

C Community Development Committee

Meeting date: November 17, 2008

ADVISORY INFORMATION

Subject:	City of Lake Elmo Comprehensive Plan Update Extension Request
District(s), Member(s):	District 12, Sherry Broecker
Policy/Legal Reference:	Metropolitan Land Planning Act (Minn. Stat. § 473.175)
Staff Prepared/Presented:	Lisa Barajas, Principal Reviewer (651-602-1895) Phyllis Hanson, Manager, Local Planning Assistance (651-602-1566)
Division/Department:	Community Development / Planning & Growth Management

Proposed Action

That the Metropolitan Council extend the City's "decennial" comprehensive plan update (Update) submission deadline to May 29, 2009, subject to the following terms and conditions:

1. If the City submits the Update to the Council by May 29, 2009 that is "complete" for review as defined in the Council's *Local Planning Handbook* and the adjacent review requirements have been completed by May 29, 2009, the City will be eligible to receive the second disbursement of grant funds described in the grant agreement.
2. If the adjacent review requirements have not been completed by May 29, 2009, but the City submits the Update to the Council by May 29, 2009 that otherwise is "complete" as defined in the Council's *Local Planning Handbook*, the City will be eligible to receive the second disbursement of grant funds described in the grant agreement.
3. If the City has not submitted the Update by May 29, 2009 that is "complete" as defined in the Council's *Local Planning Handbook*, the City must repay by July 30, 2009 all grant funds paid to the City under the grant agreement.
4. The grant agreement should be amended to: (a) extend the December 31, 2008 plan update submission deadline to May, 29, 2009; (b) reflect these terms and conditions; (c) make the execution of the grant amendment expressly conditioned on the City's acceptance of these terms and conditions; and (d) require a written bi-monthly progress report that describes in reasonable detail the City's progress toward meeting the May 29, 2009 deadline.

Background

In the request materials, the City of Lake Elmo explains that approval of the current comprehensive plan, implementation of the first phase of sewered development, the Village Alternative Urban Area-wide Review (AUAR) to assess development capabilities in the downtown part of the City, preparation of a water plan, staff turnover, budget constraints, and ample public participation have delayed the completion of the Update. The City indicates that the draft of the Update will be complete by March 2010, with the adjacent community and affected jurisdiction review being initiated in April 2010. The 6-month review period would then be complete in November, with submission of the Update to the Council by December 2010.

May 2007 Council Action. In May 2007, the Council authorized staff to implement a local planning assistance grant program to help ensure qualifying local governments and counties could prepare and submit their "decennial" Updates to the Council by the statutory December 31, 2008 deadline.

Grant Agreement. The City was awarded a \$20,000 Local Planning Assistance Program grant in 2007. The grant agreement requires the City to:

1. review and update its comprehensive plan by December 31, 2008;
2. submit its draft plan update to adjacent governmental units by June 30, 2008;
3. discuss its draft plan with watershed management organizations;

4. submit a “complete” plan as described in the Council’s *Local Planning Handbook*; and
5. ensure its plan conforms with the Council’s metropolitan system plans.

The grant agreement further provides that if the City does not comply with the terms and conditions of the agreement, “the Council may take any action to protect its interests and may require the [City] to return all or part of the [grant] funds.”

December 31, 2008 Deadline. Minnesota Statutes section 473.864 requires local governmental units to review and, if necessary, amend their entire comprehensive plans on a decennial basis. The current “decennial” review deadline is December 31, 2008. Section 473.864 authorizes the Council to grant extensions to local governmental units to allow those units additional time to review and, if necessary, amend their comprehensive plans. The extensions must include a timetable and plan for completing the plan review and amendment.

June 2008 Council Action. On June 25, 2008, the Council adopted guidelines for granting requests to extend the “decennial” plan update submission deadline. Subject to certain conditions, the guidelines authorized staff to “administratively” grant extensions to May 29, 2009. If plan updates and adjacent reviews could not be completed by May 29, 2009, the guidelines state that extension requests require action by the Council’s governing body.

Rationale

The City’s request for an extension to December 2010 is two years beyond the statutory submittal deadline and a year and a half beyond the extended administrative date. The City has provided a significant amount of information in their extension request, detailing the work that remains to be completed and the timelines for completing those items. A summary of the timeline to complete the remaining elements is provided in the table below with additional detail provided in the attached documents.

