

## 7.0 SECTION 4(F) EVALUATION

### 7.1 Background Information and Regulatory Requirements

This chapter presents the existing conditions and potential effects to parklands and historic properties as they relate to the provisions of Section 4(f) of the U.S. Department of Transportation Act of 1966. Section 4(f) of the Department of Transportation Act of 1966 is a federal law intended to prevent the conversion of specific categories of property to transportation use, unless the U.S. Department of Transportation (USDOT) determines there is no feasible and prudent alternative to such conversion and all possible planning has been done to minimize harm.

This law, codified at 49 USC 303 and 23 USC 138, is commonly referred to as Section 4(f) and is implemented by regulations found at 23 CFR 774. The specific categories of property protected by Section 4(f) include publicly-owned parks, publicly-owned recreation areas, publicly-owned wildlife and waterfowl refuges, and historic property regardless of ownership. Section 4(f) applies to all USDOT agencies; including the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Aviation Administration (FAA), and the Federal Railroad Administration (FRA).

The Section 4(f) resources identified within the Central Corridor LRT Study Area include both historic property and publicly owned parklands that meet the specific criteria defined in 23 CFR 774. Section 4(f) applies to all historic property (i.e., on or eligible for inclusion in the National Register of Historic Places (NHRP)), except for archaeological resources unless they merit preservation in place.

Section 4(f) permits the Secretary of Transportation to approve a project that requires the use of any publicly-owned land from a park, recreation area, wildlife refuge, or historic property only where it is shown that:

- There is no feasible or prudent alternative to the use of the land; and
- The action includes all possible planning to minimize harm to the property resulting from such use.

Use of a Section 4(f) resource by a proposed project occurs when:

- Land from the Section 4(f) property is acquired for conversion to a transportation use
- There is a temporary occupancy of the property that is adverse
- The proximity effects of the transportation project are so great that use of the 4(f) property is substantially impaired resulting in constructive use of the property

Land which is permanently incorporated into a transportation facility may be done by fee simple purchase of the land or through permanent right-of-way acquisition.

Temporary impacts to Section 4(f) resources may occur during construction and might include impacts to air quality, noise, vibration, water quality, visual, or access limitations.

In order for a temporary occupancy of Section 4(f) land to not be considered adverse, it must meet the following conditions:

- The duration of the occupancy must be less than the time needed for the construction of the project and there must not be a change in ownership;
- Both the nature and magnitude of the changes to the Section 4(f) resources are minimal;
- There are no anticipated permanent adverse physical changes nor interference with activities or purposes of the resource on a temporary or permanent basis;
- The land is restored to the same or better condition; and,
- There is documented agreement of the appropriate Federal, State, or local officials having jurisdiction over the resource regarding the above conditions.

A constructive use of land occurs when the project does not require permanent or temporary use of land, but has an impact on a Section 4(f) resource that substantially impairs the activities, features, or attributes of the resource. Such uses are defined in 23 CFR 771.135 and include:

- The projected noise level increase attributable to a proposed project substantially interferes with the use and enjoyment of a resource protected by Section 4(f), such as hearing a performance at an outdoor amphitheater, enjoyment of a historic site where a quiet setting is a generally recognized feature of the site, or enjoyment of an urban park where serenity and quiet are significant attributes.
- The proximity of a proposed project substantially impairs aesthetic features or attributes of a resource protected by Section 4(f), where such features or attributes are considered important contributing elements to the value of the resource. An example of substantial impairment to visual or aesthetic qualities would be the location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or detracts from the setting of a park or historic site which derives its value in substantial part from its setting.
- A proposed project results in a restriction of access to the Section 4(f) resource, which substantially diminishes or eliminates the utility of the resource.
- The vibration impact from operation of a proposed project would substantially impair the use of a Section 4(f) resource, such as a projected vibration level that is great enough to affect the structural integrity of a historic building or substantially diminish the utility of a historic building.
- The ecological intrusion of a proposed project substantially diminishes the value of wildlife habitat in a wildlife or waterfowl refuge adjacent to a proposed project or substantially interferes with the access to a wildlife or waterfowl refuge when such access is necessary for established wildlife migration or critical life cycle processes.

