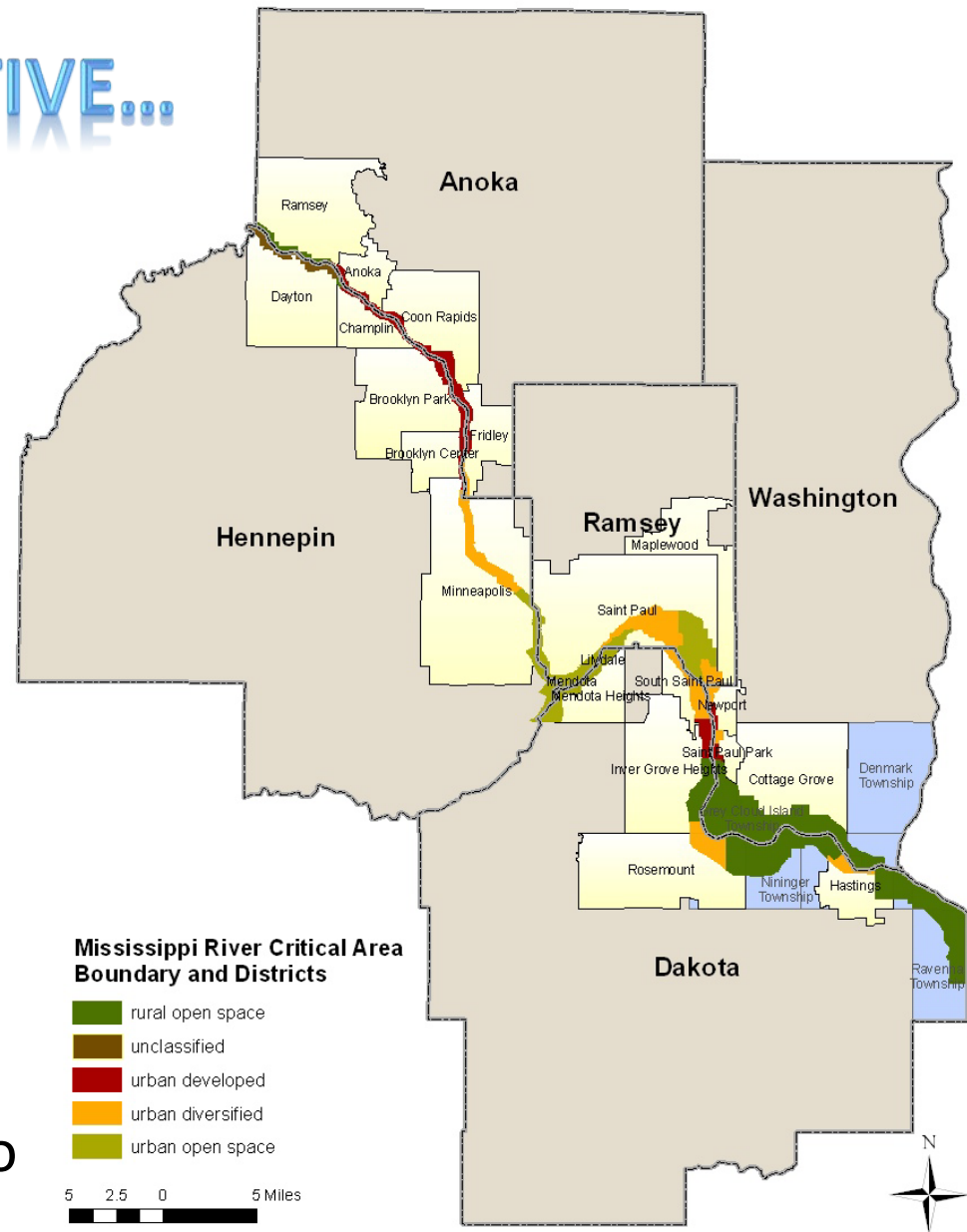
Rules are different from Ordinances

Regulatory spectrum between prescriptive and performance standards

Risk of unintended consequences

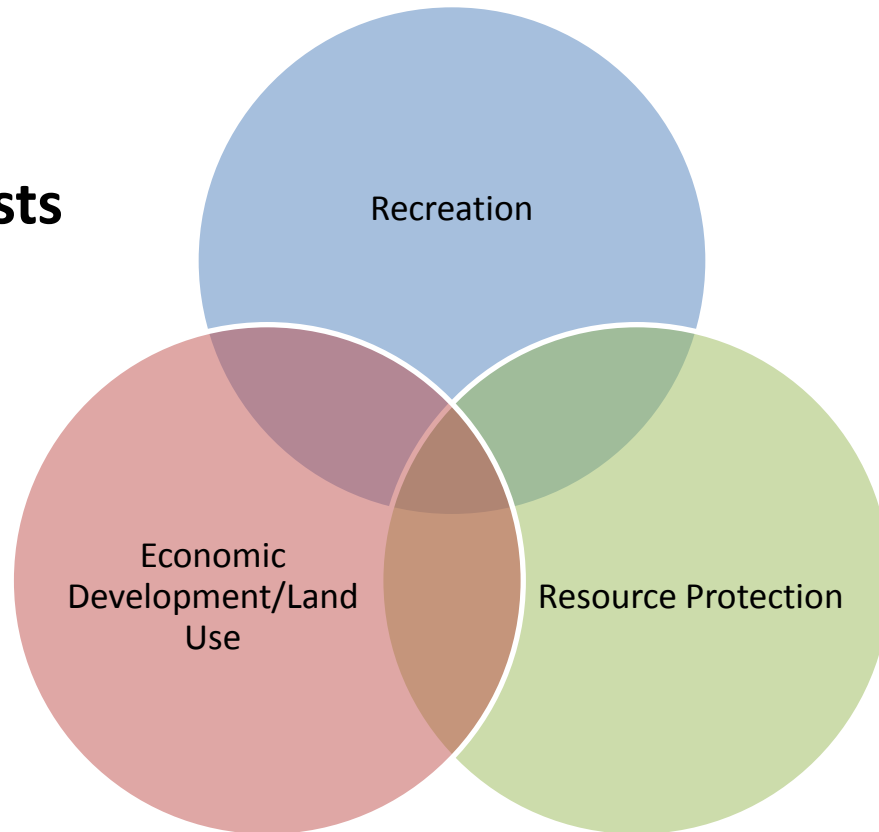
Rules are broad by nature

DNR drafting rules in relation to EO 79-19 and aware of local regulations



DNR'S ROLE.....