To coordinate regional system planning and to ensure conformity to regional system plans and compatibility with the plans of adjacent and overlapping jurisdictions, it is reasonable to expect communities to submit their comprehensive plans by the December 31, 2008 deadline, or within one year thereafter. System Statements were sent to communities in September 2005, giving communities a little over three years to begin and complete the comprehensive planning process. Allowing four years total should be more than enough time to complete the requirements for the Update.

Two other communities have submitted deadline requests similar to that of Lake Elmo. To ensure consistency with and conformity to the *2030 Regional Development Framework* and accompanying system plans, local comprehensive plan updates should be submitted and reviewed within a short timeframe, rather than being allowed to be submitted over several years.

LAKE ELMO PROPOSED COMPREHENSIVE PLAN UPDATE TIMELINE - SUMMARIZED

Plan Element	2008			2009												2010												
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
Water Plan																												
Village AUAR*																												
Select Village Development Scenario																												
Update Comp Plan to reflect Scenario																												
Water Resources (surface water)																												
Transportation Plan																												
Initiate 6-month Review																												
Public hearing on plan / adopt																												
Submit to Met Council																												

* MOU requires minimum number of RECs to be accomodated in Village area.
 * Council required Village area to be part of CPU.
 * Other elements dependent upon Village development scenario.

The City has completed a number of major tasks, including the Village Master Plan, the Village Sewer Study, educational workshops on building and financing infrastructure, a financing study for the sewer wastewater system, and authorization to prepare plans and specifications for the sewer interceptor from I-94 to 30th Street. In addition, the City has also completed a Comprehensive Parks and Recreation Plan. Recently discovered groundwater contamination issues resulting from previously produced and disposed 3M chemicals have lengthened the water supply planning process, but is anticipated to be completed by March 2009.

Due to the degree of change being considered for the Village in the AUAR process, the City cannot begin the Transportation Plan until a development scenario for the Village is selected. However, this element, along with other remaining elements of the Update could be accelerated and completed in 2009, rather than being carried over into 2010. Since the Surface Water Plan and the Transportation Plan have not yet been initiated, the City has the ability to indicate in their hiring contracts the specific timeline required to complete these plans.

Staff recommends that the Metropolitan Council extend the City's "decennial" Update submission deadline to May 29, 2009 subject to the following terms and conditions:

1. If the City submits the Update to the Council by May 29, 2009 that is "complete" for review as defined in the Council's *Local Planning Handbook* and the adjacent review requirements have been completed by May 29, 2009, the City will be eligible to receive the second disbursement of grant funds described in the grant agreement.
2. If the adjacent review requirements have not been completed by May 29, 2009, but the City submits the Update to the Council by May 29, 2009 that otherwise is "complete" as defined in the Council's *Local Planning Handbook*, the City will be eligible to receive the second disbursement of grant funds described in the grant agreement.
3. If the City has not submitted the Update by May 29, 2009 that is "complete" as defined in the Council's *Local Planning Handbook*, the City must repay by July 30, 2009 all grant funds paid to the City under the grant agreement.
4. The grant agreement should be amended to: (a) extend the December 31, 2008 Update submission deadline to May, 29, 2009; (b) reflect these terms and conditions; (c) make the execution of the grant amendment expressly conditioned on the City's acceptance of these terms and conditions; and (d) require a written bi-monthly progress report that describes in reasonable detail the City's progress toward meeting the May 29, 2009 deadline.

Funding

Lake Elmo was one of 49 communities to receive a local planning grant from the Council. Half of the \$20,000 grant money has already been awarded, pursuant to the terms of the grant. The remaining \$10,000 is due to be awarded upon completion of the Update, with the condition that the Update be submitted by December 31, 2008 as indicated in Section 2.01 of the planning grant agreement. The grant agreement allows for amendment of the agreement, including amending the Update submission date. It is reasonable to agree to amending the planning grant agreement plan submission deadline to May 29, 2009.

Known Support / Opposition

No known support or opposition.



City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

SEP 17 2008

September 17, 2008

Mr. Guy Peterson
Community Development Director
Metropolitan Council
390 Robert Street North
St. Paul, Minnesota 55101

RE: Request for an extension to December 2010 for the City of Lake Elmo
Comprehensive Plan Update

Dear Mr. Peterson:

This is a request for an extension to December 2010 for the city of Lake Elmo's Comprehensive Plan update. The extension is being requested due to the additional time required by the city of Lake Elmo to prepare plan elements including water, surface water and transportation. In addition, the city may be amending the future land use portion related to the Village of its approved comprehensive plan depending upon the preferred development scenario for the Village that is ultimately selected by the city.