The determination of “feasible and prudent” alternatives must include supporting information that demonstrates unique problems or unusual factors involved in the use of alternatives which would avoid the use of Section 4(f) resources; or that the cost, social, economic, and environmental impacts or community disruption resulting from such alternatives reach

extraordinary magnitudes. An alternative may be rejected as not being feasible and prudent if it:

- Does not meet the purpose and need of the project;
- Has excessive cost of construction of extraordinary magnitude; or,
- Results in severe operational or safety problems, unacceptable adverse social, economic or environmental impacts, serious community disruption, or, accumulation of the aforementioned impacts that combined, reach an unacceptable level.

The AA/DEIS that was published in 2006 did not anticipate the need to use Section 4(f) resources and no Section 4(f) evaluation was conducted at that time. Based on proposed changes to the AA/DEIS LPA and the results of further preliminary engineering design, it is now apparent that there would be use of Section 4(f) resources by the project as currently proposed; therefore, a draft Section 4(f) evaluation has been prepared for the proposed action.

## 7.2 Description of Section 4(f) and 6(f) Resources

The Section 4(f) resources found in the project vicinity include both publicly owned parks and recreation areas and historic property. A list of the publicly owned parks, open space, and recreation areas located within the vicinity of the Central Corridor LRT Project is found in Table 3-5, in Section 3.5 of this SDEIS. Note that not all of the locations listed as parks actually qualify as a Section 4(f) resource based on the criteria set forth in the rules and discussion with the regulatory agencies. A list of the historic property within the Central Corridor LRT vicinity is found in Table 3-10, in Section 3.4 of this SDEIS. Given the highly urbanized land use setting, wildlife or waterfowl refuges are not found within the project vicinity. The West River Parkway and East River Parkway do provide wildlife and waterfowl habitat; however, they are not formal wildlife and/or waterfowl refuges.

The Hiawatha LRT Bike Trail is not discussed as a Section 4(f) resource because it is primarily used for transportation and is an integral part of the local transportation system. The HLRT Bike Trail and its usage and features are discussed in Chapter 6.0 Transportation Effects.

Section 6(f) of the Land and Water Conservation Fund Act of 1965 (LAWCON) stipulates that any land or facility planned, developed, or improved with LAWCON funds cannot be converted to uses other than parks, recreation, or open space unless land of at least equal fair market value and reasonably equivalent usefulness is provided. Anytime a transportation project would cause such a conversion, regardless of funding sources, such replacement land must be provided. Tower Hill Park is identified as containing a Section 6(f) resource; however, no permanent conversion of 6(f) park property is proposed. Therefore, further review per Section 6(f) is not required.

### 7.2.1 Methodology and Affected Resources

The Section 4(f) subject guidance in the Minnesota Department of Transportation Highway Project Development Process Handbook was referenced for the methodology in determination of potentially affected resources ([www.dot.state.mn.us/tecsup/xyz/plu/hpdp](http://www.dot.state.mn.us/tecsup/xyz/plu/hpdp)).

The methodology used to identify likely impacts to Section 4(f) protected property included the following steps:

- Development of detailed base maps depicting property ownership overlaid on current aerial photographs
- In compliance with the Section 106 process, ongoing consultation has been conducted regarding historic property within the project corridor. This consultation has been conducted by MnDOT and has included MN SHPO. The results of the Section 106 consultation process completed to date for the project is summarized in Section 3.4 of this SDEIS.
- Parks and public land within ¼ mile of the corridor were identified and are documented in Section 3.5. Those parks and public lands that qualify as 4(f) resources and are found within 350 feet of the project corridor were evaluated in greater detail for their potential to be used by the proposed project.
- The construction limits were projected onto the base map to determine if any of the 4(f) properties would be used by the proposed action.
- Where there appeared to be a project-related use of 4(f) properties, additional analysis was conducted to determine if such a use would be temporary or permanent.
- Where there appeared to be a project related use of a 4(f) property, additional engineering analysis was conducted to determine if such use could be avoided or minimized during the planning and design process.

The results of this analysis led to a series of coordination meetings with the parties that control these properties. Tables 7-1 and 7-2 provide descriptions of the identified 4(f) properties. The regulatory agencies that were responsible for these resources were also involved in the coordination meetings. SHPO is the responsible agency for all historic properties.

