

**FILED**

October 23, 2023

**Citizens' Petition to the Metropolitan Council and the City of St. Paul**

**OFFICE OF  
APPELLATE COURTS**

**Referenced Proposed Project:**

**PLAN OF THE CITY OF ST. PAUL, MINNESOTA FOR THE SUMMIT AVENUE REGIONAL TRAIL  
(BIKE TRAIL)**

**Representative of the Petitioners (Minn. R. 4410.10000, subp. 2C):**

Gary R. Todd  
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**Proposer of the Project (Minn. R. 4410.1000, subp. 2B):**

St. Paul Department of Parks and Recreation  
City Hall Annex  
25 West Fourth Street, Suite 400  
St. Paul, MN 55102

Metropolitan Council  
390 Robert Street North  
St. Paul, MN 55101

**Property Owner:**

City of St. Paul  
15 Kellogg Boulevard West  
Saint Paul, MN 55102

**Petition**

We, the undersigned Minnesota residents and/or property owners, respectfully petition the Metropolitan Council and the City of St. Paul to complete an environmental assessment worksheet (EAW) regarding the City of St. Paul and Metropolitan Council's (Project Proponents) Summit Avenue Regional Trail Plan ("the Plan/Project") located along Summit Avenue. Regulations authorizing EAWs recognize that "the restoration and maintenance of environmental quality is critically important to our welfare" and that "[a] first step in achieving a more harmonious relationship between human activity and the environment is *understanding the impact which a proposed project will have on the environment.*" Minn. R. 4410.0300 subp. 3 (emphasis added).

The Plan calls for abandoning the approximately 4.7 miles of existing bike lanes on Summit Avenue in favor of two off-road trails on both sides of the existing roadway. This will require

the elimination of approximately 950 mature trees that line the street and provide critical shade and carbon capture, and will irreversibly destroy the existing historic streetscape, including granite curbs and preserved streetlights, along the entire length of Summit Avenue, which is currently required to be protected by virtue of the Historic Designations that apply throughout its length.<sup>1</sup> The project will have a profound and irrevocable adverse impact on the natural resources of the state, which are defined to include not only the hundreds of trees that currently line Summit Avenue, but also the essential character of this historic district. Minnesota Administrative Rules *require* the completion of an EAW “for the destruction . . . of a property that is listed on the National Register of Historic Places.” Minn. R. 4410.4300, subp. 31. The streetscape of Summit Avenue is included within the scope of the National Register. Further, Minnesota Administrative rules authorize an EAW “whenever the EQB determines that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects.” Minn. R. 4410.1000, subp. 3(C).

Natural Resources of the state include “all mineral, animal, botanical, air, water, land, *timber*, soil, quietude, recreational *and historical* resources.” Minn. Stat. § 116B.02, subd. 4 (emphasis added). Projects that adversely impact the Natural Resources of the state cannot be approved unless “there is no feasible and prudent alternative and the conduct at issue is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state’s paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction.” Minn. Stat. § 116B.04. The existing on-street bike lanes provide indisputable proof that a feasible and prudent alternative to the proposed off-street trail already exists.

The Project Proponents have refused to undertake any meaningful analysis of the adverse impacts of this Project apparently to avoid creating further political backlash, and instead have asserted that until detailed construction drawings can be developed for the entire 4.7 miles, the full negative impacts of the Project cannot be estimated, so any analysis of its adverse impacts would be premature. This is a transparent dodge. Detailed construction drawings cannot eliminate the undisputed loss of hundreds of mature trees, or the destruction of the historic streetscape. Further, if the Metropolitan Council should approve the proposed Plan, no further action by any body will be required, and the Plan once enacted by the City will require that the on-street bike lanes be eliminated, and replaced with off-street trails that will destroy hundreds of trees and require a nightmarish zig-zag of Summit Avenue every few blocks east of Lexington, permanently altering the historic streetscape.

### **Description of Project (Minn. R. 4410.1000, subp. 2A)**

As previously stated, the Project contemplates the construction of a 4.7 mile Bike Trail encompassing a 5.4-mile corridor along Summit Avenue, Kellogg Boulevard, and Eagle Parkway, connecting the Mississippi Gorge Regional Park and Samuel H. Morgan Regional Trail. The Metropolitan Council will meet on August 23, 2023, to consider the Plan.