The city council resolution and the application are enclosed for your information. In addition, materials that are associated with the planning and implementation of the first phase of sewered development in Lake Elmo, the Village, are enclosed to demonstrate that the city has sound reasons for requesting an extension in its comprehensive plan update.

Thank you for considering our comprehensive plan extension request. Please call me if you have any questions or require additional information.

Sincerely,

Susan Hoyt
City Administrator

C: Kyle Klatt, Planning Director



**CITY OF LAKE ELMO
RESOLUTION NO. 2008-45**

**RESOLUTION REQUESTING ADDITIONAL TIME
WITHIN WHICH TO COMPLETE COMPREHENSIVE PLAN
“DECENNIAL” REVIEW OBLIGATIONS**

WHEREAS, Minnesota Statutes section 473.864 requires local governmental units to review and, if necessary, amend their entire comprehensive plans and their fiscal devices and official controls at least once every ten years to ensure comprehensive plans conform with metropolitan system plans and ensure fiscal devices and official controls do not conflict with comprehensive plans or permit activities that conflict with metropolitan system plans; and

WHEREAS, Minnesota Statutes sections 473.858 and 473.864 require local governmental units to complete their “decennial” reviews by December 31, 2008; and

WHEREAS, Minnesota Statutes section 473.864 authorizes the Metropolitan Council to grant extensions to local governmental units to allow local governmental units additional time within which to complete the “decennial” review and amendments; and

WHEREAS, any extensions granted by the Metropolitan Council must include a timetable and plan for completing the review and amendment; and

WHEREAS, the City will not be able to complete its “decennial” review by December 31, 2008, for the following reasons:

- 1) One of the primary reasons for the delay in these elements was the time and thought that went into creating the current 2030 comprehensive plan and getting Metropolitan Council approval of it. This plan encompasses most of the required information for this update, as well as the work that is going into implementing the first phase of sewer development. In addition, the city, under the leadership of the planning commission, brought the two areas in the city planned for future sewer development into conformance with the zoning code through holding districts.
- 2) The comprehensive plan required the city to proceed with sewer development with the Village as the highest priority for this work according to both the MOU requirements and the 2030 Comprehensive Plan. This effort requires land use planning, environmental, financial and engineering studies to gather information that will allow the city to make the associated decisions to accomplish these required goals. This work has been a priority since the adoption of the 2030 plan in 2006.
- 3) A major environmental review process (AUA) involving the Village is underway at this time. The outcome of this analysis will provide important information related to water, surface water and transportation needs for the city to incorporate into its future plan elements.
- 4) The city undertook a water plan in 2005, but put the plan on hold until the outcome of the PFC contamination work on health based values that was done by the Minnesota Department of Health and released in the spring of 2008. The city is now working on the water plan.
- 5) The city was functioning without a planning director from December, 2006 through December, 2007. Once hired, the new planning director requires getting acquainted with the community and land use actions and history;
- 6) It was important to determine the true status of the city's financial resources before proceeding with major studies in surface water and transportation without confidence that the city had the resources to pay for this work since fund balances at year end were in the negative for these

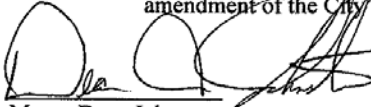
funds. Between January 2008 and June 2008 upon the advice of the city auditor, the city worked with a financial consultant to bring the city's financial records into conformance with best practices in local government.

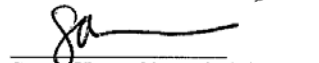
- 7) The city is committed to an open public process including opportunities for public input throughout these studies. This requires coordinating the activities so that there is time for input on all of the systems in a meaningful way.

WHEREAS, the City Council finds it is appropriate to request from the Metropolitan Council an extension so the City can have additional time to complete and submit to the Metropolitan Council for review an updated comprehensive plan and amend its fiscal devices and official controls.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF LAKE ELMO, MINNESOTA, AS FOLLOWS:

1. The Planning Director is directed to submit to the Metropolitan Council no later than November 1, 2008, an application requesting an extension to December 2010.
2. The Planning Director must include with the request a reasonably detailed timetable and plan for completing: (a) the review and amendment by December 2010 and (b) the review and amendment of the City's fiscal devices and official controls.