### 7.2.2 Impacts to Historic Property

Table 7-1 summarizes the potential for the proposed project to use Section 4(f) resources that are historic property. Historic properties that had potential for temporary use, permanent use, or constructive use are depicted in Table 7-1 (see Table 3-11 in Section 3.4 Cultural Resources of the SDEIS for a full listing of resources). The inventory of affected historic resources and the draft Section 4(f) evaluation will be finalized following receipt of the Determination of Effect from the SHPO. Figures depicting historic properties are provided in Section 3.4, Cultural Resources.

**Table 7-1 Preliminary Review for Potential Use of Historic Property**

Property Name	Temporary Construction Impact	Permanent Use	Constructive Use
Washington Avenue Bridge	Bridge deck would be reconstructed to accommodate rail and catenaries. Temporary vibration, noise, traffic and visual impacts during construction.	Based upon the outcome of the 106 consultation process determination. No permanent use if determination is "No Adverse Effect." If the 106 determination is "Adverse Effect" then permanent use would occur (see text).	No
East River Parkway	Possible temporary impacts associated with staging areas or possible access disruptions. Temporary vibration, noise, traffic and visual impacts during construction.	Based upon the design process and outcome of the 106 consultation process determination. No permanent use if determination is "No Adverse Effect." If the 106 determination is "Adverse Effect" then permanent use would occur	Unlikely
University of Minnesota Northrop Mall Historic District	Possible right-of-way required; possible temporary impacts associated with staging areas and construction along the boundaries between the contributing and noncontributing elements of the district. Temporary vibration, noise, traffic and visual impacts during construction.	Based upon the design process and outcome of the 106 consultation process determination. No permanent use if determination is "No Adverse Effect." If the 106 determination is "Adverse Effect" then permanent use would occur	Unlikely

Property Name	Temporary Construction Impact	Permanent Use	Constructive Use
Prospect Park Historic District, including Tower Hill Park	Possible impacts associated with staging areas or minor work along the boundaries between the contributing and noncontributing elements of the district.	No	No
Minnesota Transfer Railway Company District	Possible impacts along the boundaries between the contributing and noncontributing elements of the district.	No	No
Minnesota State Capitol Mall Historic District	Possible right-of-way required; possible impacts along the boundaries between the contributing and noncontributing elements of the district. Temporary vibration, noise, traffic and visual impacts during construction.	Based upon the design process and outcome of the 106 consultation process determination. No permanent use if determination is "No Adverse Effect." If the 106 determination is "Adverse Effect" then permanent use would occur (see text)	Unlikely
Minnesota State Capitol	Possible impacts to access and/or availability of parking at the rear of the Capitol building. Temporary vibration, noise, traffic and visual impacts during construction.	Based upon the design process and outcome of the 106 consultation process determination. No permanent use if determination is "No Adverse Effect." If the 106 determination is "Adverse Effect" then permanent use would occur	Unlikely

Property Name	Temporary Construction Impact	Permanent Use	Constructive Use
St. Louis King of France Church and Rectory	Possible impacts to access, pedestrian access, and parking. Temporary vibration, noise, traffic and visual impacts during construction.	No	Unlikely
Central Presbyterian Church	Possible impacts to access, pedestrian access, and parking.	No	Unlikely
St. Agatha's Conservatory of Music and Fine Arts	Possible impacts to access, pedestrian access, and parking. Temporary vibration, noise, traffic and visual impacts during construction.	No	Unlikely
St. Paul Athletic Club	Right-of-way required; possible impacts to access. Temporary vibration, noise, traffic and visual impacts during construction.	Based upon the design process and outcome of the 106 consultation process determination. No permanent use if determination is "No Adverse Effect." If the 106 determination is "Adverse Effect" then permanent use would occur	Unlikely
Lowertown Historic District	Possible right-of-way required; possible impacts along the boundaries between the contributing and noncontributing elements of the district. Temporary vibration, noise, traffic and visual impacts during construction.	Based upon the design process and outcome of the 106 consultation process determination. No permanent use if determination is "No Adverse Effect." If the 106 determination is "Adverse Effect" then permanent use would occur	Unlikely

Property Name	Temporary Construction Impact	Permanent Use	Constructive Use
St. Paul Union Depot	Possible impacts to access, pedestrian access, and parking. Temporary vibration, noise, traffic and visual impacts during construction.	Possible permanent conversion to a transportation use of a minor strip of land from the front of the lot upon which Union Depot stands (see text)	Unlikely

Note: Impacts based on preliminary design right-of-way data dated 2/27/08. Preliminary results are based on consultation between MnDOT, SHPO, FTA, and the Metropolitan Council.