Balance Needs & Interests



An aerial photograph of a river flowing through a wooded area, with a bridge crossing it. The image is overlaid with a semi-transparent red filter. The word "DISTRICTS" is written in blue, bold, sans-serif capital letters in the lower-left quadrant, with a subtle reflection effect below it.

DISTRICTS

WORKING DRAFT DISTRICTS

CA-ROS: Rural & Open Space

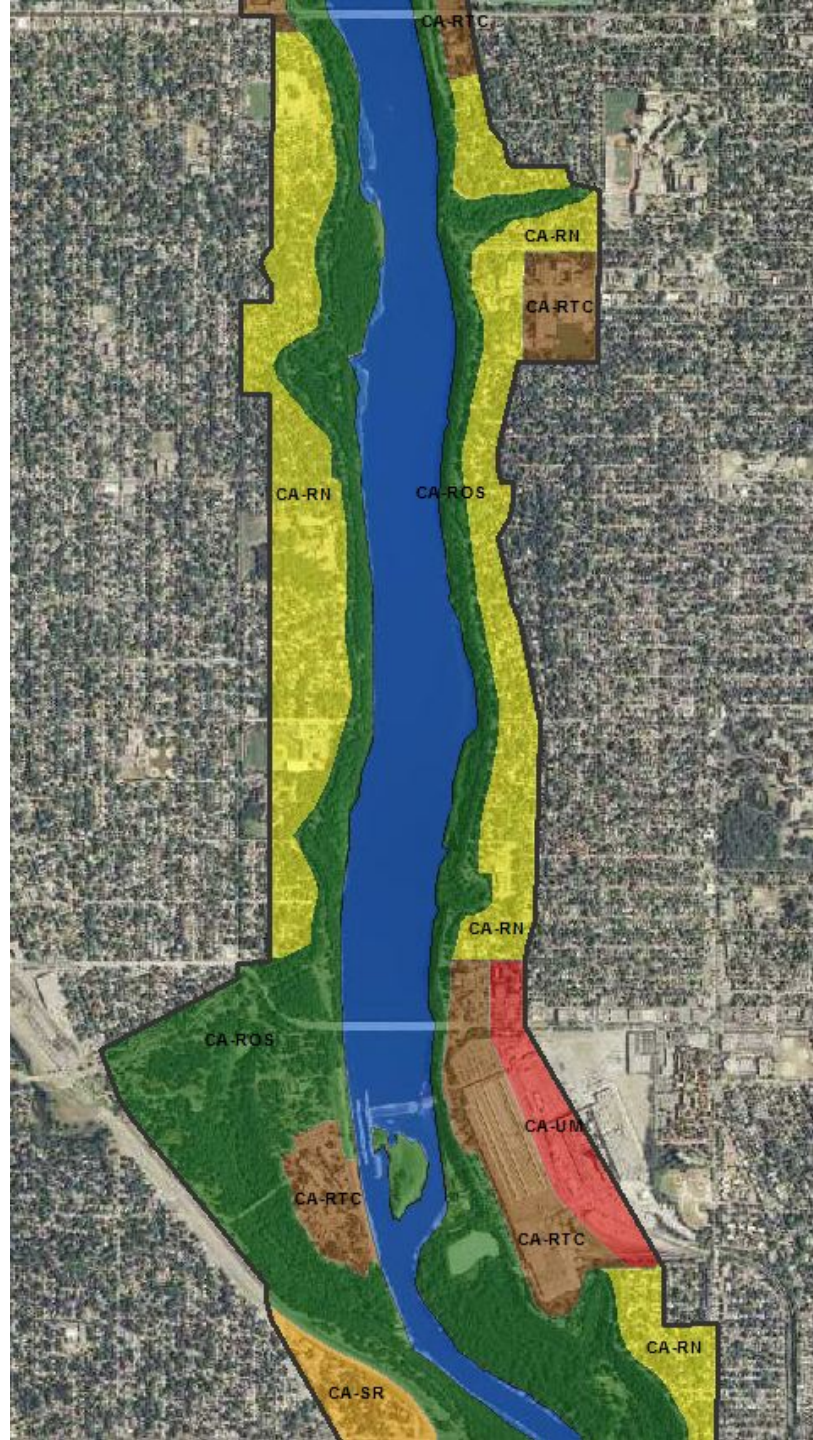
CA-RN: River Neighborhood

CA-RTC: River Towns & Crossings

CA-SR: Separated from River

CA-UM: Urban Mixed

CA-UC: Urban Core



Comparison of Dimensional Standards



Existing Regulations – Executive Order 79-19

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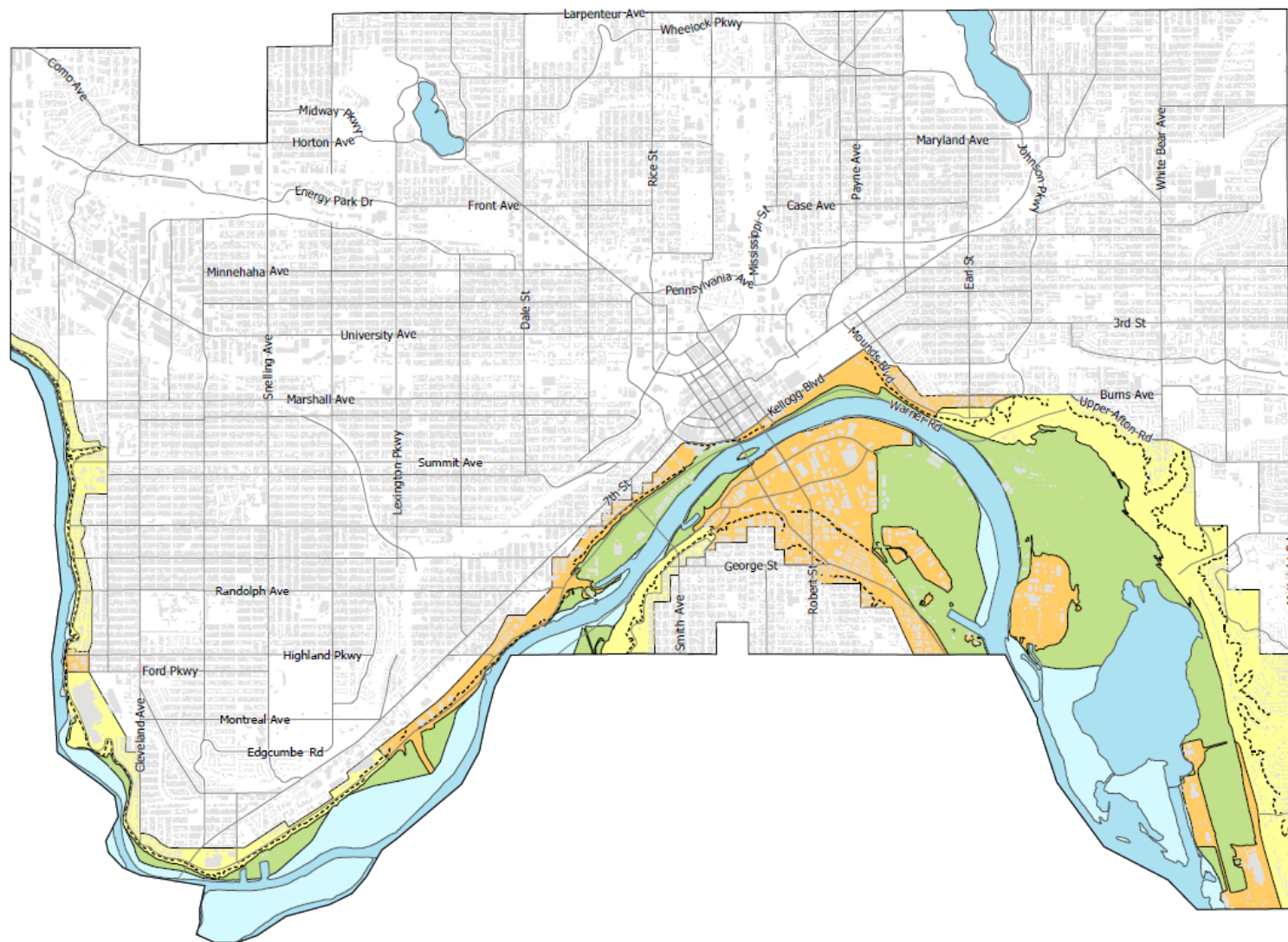
Saint Paul River Corridor / Floodplain Management Districts

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General Standards:

- Building setback from OHWL (river): 50' w/ public sewer
- No comm'l/ind development on slopes > 12%
- No residential development on slopes > 18%

RIVER CORRIDOR AND FLOODPLAIN MANAGEMENT OVERLAY ZONING DISTRICTS



- RC1/FW Floodway
- RC2/FF Flood Fringe
- RC3 Urban Open Space
- RC4 Urban Diversified
- Water
- Building
- Bluffline
(subject to field verification)