Mayor Dean Johnston


Susan Hoyt, City Administrator

9-16-08
Date

9-16-08
Date

For:
JOHNSTON
JOHNSTON
SMITH
PARK

Against:
DELAFF

REQUEST FOR EXTENSION OF PLANNING PERIOD

Completed request form and accompanying Resolution must be received at the Metropolitan Council offices by **November 1, 2008**. Your responses to the following questions will provide the Metropolitan Council with information needed to help ensure plan completion.

Community Name City of Lake Elmo Request Date September 17, 2008
 Community Contact Person Kyle Klatt Phone 651-233-5402
 Email Address Kyle.klatt@lakeelmo.org Fax 351-777-9615

PLANNING PROCESS TIMELINE: Please provide the target dates for each step of the planning process identified below.

Process Step	Target Date
Completion of draft plan text and mapping	March 2010
Initiation of 6-month review/comment period by adjacent jurisdictions, affected special districts, and school districts	April 2010
Public hearing date	November 2010
City Council / Town Board / County Board action	November 2010
Date of plan submission to Metropolitan Council	December 2010
Completion of fiscal devices and official controls review/amendment	TBD Zoning for future land use within 6 – 9 months of comprehensive land use plan amendment for Village

Please note that a target date for plan submission to the Metropolitan Council after May 29, 2009 will require a presentation to and formal action by the Metropolitan Council. If the Target Date for plan submission is prior to May 29, 2009, the extension may be administratively granted by the designated Metropolitan Council staff.

PLANNING ISSUES: Please place a checkmark (✓) next to the issue(s) identified below that are contributing to the need for the requested extension.

- | | |
|---|--|
| <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Staff workload <input type="checkbox"/> Contract planner delays <input type="checkbox"/> Issues affecting adjacent communities <input type="checkbox"/> Data/mapping/GIS <input type="checkbox"/> MUSA expansion issues <input checked="" type="checkbox"/> Area development or redevelopment plan(s) in process <input type="checkbox"/> Planning Commission/City Council/Board member concerns <input type="checkbox"/> Population, household, employment forecast issues <input type="checkbox"/> Sewer flow forecast issues <input type="checkbox"/> Growth staging plan <input checked="" type="checkbox"/> Public participation process | <ul style="list-style-type: none"> <input type="checkbox"/> Metropolitan Council density policy issues <input checked="" type="checkbox"/> Development of plan components: <ul style="list-style-type: none"> <input type="checkbox"/> Existing land use <input type="checkbox"/> Future land use <input type="checkbox"/> Housing <input checked="" type="checkbox"/> Surface water management <input checked="" type="checkbox"/> Transportation <input type="checkbox"/> Sewer Plan <input type="checkbox"/> Park/Open Space Plan <input checked="" type="checkbox"/> Water Supply Plan <input type="checkbox"/> Historic Preservation Plan <input type="checkbox"/> Implementation Plan <input type="checkbox"/> Critical Areas/MNRRRA <input checked="" type="checkbox"/> Other: Information to implement plan |
|---|--|

OTHER COMMENTS: Please provide any additional comments here, included explanations as needed of planning issues checked on the previous page. Include a realistic appraisal of your community's ability to submit your updated plan for review by indicated deadline as well as the subsequent review/amendment of fiscal devices and official controls. (Use additional sheets as necessary.)

BACKGROUND

The city of Lake Elmo finalized its current comprehensive plan in August, 2006. The priorities in the plan dealt with the future land use of two areas that are guided for sewer development. A January 2005 Memorandum of Understanding and the 2030 Lake Elmo Comprehensive Plan include specific expectations for sewer development in Lake Elmo. The city has diligently worked toward achieving these goals by beginning with making the future Village, which is guided for sewer, a development priority. This is a major project and is moving along at a measured, but consistent pace. This work has required substantial time on the part of the city council, staff and consultants. The attached timeline of activities associated with the Village project provides evidence that progress is being made.

Not only has the city's time been spent on the Village planning and related activities, it would be premature to do surface water and transportation planning without having the environmental information from the AUAR available for preparing these plans. This AUAR work is being finalized at this time so the information will be available for these studies. Following the AUAR on the Village development scenarios, the city will gather financial information on the possible scenarios and determine what development scenario is desirable for the future. This may require an amendment to the future land use section of the Village in the current (2030) comprehensive plan. The city has also used an extensive public process throughout the Village planning process and anticipates continuing to do so with the other planning elements.