The following provides a description of the potential effects identified to properties listed in Table 7-1. Due to limited engineering information, the discussion is focused on those properties where the construction impacts have been further identified. Discussion of all potential impacts will be refined as the design proceeds forward and construction limits and construction activities are identified.

### Washington Avenue Bridge

Modifications to the bridge are required in order for it to accommodate the proposed LRT traffic. However, the proposed changes do not appear to substantially detract from those features and attributes that make this bridge historic (See Section 3.4 for a detailed discussion of this historic property). Consultation is ongoing with the FTA, MnDOT, and SHPO regarding the effects of these proposed changes and possible mitigation or minimization measures to be contained in the Programmatic Agreement. It is anticipated that the proposed alterations would not have an adverse effect on the Washington Avenue Bridge.

### Minnesota State Capitol Mall Historic District

As part of changes proposed in the AA/DEIS LPA, the placement of the Rice Street Station will entail using land from the Leif Erikson Lawn portion of the Capitol Mall Historic District (Figure 7-1). Initial estimates indicate that 2,200 square feet of right-of-way, including a narrow strip along the northwest edge of the parcel would be required. Additional temporary construction easement may also be required. Consultation is ongoing with the FTA, MnDOT Cultural Resources Unit, and SHPO regarding the effects of the changes that are proposed. It is anticipated that the proposed alterations would not have an adverse effect on the Capitol Mall Historic District because of minimization and mitigation measures that are being designed into the proposed station layout to ensure that the station is compatible with the adjacent historic district. The CAAPB, which oversees the property, is generally supportive of the Project (see CAAPB letter dated January 31, 2008; Appendix E). These measures will be documented in the Programmatic Agreement.

### St. Paul Union Depot/Lowertown Historic District

As part of changes to the AA/DEIS LPA that include extending the Central Corridor LRT east of Union Depot to end at the proposed maintenance and storage facility, the configuration of the Union Depot Station, as proposed in the AA/DEIS, will likely be modified (Figure 7-2). Modifications to the station will likely entail a minimization or avoidance of any