RC1/FW Floodway and RC2/FF Districts based on the flood insurance rate map prepared by the Federal Emergency Management Agency, adopted by the City Council on April 14, 2010, and dated June 4, 2010.



0 0.25 0.5 1 Miles

Comparison of Dimensional Standards



Existing Regulations – Saint Paul

	RC1 (Flood-way)	RC2 (Flood Fringe)	RC3 Urban Open Space	RC4 Urban Diversif- ied
Height	n/a	n/a	40'	Under- lying zoning
River Setback	n/a	n/a	50'	50'
18% Slope Setback	n/a	n/a	40'	40'
Use restrict- ions	Flood- plain restrict- ions (now ch. 72)	Flood- plain restrict- ions (now ch. 72)	<ul style="list-style-type: none"> Comm'l /ind uses only land-ward of bluff-lines Mining prohibi- ted 	

Proposed Working Draft Rules

CA-ROS	CA-RN	CA-RTC	CA-SR	CA-UM	CA-UC
35'	35'	48 - 56' (TBD) CUP > max.	Under- lying zoning	65' CUP > 65'	Under- lying zoning
200'	100'	75'	N/A	50'	Under- lying zoning
100'	40'	40'	40'	40'	40'
Standards for: <ul style="list-style-type: none"> Agricultural uses Feedlots – prohibited Forestry Aggregate mining & extraction River-dependent uses Cellular telephone towers Signs Public facilities Etc. 					

FORD SITE

City Concerns:

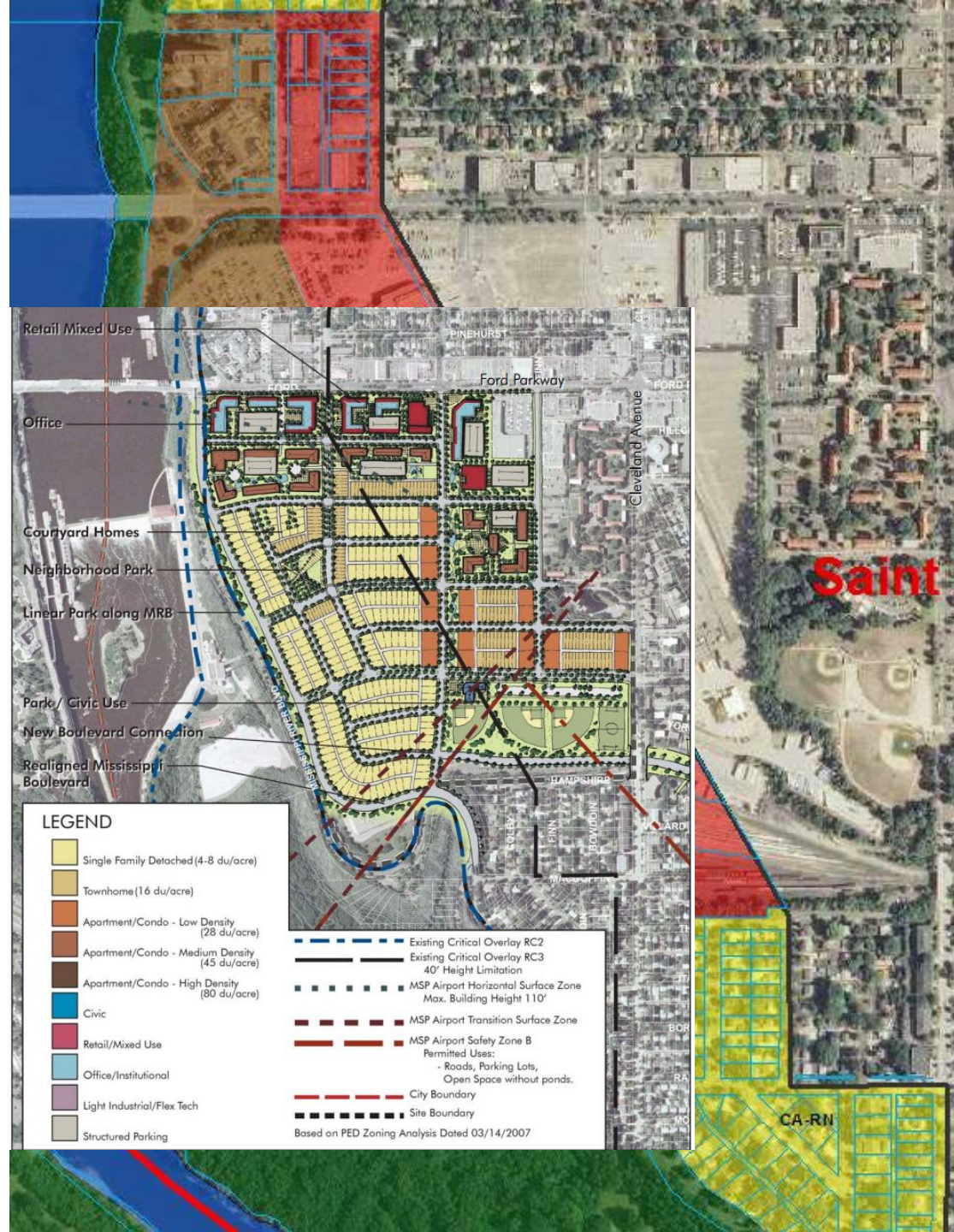
- Height
- Development potential and marketability

