



'Where the biggies leave off...'

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## 'Remnant lands': what are they, and why you should care

By Michael Wilson

These golden, sun-dappled days of summer in the Kenilworth Corridor, with the cottonwoods rustling overhead and the big and little bluestem grasses undulating in the breeze, are poignant reminders of why so many have fought for so long to put mass-transit light rail commuter trains where masses of people actual live and to keep Kenilworth's parklands and urban forest intact for the generations to come.

When you lose precious, rare open space to development, you don't get it back.

So imagine people's shock when they began examining the Built Form map in Minneapolis 2040, the city's draft update of its Comprehensive Plan, and discovered that the city's long-range planners and its top in-the-know elected leaders have decided that the east side of the corridor from 21st Street down to the Kenilworth channel should become a Corridor 4 district. (See map accompanying this article.)

So now, apparently, there was a second battle front, this time involving not the Met Council or the Hennepin County board, but our own city. The Corridor 4 district "is typically applied along high frequency transit routes," Minneapolis 2040 says. "As the lot size increases, allowable building bulk should also increase. Building heights should be 1 to 4 stories. Requests to exceed 4 stories will be evaluated on the basis of whether or not a taller building is a reasonable means for further achieving Comprehensive Plan goals."

This strip of land is part of the 40 acres of so-called "remnant lands" between the channel and I-394, currently owned by the Hennepin County Regional Rail Authority (HCRA), which would largely not be needed following completion of the proposed Southwest commuter line.

This Corridor 4 strip of extraordinarily choice parcels would be a developer's dream for luxury apartment and condo mid-rises. Would the fact that it's currently owned by the public be a problem? That depends on how long you've been involved in the Southwest light rail saga.

### History of broken promises.

"Hennepin County promised us repeatedly, in writing, from 1998 through publication of the Draft Environmental Impact Statement (DEIS) in October 2012 that freight rail use of the corridor was 'temporary' and the freight trains would move," says Craig Westgate, immediate past chair of the CIDNA board. "So much for believing promises from the county."

Since January 2013, when co-location of freight and commuter rail became the new reality, the Met Council and its Southwest Project Office (SPO) have regularly engaged in misrepresentations, disingenuousness, and a lack of transparency, Westgate continues. "And the Comp Plan makes it abundantly clear that the city wants to densify every parcel and corner of the city."

The announcement by Hennepin County and the Met Council on July 16 of a settlement with Twin Cities & Western railroad (TCW) did not bring good news for the drive to seek a more sensible route for the proposed Southwest commuter line, but it did at least appear to answer semi-definitively the concern that the publicly-owned remnant lands remain in public ownership.



Several Kenilworth Corridor advocates gathered on July 14 on the "remnant land" parcel south of 21st Street to make their position perfectly clear! From left: Stuart Chazin (Cedar-Isles-Dean); Will Stensrud (Kenwood) with Kaighin (standing) and Loren; Keith Prussing (CLPA president); Jeanette Colby (Kenwood); Neil Trembley (CLPA treasurer and Cedar Lake historian); Michael Wilson and Scott Abbott (both Cedar-Isles-Dean); Cathie, George, and Will Puzak (Lowry Hill); Rosemary Lawrence (Kenwood); and Beth Stockinger with Mac (both Cedar-Isles-Dean).

Photo by Dorothy Childers Captions by Michael Wilson



The city's draft Comp Plan wants to turn not only West Franklin Avenue and West 21st Street but also the east side of Kenilworth Corridor from 21st Street to the channel into a Corridor 4 high-density district with multi-unit dwellings of four stories and higher.

The Met Council on July 9, 2014, approved a resolution "regarding long-term public ownership and control of Kenilworth Corridor" and concurrently approved a Memorandum of Understanding (MOU) with the city "pertaining to the preservation of Kenilworth Corridor in public ownership and control"

The rationale, Council members were told, was that "Minneapolis, Hennepin County and Metropolitan Council all have a shared interest to retain public ownership of the Kenilworth Corridor. This MOU with Minneapolis articulates this shared objective and states the Council will take all reasonable actions to keep Kenilworth Corridor in public ownership while it is being used for rail transportation of any kind. Public ownership will provide maximum influence working with freight rail interests to create a good neighbor operating environment with freight rail co-existing with light rail, pedestrian and bike trails and the adjacent residential neighborhoods."

### Public ownership: promises and good intentions.

The MOU also stated, "To the extent necessary to perpetuate and maintain the connection to local and regional trails in the area, if the Council obtains land in the Kenilworth Corridor, the Council will grant a permanent easement to the Minneapolis Park and Recreation Board [MPRB] for a pedestrian and bicycle trail in the Kenilworth Corridor that is laid out so as to connect to regional and local trails in the area. This permanent easement will include, as applicable, an easement for the trail to be placed over any Council-owned tunnel, together with any necessary restrictions there-



on."

The city and Met Council also entered into a "Redesign" MOU in July 2014 that stated, "The parties agree that the Kenilworth Corridor is located in a park-like setting. In the event that LRT is constructed in the Corridor with co-location of LRT, freight rail and a bicycle and pedestrian trail, the Corridor shall be designed to a park-like level of amenity, not only restoring, but improving pre-existing conditions. Design and restoration shall include but not be limited to native plantings, mature trees and the like.