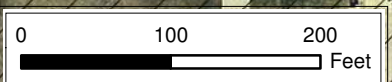
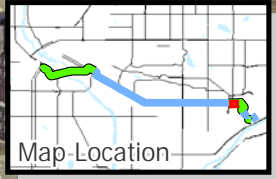
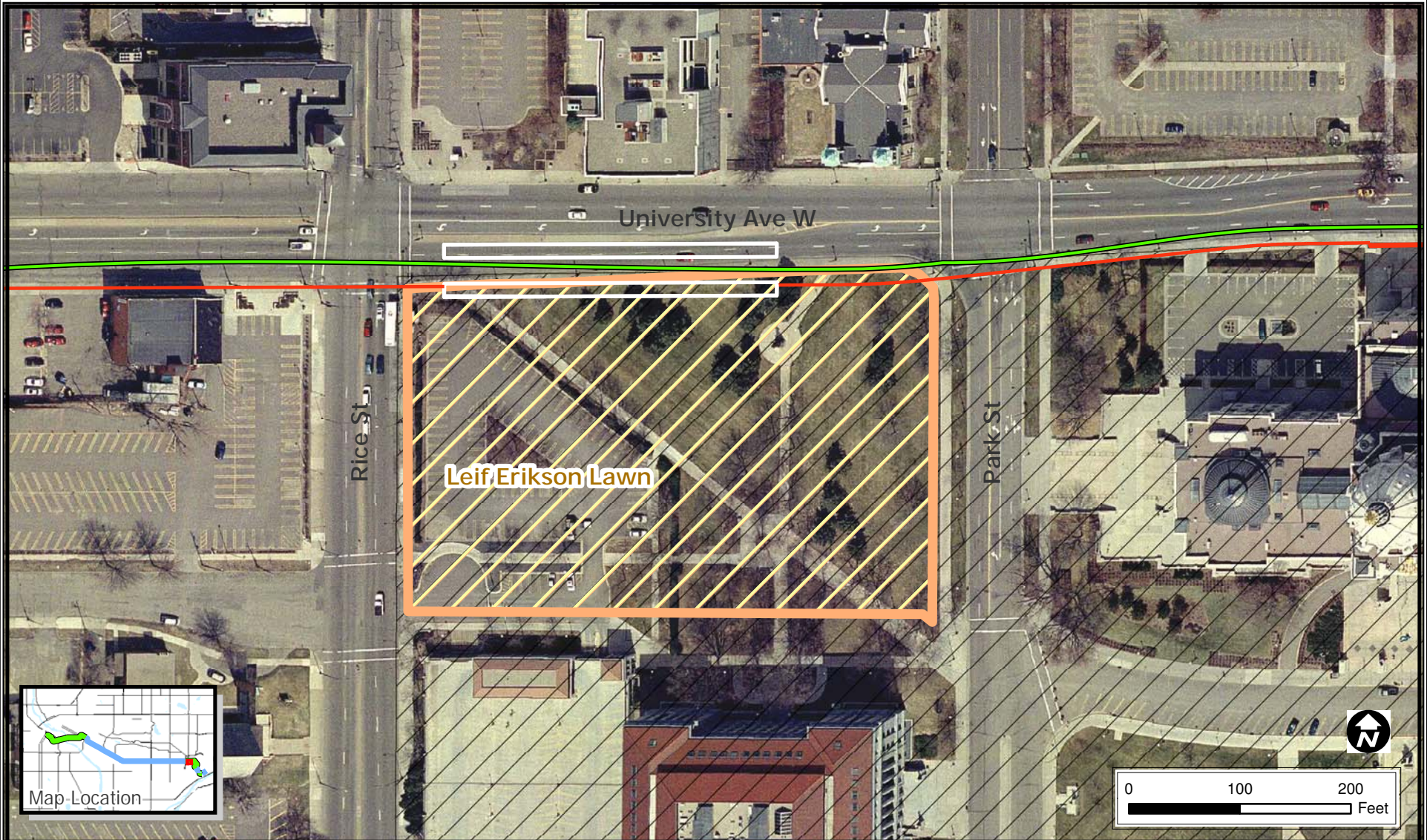
encroachment into the Union Depot property. Consultation is ongoing with the FTA, MnDOT, and SHPO regarding the effects of the changes that are proposed. It is anticipated that the proposed alterations would not have an adverse effect because of minimization and mitigation measures that are being designed into the proposed station layout to ensure that it is compatible with the adjacent Union Depot and the Lowertown Historic District. These measures will be documented in the Programmatic Agreement.

Depending on the final layout of the proposed maintenance facility, the use of portions of the Elevated Rail Yard extending east from the Union Depot may be required. Such a use would trigger the Section 4(f) evaluation requirement. The design details for this facility are still being developed and will be disclosed and documented in the FEIS.







### **Summary of Historic Resources**

At the time this preliminary draft Section 4(f) evaluation was completed, the Metropolitan Council, MnDOT CRU, SHPO, and local stakeholders in the Section 106 process were in consultation regarding the proposed changes to the AA/DEIS LPA and its effects on eligible or listed historic properties. A draft Programmatic Agreement has been developed and is included in Appendix H. This Section 4(f) historic resources section will be updated, as required, based on the forthcoming Determination of Effect.