Proposed rule:

- 65 feet in CA-UM 48-56 in CA-RTC
- Greater height by CUP (criteria for visual impact assessment)

Rulemaking purpose:

- Protect corridor views
- CUP as fine grained approach



HEIGHT: EVALUATE VISUAL IMPACT

CUP Criteria (CA-RTC and CA-UM)

- Visual impact assessment
- Minimize perceived bulk
- Preserve view corridors in LGU plans
- Protect/enhance public river corridor views
- Increase setback of taller structures from river & bluffs

WESTSIDE FLATS

City Concerns:

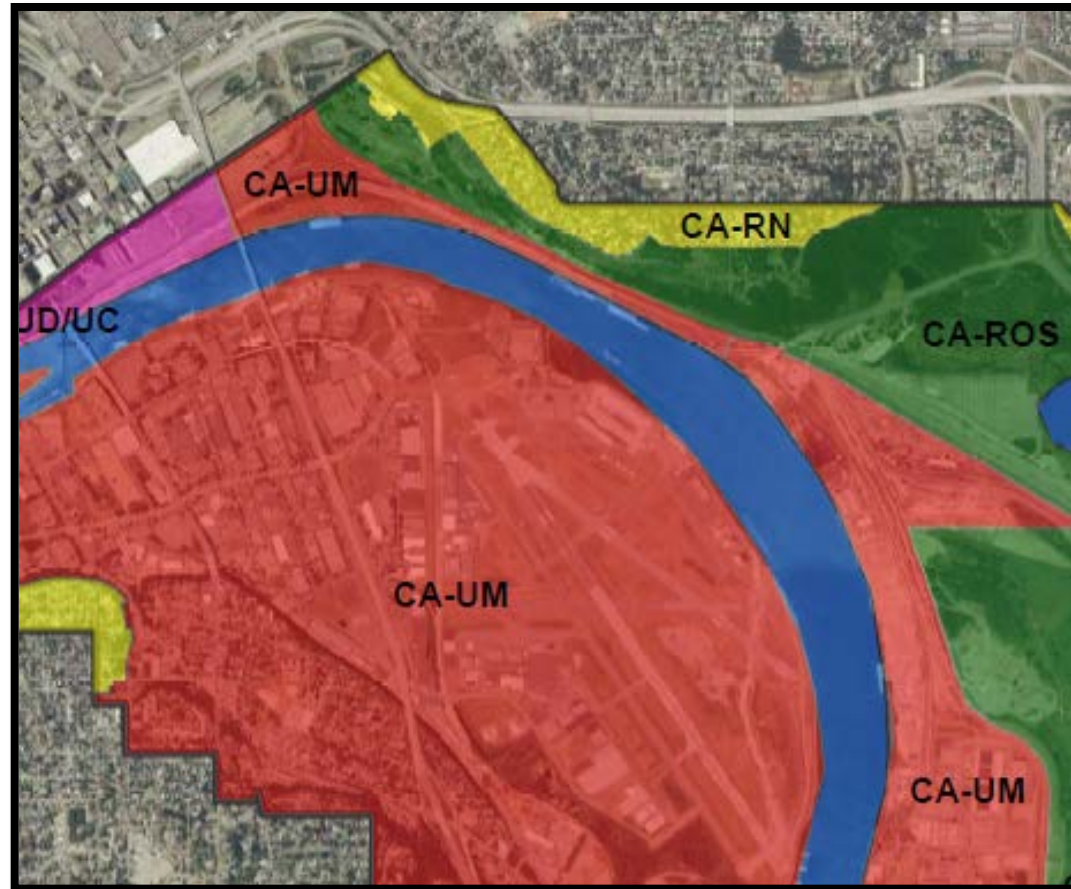
- Height
- Development potential
- Small area plan

Proposed rule:

- 65 feet
- Greater height by CUP (criteria for visual impact assessment)

Rulemaking purpose:

- Protect corridor views
- CUP as fine grained approach



HIGHWOOD

City & Neighborhood Concerns:

- Bluff setback of 100 feet
- Wrong district for neighborhood

Proposed rule:

- CA-ROS District

Rulemaking purpose:

- Protect corridor views
- Protect slopes from development impacts
- Protect significant tree canopy

Proposed Changes:

- Change to CA-RN
- 40 foot bluff setbacks



DOWNTOWN

City Concerns:

- Limits/prohibition on proposed development (balcony, building reconstruction/replacement)

Proposed rule:

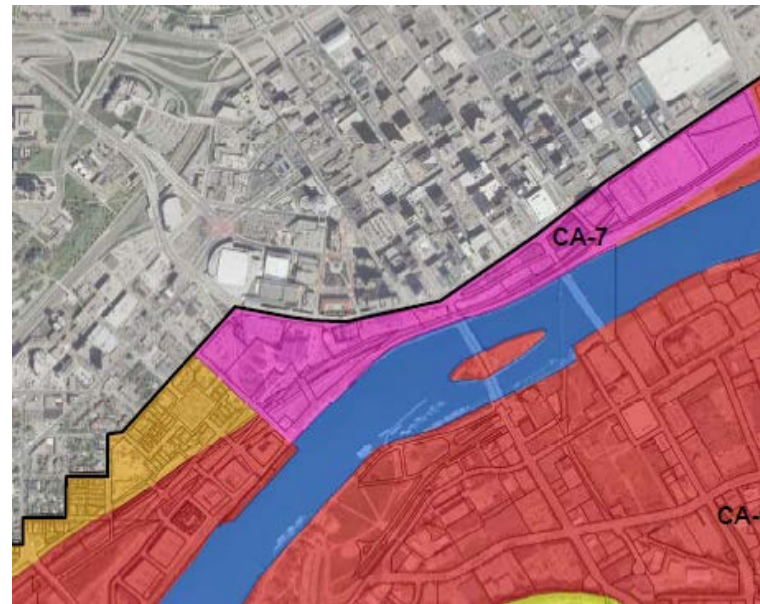
- 40 foot setback from bluff
- Exemptions for existing “reinforced” bluffs

Rulemaking purpose:

- Protect slopes from development impacts
- Allow development in downtown St. Paul

Proposed Changes:

- Additional exemptions to remove setbacks, Bluff Impact Zone, etc.



An aerial photograph of a river winding through a landscape. A multi-lane bridge crosses the river in the center. The banks are heavily forested with green trees. Some residential areas with houses and roads are visible along the edges. The text 'BLUFFS AND VERY STEEP SLOPES' is overlaid in large, bold, black letters with a reflection effect.

BLUFFS AND VERY STEEP SLOPES

BLUFFS AND VERY STEEP SLOPES

Rulemaking purpose:

- Protect slopes from development impacts
 - Erosion (water quality)
 - Failure
- Retain/protect views
- Avoid creation of new nonconformities and burdensome administration



BLUFFS AND VERY STEEP SLOPES

City Concerns:

- Creation of many new nonconforming structures
 - Don't meet the very steep slope ($>18\%$) setback
 - Located on slopes $> 18\%$ and slope preservation zone
- Administrative burden
 - Associated with nonconforming structures (expansion, repair)
 - Vegetation management and land alteration
 - Placement of retaining walls, patios, etc.

