

C Community Development Committee

Meeting date: October 1, 2007

For Metropolitan Council Meeting Date: October 10, 2007

ADVISORY INFORMATION

Date: October 1, 2007

Subject: Definition of Minor Comprehensive Plan Amendments for Adjacent Review

District(s), Member(s): All

Policy/Legal Reference: Minnesota Land Planning Act

Staff: Phyllis Hanson, Local Planning Assistance Manager (x1566)

Prepared/Presented: Guy Peterson, Community Development Director (x1418)

Mark VanderSchaaf, Planning and Growth Management Director (x1441)

Division/Department: Community Development/Planning and Growth Management

Proposed Action/Motion

That the Metropolitan Council adopt the following recommendation.

1. That a local community may waive the adjacent community 60 day review and comment period requirement for Comprehensive Plan Amendments if all of the following criteria are met.
 - a) the amendment involves a site of 40 acres or less;
 - b) the amendment does not change the community's growth forecasts for 2010-2030 or TAZ allocations;
 - c) the amendment site is 1) not within one quarter mile of an adjacent jurisdiction; or 2) according to the waiving city's adopted ordinances outside of the defined distance requirement to notice adjacent property owners of a comprehensive plan change, whichever is less.
2. That a local community may waive the adjacent 60 day review and comment period for a text change whose cumulative impacts would meet the criteria as set forth in number 1.

Issue(s)

- The 2007 Legislative session changed the Metropolitan Land Planning Act to include the potential for waiving the period for adjacent community review and comment regarding comprehensive plan amendments (CPA). The Council has the ability to prescribe a shorter period for adjacent review and comment, or waive the adjacent review and comment period if the minor CPA involves lands that are not contiguous to other local governmental units. Council and Metro Cities staff has discussed how to define what constitutes a minor CPA for the purpose of waiving the adjacent review.
- The major areas of potential impact to an adjacent community would be the size of the amendment area, generation of traffic to another community, and proximity of properties to the adjacent community. The proposed recommendation speaks to these areas by defining a size, defining contiguous as within a given proximity, and amendments to the comprehensive plan update that are text only not site driven.
- The waiving of the adjacent review by the local city, does not impact the Council's ability to administratively review a comprehensive plan amendment. The Council would still maintain full review authority even if the submitting agency determined that the amendment was minor and did not notice the adjacent communities.

Overview and Funding

None.

C	Community Development Committee	Item: 2007-252
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Date	October 1, 2007
Subject	Definition of Minor Comprehensive Plan Amendments for Adjacent Review
Districts, Members	All
Prepared by	Phyllis Hanson, Local Planning Assistance Manager (x1566) Guy Peterson, Community Development Director (x1418) Mark Vander Schaaf, Planning and Growth Management Director(x1441)
Division/Department	Community Development / Planning and Growth Management

ISSUE

The 2007 Legislative session changed the Metropolitan Land Planning Act to include the potential for waiving the period for adjacent community review and comment regarding comprehensive plan amendments(CPA). The Council has the ability to prescribe a shorter period for adjacent review and comment, or waive the adjacent review and comment period if the minor CPA involves lands that are not contiguous to other local governmental units. Council and Metro Cities staff have discussed how to define what constitutes a minor CPA for the purpose of waiving the adjacent review.

The major areas of potential impact to an adjacent community would be the size of the amendment area, generation of traffic to another community, and proximity of properties to the adjacent community. The proposed recommendation speaks to these areas by defining a size, defining contiguous as within a given proximity, and amendments to the comprehensive plan update that are text only not site driven.

The waiving of the adjacent review by the local city, does not impact the Council’s ability to administratively review a comprehensive plan amendment. The Council would still maintain full review authority even if the submitting agency determined that the amendment was minor and did not notice the adjacent communities.

PROPOSED ACTION

That the Metropolitan Council adopt the following recommendation.

2. That a local community may waive the adjacent community 60 day review and comment period requirement for Comprehensive Plan Amendments if all of the following criteria are met.
 - c) the amendment involves a site of 40 acres or less;
 - d) the amendment does not change the community’s growth forecasts for 2010-2030 or TAZ allocations;
 - c) the amendment site is 1) not within one quarter mile of an adjacent jurisdiction; or 2) according to the waiving city’s adopted ordinances outside of the define distance requirement to notice adjacent property owners of a comprehensive plan change, whichever is less.
2. That a local community may waive the adjacent 60 day review and comment period for a text change whose cumulative impacts would meet the criteria as set forth in number 1.

ATTACHMENTS

Figure 1 - MLPA Housekeeping Language Changes

Figure 1 – MLPA Housekeeping Language Changes

During the 2007 legislative session the Minnesota Legislature passed legislation that made a number of housekeeping changes to the Metropolitan Land Planning Act. Those housekeeping changes were initiated by the Metropolitan Council with input and support from the Metro Cities / Association of Metropolitan Municipalities. The legislation was effective on May 24, 2007. The following summarizes some key comprehensive plan preparation and review changes that apply to local governmental units in the seven-county metropolitan area. This is not a detailed listing of all changes. The legislation was enacted as Chapter 113 of the 2007 session laws. For more information a copy of Chapter 113 is attached. Chapter 113 can also be found at: <http://ros.leg.mn/bin/getpub.php?type=law&year=2007&sn=0&num=113>

473.858 COMPREHENSIVE PLANS: LOCAL GOVERNMENTAL UNITS

Adjacent Review, comment

(Minnesota Statutes sec. 473.858, Subd. 2.)

Local governmental units are required to submit their proposed plans “to adjacent governments, affected special districts lying in whole or in part within the metropolitan area, and affected school districts for review and comment” prior to submission to the Council. The 2007 legislation adds “affected special districts lying in whole or in part within the metropolitan area” to the list of entities to which local governments must submit their plans for adjacent review and comment.

Special districts typically include school districts, park districts, watershed districts and watershed management organizations, transit providers, commissions such as the Metropolitan Airports Commission, and federal and state agencies.

For minor plan amendments, the Council may prescribe a shorter adjacent review and comment period, or may waive the adjacent review and comment period if the minor plan amendment involves lands that are not contiguous to other local governmental units. The Council will be working with Metro Cities to define, by Fall 2007, what constitutes a minor plan amendment and procedures consistent with the legislation.

473.175 (METROPOLITAN COUNCIL) REVIEW OF COMPREHENSIVE PLANS

(Minnesota Statutes sec. 473.175, Subd. 2.)

The 2007 legislative amendments eliminate the requirement that the Council notify adjacent jurisdictions and other entities of having received a plan or amendment and provide a 30 day period for the jurisdictions to request a hearing. The Council notification requirement was redundant because local governmental units already are required to submit their plan amendments and updates to affected adjacent units. The Council will continue its standard procedure of a 15-working day completeness review. If the plan or amendment is found complete, it will be acted on by the Council within 120 days of receipt.

473.866 CONTESTED CASES; ADMINISTRATIVE AND JUDICIAL REVIEW

If the Council requires a plan modification because it finds a plan or plan amendment is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans, the Council’s decision to require a modification still may be contested by the affected local governmental unit. The affected unit also still has 60 days within which to request a hearing on the Council’s plan modification requirement. However, the 2007 legislation changed the law so that the 60 day period within which the hearing shall be conducted can be extended by mutual agreement of the Council and the affected local governmental unit. This mutual extension period should give the Council and the affected unit more time to informally resolve their differences and potentially save both parties valuable time and resources that frequently are associated with formal hearing processes.