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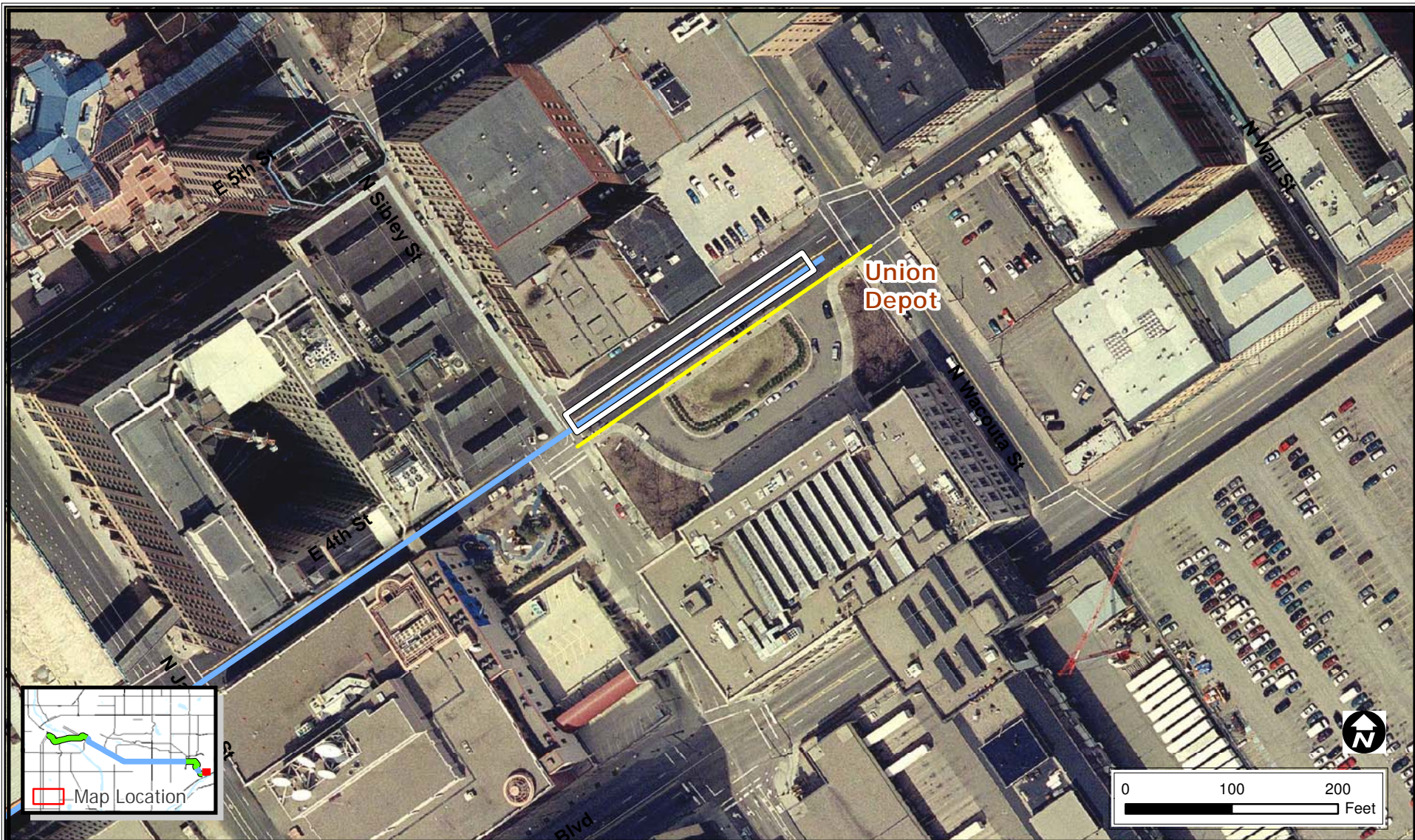
**Legend**

-  Leif Erikson Lawn
-  Capitol Mall Historic District
-  CCLRT Alignment Status  
Identical to DEIS
-  Changed from DEIS
-  ROW and station  
Station Platform
-  Southern right-of-way limit

**Figure 7-1**  
**Leif Erikson Lawn**

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Data Sources: 2006 aerial photography, LMIC, Met Council, Mn/DOT



**CCLRT Design Status**

- Identical to DEIS
- Changed from DEIS
- HLRT station
- Hiawatha Light Rail

**ROW and station**

- Union Depot Station Platform
- CCLRT right-of-way limit (approximate)

**Figure 7-2**

**Union Depot**

**DRAFT**



Central Corridor  
Light Rail Transit

### 7.2.3 Use of Parks and Recreational Areas

Table 7-2 summarizes the potential for the proposed project to use Section 4(f) resources that are parks or recreational areas. Parks and recreational areas that do not qualify as Section 4(f) resources nor had potential for temporary use, permanent use, or constructive use are not depicted in Table 7-2. For a full listing of parks, open space and recreational resources in proximity to the Central Corridor see Table 3-13 in Section 3.5 of this SDEIS.