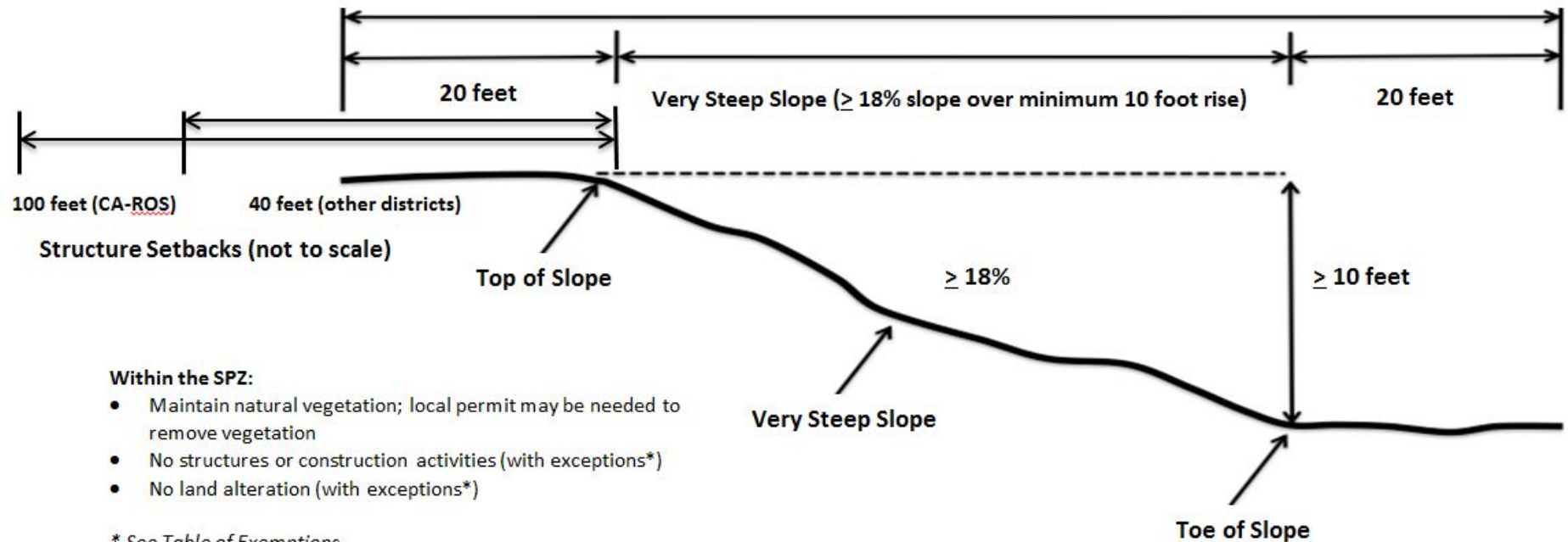


VERY STEEP SLOPES & SLOPE PRESERVATION ZONE

Very Steep Slope: 18% slope, 10 ft rise

Slope Preservation Zone (SPZ): Very steep slope with a 20 ft buffer

Slope Preservation Zone (SPZ) – Very Steep Slopes



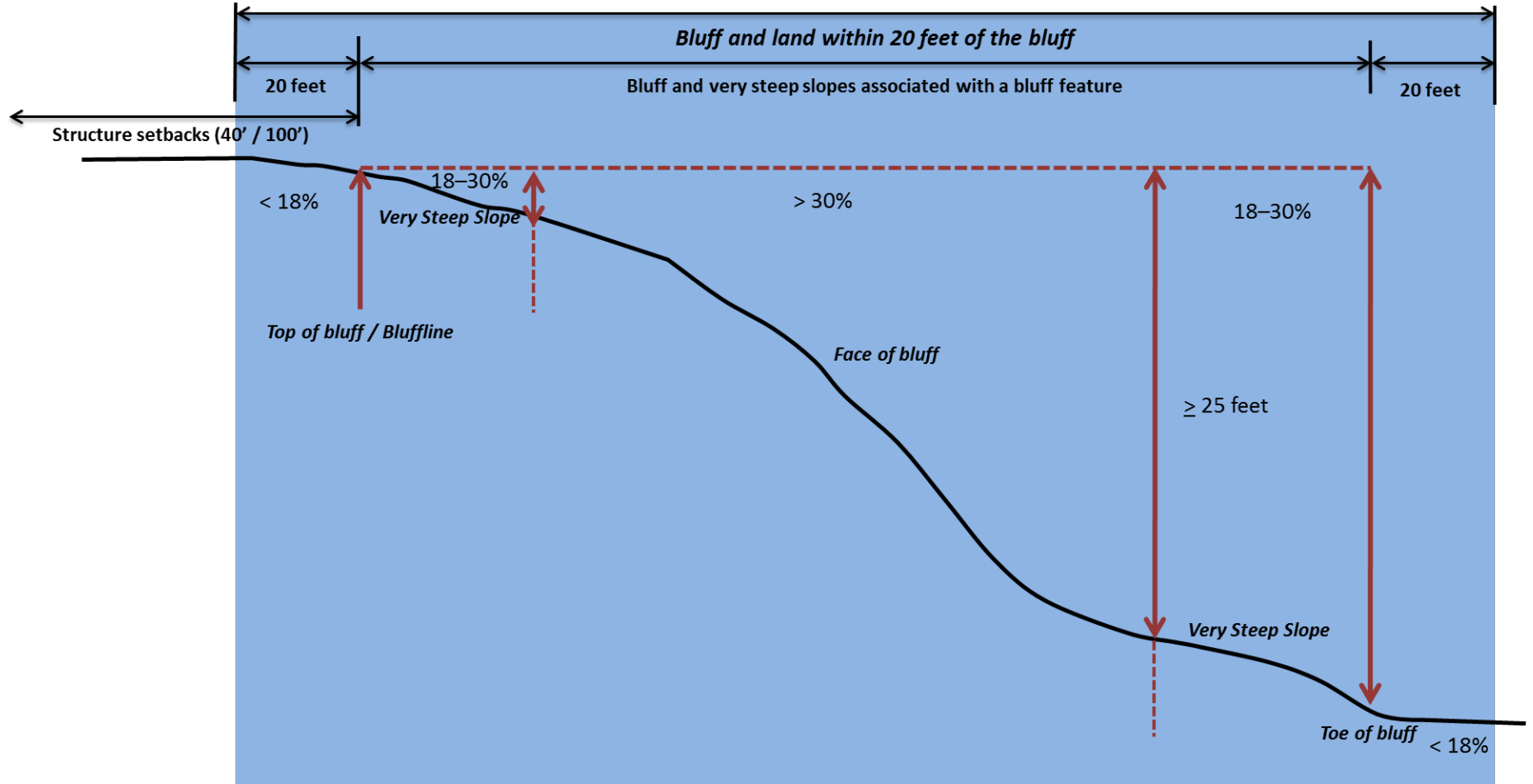
BLUFFS AND VERY STEEP SLOPES

Using additional criteria to refine definitions

Criteria	Very Steep Slope		Bluff	
	<u>Working Draft</u>	<u>Revised</u>	Working Draft	Revised
% Slope	≥ 18	≥ 18	> 30	> 30
Rise (FT)	10	25	25	25
Area (SF)	N/A	2,000	N/A	2,000
Width (FT)	N/A	50	N/A	N/A

Note that the rule definition for bluff will include very steep slopes that are part of a bluff features (Very steep slopes that are adjacent to a bluff)

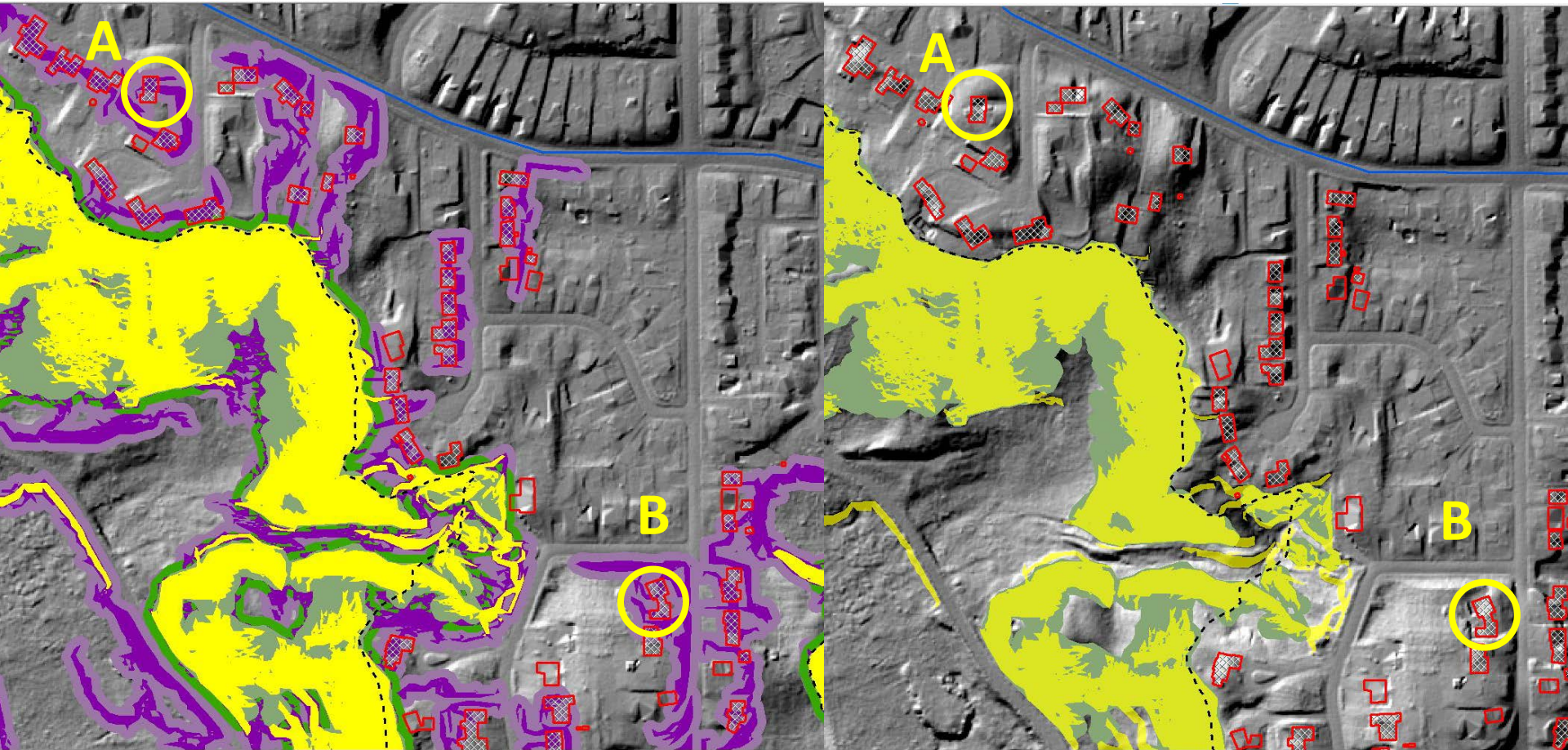
BLUFF DEFINITION: BLUFFS AND VERY STEEP SLOPES ASSOCIATED WITH A BLUFF FEATURE



Bluff: Slope > 30% with a min rise of 25FT and min area of 2,000 SF

Very Steep Slope: Slope 18-30% with a min rise of 25 FT, min area of 2,000 SF, and min width of 50 FT