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<sup>1</sup> *Minnesota SP West Summit Avenue Historic District*, NAT’L ARCHIVES CATALOG, at 1, <https://catalog.archives.gov/id/93202738>. [may add other designations as well]

The proposed trail takes the form of “a one-way bike trail on both the north and south side of Summit Avenue from Mississippi River Blvd to Kellogg Blvd.” Ex. A at 6. The project will extend approximately 4.7 miles, will cross 46 intersections, and 12 major intersections. *Id.* at 8. Phase 1 of the project will involve “surface improvements and maintenance improvements to existing conditions.” *Id.* Phase two will involve roadway reconstruction, and other long-term projects. *Id.* The trail itself will cost anywhere from \$11,061,000 to \$12,290,000, but the cost of full street reconstruction for the corridor is approximately \$100 million. *Id.* A more complete description of the project may be found in Exhibit A.

### **Harmful Environmental Effects (Minn. R. 4410.1000, subp. 2D)**

#### *Destruction of the Summit Avenue Tree Canopy*

An EAW is needed to consider the Project’s undisputed and devastating impact on the tree canopy currently lining Summit Avenue. The Project’s proponent explicitly admits that the project “could have an adverse effect on the tree canopy.” Exhibit B at 11. The city, however, used only proximity to the curb itself as the only element in their GIS estimate of tree impact. Further, the Project proponents suggest that based on other projects in drastically different circumstances, somewhere in the neighborhood of 15% of trees along Summit Avenue will be destroyed by the proposed reconstruction. *Id.* At 12. The city, however, has conspicuously refused to undertake any analytical assessment of, or even a reasonably approximate projection for the actual impacts the Project will have on the Summit Avenue tree canopy, claiming that the *exact* number of trees lost cannot be estimated until detailed construction drawings have been developed, which will be years away. This is an obvious dodge of one of the most significant adverse impacts of the Project.

A specific analysis of the full scope of the trees likely to be destroyed, conducted by assessing representative segments, however, establishes that the impact of the Project will be vastly greater than the city’s ‘guestimate.’ See Save Our Streets Supplemental Tree Canopy Analysis, Exhibit C. Licensed arborists evaluated the potential impact of the Project using an “on-site physical inspection method.” *Id.* The arborists concluded that 61% of trees would be so adversely impacted that they would be unlikely to recover, and 32% of trees would suffer “significant construction impact.” *Id.* More importantly, contrary to the city’s unsupported rough estimate, the assessment by professional arborists is based on *all* of the construction that is projected to take place, not just that immediately adjacent to the existing curbs, which includes curbside, required driveway and carriage walk extensions to the newly designed streetscape, and required sidewalk construction activity (essentially all 4 sides of boulevard trees, as opposed to the city’s limited examination of only one side of the construction activity). This real, analytical, and verifiable data conclusively contradicts the city’s self-serving back-of-the-envelope guess.

The city further intentionally understates the impact on the tree canopy by excluding any mention of the destruction of a significant number of trees, sometimes virtually all of them, at each road intersection. Page 234 of the plan – Safety and Crossings – clearly shows the trail jogging back toward the roadway and into existing tree-dense boulevards adjacent to the pedestrian crosswalks at *every intersection* as the trail traverses 46 individual intersections. This design element alone will eliminate over 100 trees.

Inexplicably, in earlier versions of the proposed Plan, the city asserted that the design it currently proposes is “not recommended” because of its adverse impact on the tree canopy. The Final Summit Avenue Regional Trail Plan—a document 258 pages in length—contains a scant three pages on tree vulnerability, with zero backup or analytical support. This perfunctory fly-by is not “usable information” and will not “help maintain public awareness of environmental concerns.” Minn. R. 4410.0300, subp. 4. The only way to remotely reconcile the dramatically disparate representations of the impact of the Project on the existing tree canopy is through a robust EAW.

An EAW would fulfill the regulatory goal of “understanding the impact which a proposed project will have on the environment” by expanding the Project Proponents’ cursory analysis and shedding light on the disparate environmental impacts suggested by the competing analyses. *Id.* Subp. 3. It would also lend accountability and transparency to a process that has, to date, been shrouded in unlawful secrecy and obfuscation. Consequently, the Project Proponents should prepare an EAW.