**Table 7-2 Preliminary Review for Potential Use of Section 4(f) Parks**

Resource Name (Park Owner)	Temporary Construction Impacts	Permanent Use	Constructive Use
Currie Park (Minneapolis Park Board)	Temporary 20-foot wide construction easement along edge of property	No	No
Bohemian Flats (Minneapolis Park Board)	Possible temporary impacts to park, depending on project construction limits.	No	Unlikely
East River Flats (Minneapolis Park Board)	Possible temporary impacts to park, depending on project construction limits	Unlikely (see text)	Unlikely
Tower Hill Park (Minneapolis Park Board)	Possible temporary impacts to park, depending on project construction limits	No	No

Proposed changes to the AA/DEIS LPA, specifically to provide an improved connection of the Central Corridor LRT with the existing Hiawatha LRT, have resulted in the identification of temporary construction impacts to Currie Park. Specifically, a 20-foot strip of land from the border of Currie Park is required to support the construction of a portion of the proposed Central Corridor LRT (Figure 7-3). This impact would be temporary in nature and would not affect important park resources. Formal coordination with the Minneapolis Park and Recreation Board regarding this temporary impact is ongoing.

As outlined in Section 7.1, the temporary occupancy of a linear 20-foot strip along the edge of Currie Park is not anticipated to result in adverse impacts. Section 3.5 Parklands and Recreations Areas provides more detail regarding public land resources identified in Table 7-2 but not anticipated to experience a “use” under Section 4(f).

Closure of Washington Avenue to vehicle traffic may require alterations of East River Parkway, and indirectly cause changes to East River Flats. Potential changes include visual, noise and temporary or permanent easements. The determination of potential effects will be completed once additional design information is available and will be included in the Final EIS.

### 7.3 Measures to Minimize Harm

The Metropolitan Council is coordinating with the FTA, MnDOT CRU, and SHPO to identify potential impacts to properties regulated under Section 4(f), including both parklands and historic resources. The project will prepare a Programmatic Agreement outlining mitigation measures to avoid potential adverse effects.

### 7.4 Agency Coordination

Numerous meetings have already been held and additional meetings are scheduled to be held with key stakeholders in the Central Corridor LRT Study Area. Agency coordination has included FTA, MnDOT CRU, SHPO, and representatives in charge of the specific 4(f) resource. In addition, the Advisory Council on Historic Preservation (ACHP) has indicated that it will also participate in the process.

An agency coordination meeting was held with staff of the Minneapolis Park and Recreation Board on February 11, 2008. The possibility that a narrow portion of the northern edge of Currie Park would be temporarily used during construction was discussed. Minneapolis Park and Recreation Board staff tentatively indicated that they could support such a use because it would not impair the function of the park, but final plans are needed prior to finalization of discussions.