BLUFFS AND VERY STEEP SLOPES



Bluff (revised): Slope > 30% with a min rise of 25FT and min area of 2,000 SF

Very Steep Slope (revised): Slope 18% with a min rise of 25 FT, min area of 2,000 SF, and min width of 50 FT

Very Steep Slope (working draft): Slope 18% with a min rise of 10 FT

Slope Preservation Zone (SPZ) (working draft): 20 FT buffer around the VSS

BLUFFS AND VERY STEEP SLOPES

Examples of properties not covered by the revised definitions

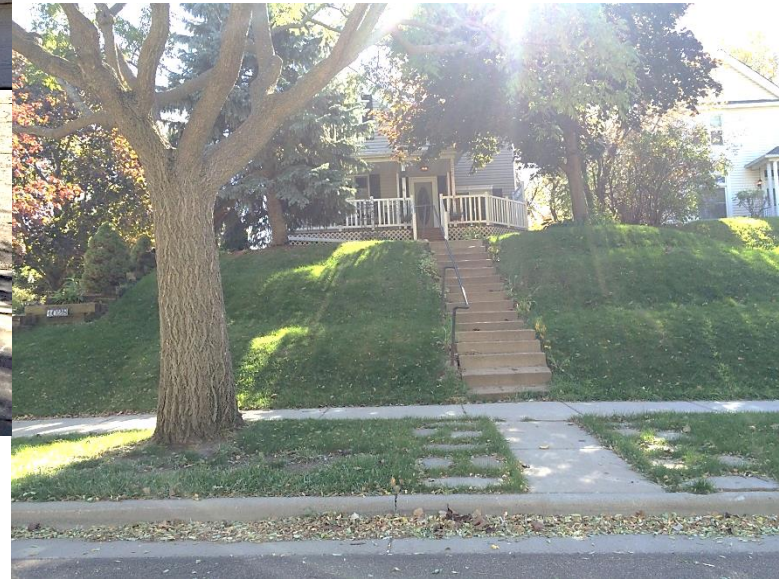


A



B

Examples of properties
not covered by the revised
definitions



BLUFFS AND VERY STEEP SLOPES



Examples of properties
still covered by the revised
definitions



BLUFFS AND VERY STEEP SLOPES

Comparison of nonconforming structures: Current city definitions to DNR alternative definitions for bluffs and very steep slopes

	Nonconforming Structures	
	In Bluff Setback	On 18% slope
Current City definitions	180	1015
DNR revised definitions	572	315
Net Change	392	-700

BLUFFS AND VERY STEEP SLOPES

Use of Maps and Regulation Administration

- Maps prepared to help communicate and plan, not regulate.
- Mapping bluffs and VSS is difficult/imprecise (base data, analysis tools, and interpretation varies)
- Field surveys still needed to verify features
- LGU responsible for interpretation & administration of written regulations
- Regulations do not apply to man-made features





SUBDIVISION & LAND DEVELOPMENT STANDARDS

SUBDIVISIONS & LAND DEVELOPMENT

Applies to larger subdivisions AND development:
(10 – 20)? acre threshold.

Required percentage set aside specified for each district

Incentives for alternative design

Encourage dedication for river access



SUBDIVISIONS & DEVELOPMENT

Must set aside primary conservation areas and permanently protect:

CA-ROS:	(30-50)%
CA-RN:	(20-30)%
CA-RTC, CA-UM, CA-UC:	(10-20)%
CA-SR with NPC or connection:	(10-20)%

If percent not met with primary conservation areas then,

- Create areas of natural vegetation based on restoration areas in your plan**

Stormwater treatment & green infrastructure can meet coverage requirements with suitable habitat



SUBDIVISIONS & DEVELOPMENT

Primary Conservation Areas:

- Shore impact zones
- Bluff impact zones
- Slope preservation zones
- Floodplains
- Wetland,
- Gorges
- Tributary confluence
- Natural drainage
- Unstable soils
- Bedrock
- Significant vegetative stands
- Tree canopies
- **Native plant communities**
- Public river corridor views
- Other scenic views
- Cultural & historic sites



CONCERN WITH SUBDIVISIONS

- Regulatory takings
- Nexus for specified percentages in each district
- Dedication duplicative/over-reaching

Proposed Changes:

- Establish thresholds
- Clarify: set-asides are not dedication
 - Public access not required
 - Public ownership not required
 - Development potential remains intact



QUESTIONS & IMPRESSIONS!



RULEMAKING GOALS.....