### *Irreversible Demolition of the Nationally Protected Historic Streetscape on Summit Avenue*

In contrast to the city’s refusal to even attempt to meaningfully assess the Project’s impact on the tree canopy, the city initially asked its consultant Bolton & Menk to provide guidance on how to avoid destroying the historic streetscape. The recommendation was clear and unequivocal:

It is recommended that additions to Summit Avenue should be as simple as possible and not change the existing curb lines whether it is within the 100-foot-wide or 200-foot-wide section of the avenue. Minimal or no impact to the greenspace that is a character-defining feature to the historic districts is recommended to avoid any potential adverse impacts. Keeping the design simple will not only benefit the character-defining features but also be user friendly. If barriers are needed whether its bollards or another approach not demonstrated above, these should be used sparingly and scaled so that they are not overwhelming the street view. Wayfinding signs for the trail should be combined with other signs in order to not create a lot of clutter in the greenspace of the corridor. The goal is to create a safe place for trail users while limiting the negative impacts on the character-defining features.

Source: Bolton & Menk *Summit Avenue Regional Trail Master Plan Historic Resources Technical Memo* Page 40

The city has clearly and egregiously violated these principles. Under the proposed Project, the curb lines will be significantly and irreversibly altered (the historic granite curbs will be destroyed), and dramatically so East of Lexington Avenue. Further, the impact on the “greenspace that is a character defining feature to the historic districts” would be catastrophic.

The city has attempted to gloss over its rejection of its own consultant’s analysis by claiming that since much of the *construction* of the proposed Project, which clearly and dramatically changes the existing curb lines, will still occur within the space currently occupied by the existing curb lines, that somehow avoids the irreconcilable conflict with Bolton & Menk’s requirement that any bicycle facility “not change the existing curb lines”. Even a cursory comparison of the proposed Project with the existing curb lines demonstrates conclusively that those curb lines are

being completely abandoned, throughout the entire length of Summit Avenue, and replaced with an aesthetically jarring mish-mash of design elements that no professional bicycle facility expert would ever consider approving.

## **Conclusion**

Thank you for your attention to this Petition. The adverse impacts of the Project are extraordinary, which is made even more concerning by the city's refusal even to consider them. The undersigned are confident that if the Project is evaluated through any sort of alternatives analysis that includes a comparative assessment of the Project with the existing bike lanes (under Minnesota law, the "no action alternative") any unbiased assessment will confirm that the Project impermissibly sacrifices the precious and irreplaceable natural resources of the tree canopy along Summit Avenue and its unique historic streetscape for a 'shiny new object' bike facility that provides no additional benefits to the citizens of Minnesota.

Respectfully submitted,

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**Material Evidence (Minn. R. 4410.1100, subp. 2E)**

All Exhibit documents can be downloaded from the following shared drive:

**[Citizens' Petition to the Metropolitan Council and the City of St. Paul – EAW Material Evidence](#)**

- **Exhibit A:** Summit Avenue Regional Trail Plan Executive Summary
- **Exhibit B:** Summit Avenue Regional Trail Plan
- **Exhibit C:** Save Our Streets Supplemental Tree Canopy Analysis
- **Exhibit D:** Bolton & Menk *Summit Avenue Regional Trail Master Plan Historic Resources Technical Memo*
- **Exhibit E:** Historic Districts – Summit Avenue
- **Exhibit F:** Tree Are Climate Change, Carbon Storage Heroes \_US Forest Service
- **Exhibit G:** Tree Canopy – Metropolitan Council
- **Exhibit H:** St Paul Street and Park Tree Master Plan

## Petition for an Environmental Assessment Worksheet for St. Paul's Proposed Summit Avenue Regional Bike Trail Project

We, the undersigned, live in and/or own property in the state of Minnesota and request the preparation of an Environmental Assessment Worksheet for St. Paul's Summit Avenue Regional Bike Trail Plan located in St. Paul, Ramsey County. By signing below, I support the material evidence submitted in the attached petition and believe that, because of the nature or location of the proposed project there may be potential for significant environmental effects including, but not limited to:

- Irreparable destruction of the natural resources that currently constitute the tree canopy on Summit Avenue
- Irreversible demolition of the historic natural resource of the Summit Avenue streetscape currently protected by Nation Designation

Minnesota's Environmental Review Program rules require that a citizen petition contain the [legible] signatures and mailing addresses of at least 100 individuals who reside or own property in the state. The EQB has the responsibility to monitor the effectiveness of Minnesota's Environmental Review Program and to make improvements to the process when needed (MR 4410.0400). Please include your phone number if you are willing to have EQB staff contact you to talk about your experience with the petition process.

Number	Name (Print Clearly)	Address (Full Street, City, and Zip Code)	Phone Number (optional)	Email Address	Signature
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