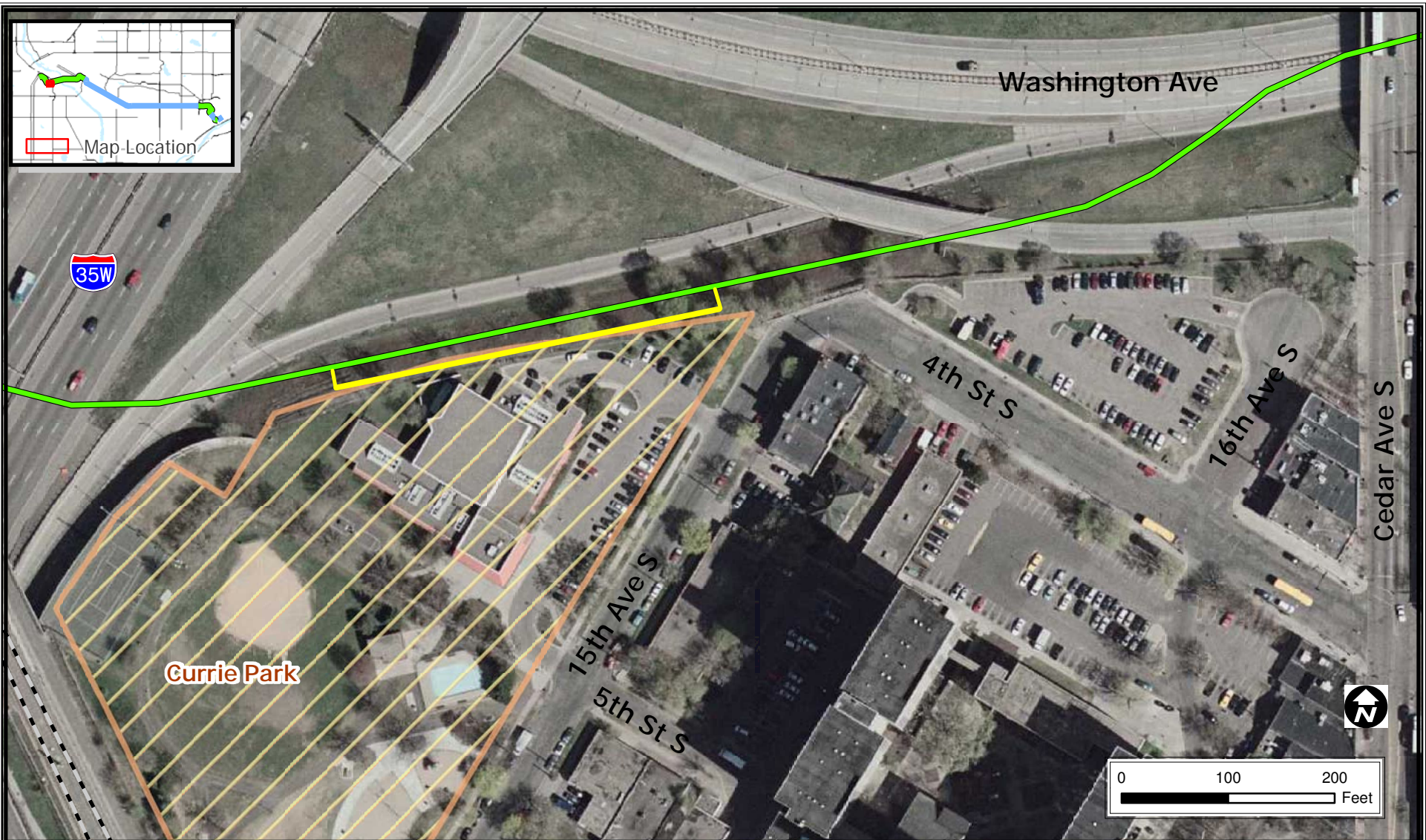
An agency coordination meeting was held with staff of the University of Minnesota on March 19, 2008. The discussion focused on the potential impacts associated with the construction of the proposed LRT along Washington Avenue through the University of Minnesota Campus Mall Historic District. An agency coordination meeting was held with representatives of the Capitol Area Architectural and Planning Board (CAAPB) on March 20, 2008. The discussion focused on the potential impacts associated with the construction of the proposed LRT along northern and eastern portions of the Capitol Mall Historic District and the construction of an LRT station at the corner of University Avenue and Rice Street. Coordination with the CAAPB is ongoing.

An agency coordination meeting was held with representatives of the City of St. Paul and the Lowertown Historic District on March 20, 2008. The discussion focused on the potential impacts associated with the construction of the proposed LRT through the southern portion of the Lowertown Historic District and the construction of an LRT station in front of Union Depot. Coordination with the City of St. Paul and the Lowertown Historic District are ongoing. Additional agency coordination meetings are expected.

#### **Summary**

The Section 4(f) coordination and evaluation will continue through the development of the Final EIS. A draft Programmatic Agreement for historic resources has been developed and is included in Appendix H. This agreement will be modified to include both historic and Section 4(f) resources prior to finalization. At this time, direct impacts to parkland have only been identified for Currie Park. This would be in the form of a temporary construction easement. Known impacts to historic resources include right-of-way acquisition for a portion of the Minnesota State Capitol Mall Historic District and construction impacts to the travel surface of the Washington Avenue Bridge.

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**Legend**

**CCLRT Design Status**

- Identical to DEIS
- Changed from DEIS
- Hiawatha LRT station
- Hiawatha Light Rail

**Park**

- Currie Park
- Temporary construction easement (approximate boundary)

**Figure 7-3**

**Currie Park**

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