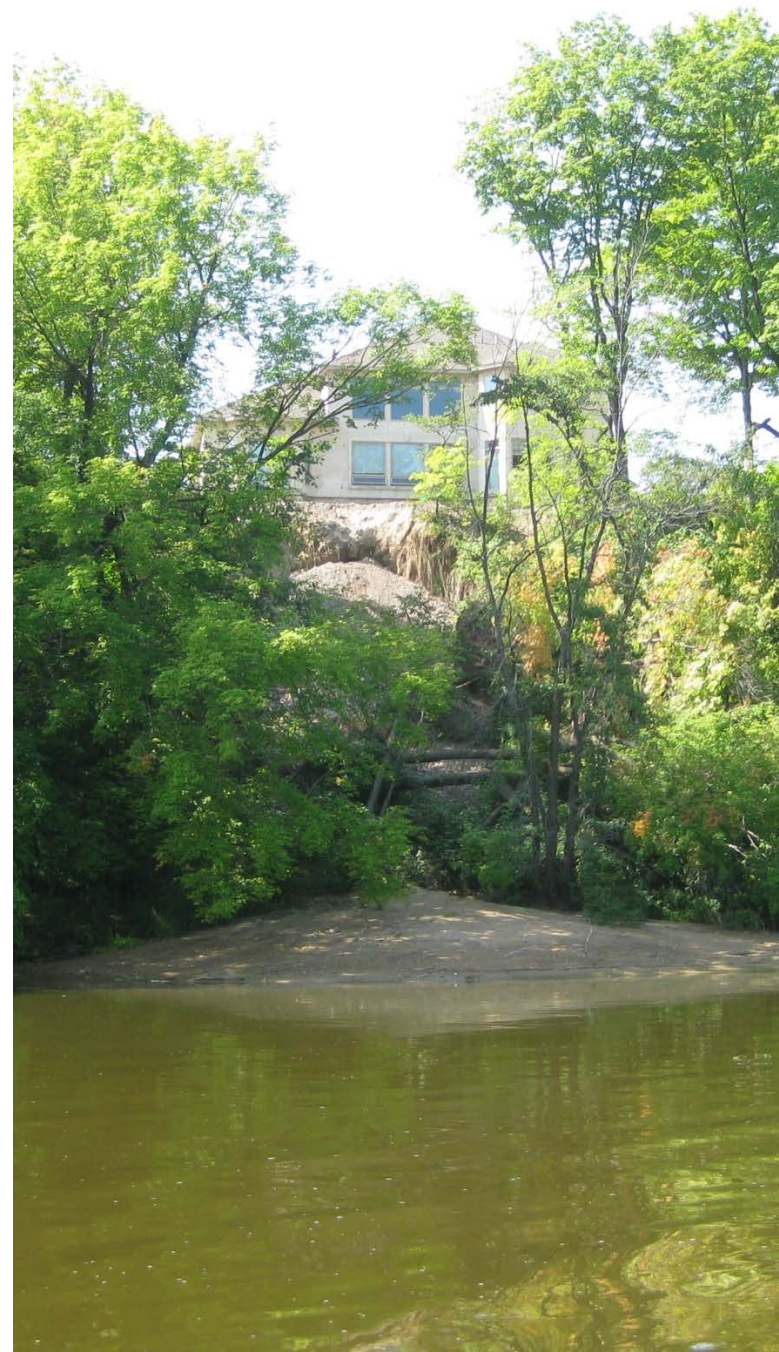
Maintain & improve water and resource protection

Better recognize existing & planned development

Increase flexibility for LGUs

Focus on those measures that can realistically achieve resource protection

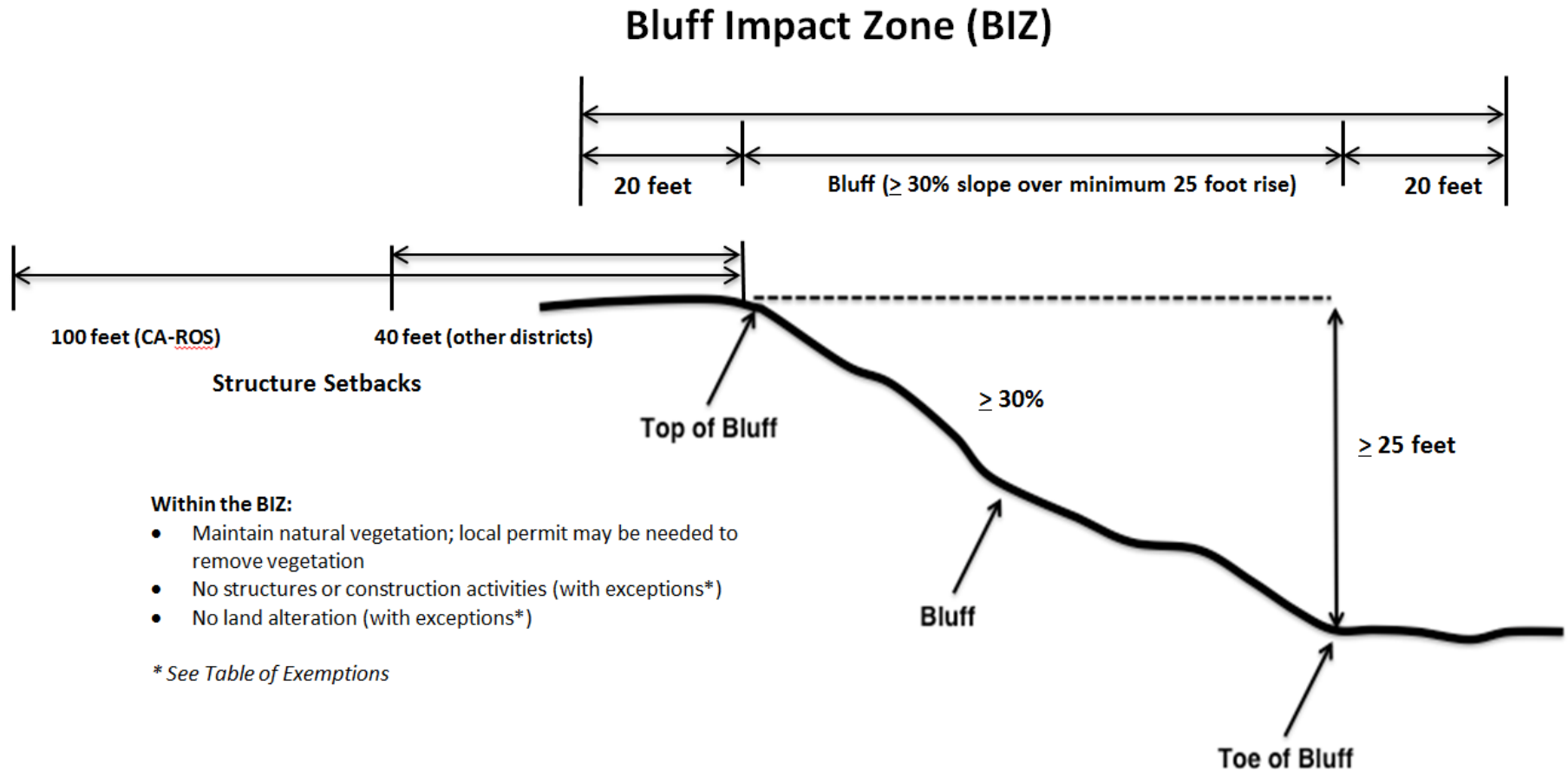
Simplify administration & clarify DNR evaluation criteria



BLUFF AND BLUFF IMPACT ZONE

Bluff: 30% slope, 25 ft rise

Bluff Impact Zone (BIZ): Bluff with a 20 ft buffer



Slope Preservation Zone (SPZ) – PROPOSED



Structure setbacks not
required outside SPZ