"It is understood that the Corridor, along with the bicycle and pedestrian paths located on the Corridor, is a significant part of the City's chain of lakes park system, one of the most prized, highly used recreational attractions in the region, and that the parties intend for the Corridor to be landscaped and restored so that it continues to be an asset to the chain of lakes park system. It is agreed that the Corridor shall be restored and constructed consistent with this park-like environment and the proximity to the chain of lakes, to the extent reasonably possible, so as not to impact neighboring parks or water bodies or to impair the existing park-like setting."

HCRRA and the City of Minneapolis entered into an MOU in August 2014 that committed HCRRA to keep the Kenilworth Corridor lands it owned in public ownership and that, in the event these lands were transferred to another government entity, the MOU would "run with the land." (Google "HCRRA Agreement No. A141188" to read the full text.)

But the Minutes of the August 19, 2014, HCRRA meeting also contained this caveat: "WHEREAS, the City-[Met] Council MOU also included references to transfer of certain 'excess' or 'remnant' land to the Minneapolis Park and Recreation Board (MPRB), but HCRRA understands that the MPRB has not officially requested such land, and in any event it is understood that such excess or remnant land does not include HCRRA-owned properties that are suitable for development, so HCRRA is making no commitments regarding 'excess' or 'remnant' land at this time."

#### MOUs are 'promises that can be broken.'

The MOUs, agreements, and statements of good intentions of four years ago might seem definitive to some, but the battle-scarred veterans of the SWLRT saga have learned through experience to be mistrustful, particularly in light of Judge Tunheim's ruling on February 27 in the Lakes & Parks Alliance of Minneapolis lawsuit that "... the Court has determined that the MOUs the Council signed with Minneapolis and St. Louis Park are what the Council says they are: promises that can be broken."

So when the agreements with TCW providing for the transfer of all HCRRA-owned lands in the Kenilworth Corridor to the Met Council came before the HCRRA commissioners for approval on July 19, one Cedar-Isles-Dean resident referred to the 2014 MOUs and asked: given the city's stated determination in its draft Minneapolis 2040 Comp Plan to fill the remnant lands south of 21st Street with high-density mid-rise buildings, what guarantees can you give that these public lands will remain in public ownership?



Photo by Stuart Chazin on July 1, 2018

If SWLRT wins, the Kenilworth Corridor deer lose. Besides, would they be able to pay the fare?

Howard Orenstein, HCRRA counsel, replied, "I can't speak for the Met Council, and I think the question was whether the Met Council could assure something, but I can speak as to what HCRRA has done, and if anyone from the Met Council wants to supplement that, they can.

"At the same time as the [July 9, 2014] MOU that the gentleman referred to between the Met Council and the city was entered into, HCRRA also entered into an MOU with the City of Minneapolis in which we promised that we would only transfer the property to another public owner and these [present] sets of agreements [with TCW] are consistent with that.

"The MOU that HCRRA entered into with the city also required that our MOU be recorded against the property and run with the land such that it would be binding upon a future owner. So HCRRA's promise to

keep the corridor in public control would then flow to the MC when the MC took ownership of the property. To the extent that HCRRA made any promises to the city, those promises would be legally assumed by the MC. I think that the right assumption is that the MC as the new owner would carry out those obligations to the same extent as HCRRA would have been required to."

Jim Alexander, SWLRT project director, then stated for the record, "I would agree with Mr. Orenstein in terms of the agreement we have, the MOU we have with the city, that we will be maintaining that public ownership with the Met Council taking on that ownership of the Kenilworth Corridor from the county."

#### MPRB ownership a long-sought goal.

The goal has long been for the publicly-owned Kenilworth Corridor lands not needed for operation of the Southwest commuter train, if it is built, to be transferred to the protection of the Park Board. Cedar Lake Park Association board members Meredith Montgomery and David Klopp recently presented a resolution to the Park Board concerning preservation of remnant public land owned by HCRRA or the Met Council in the Cedar Lake area.

The resolution asks that the Park Board "acquire this remnant land and, in partnership with the Cedar Lake Park Association, preserve it for future generations with the goal of future nurturing nature at Cedar Lake, and benefiting not only the city of Minneapolis, but the surrounding metropolitan area as well."

The board referred the resolution to staff, and on July 21 Michael Schroeder, MPRB assistant superintendent for planning services, met on the trail with Keith Prussing, CLPA president; Neil Trembley, CLPA treasurer, and CLPA board member and Kenwood resident Jeanette Colby to walk the land.

An enthusiastic Schroeder stated afterwards, "I have had discussions about the remnant lands with representatives of Hennepin County/HCRRA and with former Superintendent Miller. And I noted that the Kenilworth Landscape Advisory Committee (formed by the Southwest Project Office) had discussed their interest in seeing the remnant lands become part of the MPRB system. In many respects, it makes sense: while the ownership is complicated with HCRRA owning the land, the City of Minneapolis owning the pavement, and the MPRB maintaining the corridor, I think most people believe the property is already part of the Minneapolis park system."