LAND USE AND INFRASTRUCTURE PLANNING/FINANCING RELATED TO THE VILLAGE

Here are the major steps taken to date:

- Brought zoning in future sewer areas into conformance with the adopted comprehensive plan as required by the Metropolitan Council by using holding districts (completed)
- Village Masterplan (completed)
- Village Sewer Study (completed)
- Information workshop on constructing infrastructure
- Information workshops on financing infrastructure
- Authorization to prepare plans and specifications for the I-94 to 30th Street sewer interceptor (underway)
- Financing study for sewer wastewater system (completed)
- AUAR (underway)
 - o AUAR advisory panel appointed
 - o Selection of development scenarios
 - o Final draft prepared for review by the AUAR panel on September 18, 2008
 - o Includes water, surfacewater and traffic information that will be critical to the city water, surfacewater and transportation plan

FINANCIAL RECORD KEEPING

- o In addition to these planning and infrastructure related activities, it became critical for the city to bring its financial records into conformance with government financing standards, which was accomplished during the first six months of 2008 and was completed in early June. This allows the city to know what financial resources are available for the planning studies related to the updating its comprehensive plan as well as be better prepared to develop the necessary capital improvement plans for the future infrastructure in the sewer areas as well as elsewhere in the city.

RELATED STUDIES

Minnesota Department of Health (MDH) PFC health based value study

The city began its water plan in 2005 but it was put on hold in 2006 when it was determined that it was critical to find the health based values for PFBA, a form of PFC contamination, before finalizing the plan. The PFBA health based value, one of three PFC values, was determined and announced in May, 2008. The city is currently proceeding with its water planning effort.

Transportation

Washington County is currently preparing its transportation plan which will provide useful in helping the city with its own transportation plan.

Washington County is leading on plans for an upgrade (probably interchange) for the intersection of Highway 36 and Lake Elmo Avenue (County 17). This planning process is underway now with a Design Review Committee with representatives from the cities of Lake Elmo and Grant. This is providing additional information for the city's future transportation plan. The Village AUAR has provided data for this study too.

Surface water

The three watersheds, Valley Branch, Browns Creek and Southwest Washington, have prepared surface water management plans that can be incorporated into the city's surface water management plan.

ATTACHMENTS:

- 1 Village Public Meeting Dates and Decisions (2005 to date)
- 2 Proposed Timeline from the AUAR to Development (Begun April, 2007)
- 3 Village Masterplan (Begun August, 2005 - Accepted April, 2007)
- 4 Building a Village – The Infrastructure Behind the Village Plan (January 20, 2007)
- 5 The I-94 to 30th Street Infrastructure Project (October 18, 2007)
- 6 Sanitary Sewer Financial Analysis (October 30, 2007)
 - o Calculating RECs
 - o Questions and answers on the Sanitary Sewer Financial Analysis
- 7 Questions and Answers on Purpose and Process of the AUAR
 - o Executive summary of the preliminary draft of the Village AUAR (September 11, 2008)

**City of Lake Elmo
Proposed Timeline for Completion of Comprehensive Plan Elements**

The steps for completing these plan elements may be modified as necessary and the dates for the steps under each plan element will be completed as they become available.

Plan Element	Estimated Start Date	Estimated Completion Date
Water Plan (Required)	Underway	March 2009
Gather data on water quality and sources; incorporate new PFC data		
Meet with neighboring cities about opportunities for shared water delivery		
Develop and implement a communication plan involving MDH and PCA where and when appropriate		
Evaluate water quantity and water quality		
Develop capital improvement plan with priority needs to serve current and future needs – timing and funding		
Approach funding agencies/organizations/3M		
Adopt water plan		
Water Resources Plan (surface water) (Required)	January 2009	October 2009
Receive and accept proposal from city engineering firm		
Develop communication plan/public process plan		
Gather data from Brown Creek, South Washington, Valley Branch watersheds and integrate Village storm sewer plan and AUAR information		
Evaluate water quality and quantity information		
Address water quality requirements and initiatives		
Incorporate floodplain, lake and recreation information		
Prioritize stormwater management ponding and infrastructure		
Address water quality in lakes		
Ensure compliance with NPDES Phase II MS4 permit		
Assure compliance with watershed and other relevant plans		
Develop policies governing public and private management of surfacewater		
Develop improvement capital improvement plan		
Review and revise fees for surfacewater utility		
Adopt surface water management plan		

3 September 2008

**City of Lake Elmo
Proposed Timeline for Completion of Comprehensive Plan Elements**

The steps for completing these plan elements may be modified as necessary and the dates for the steps under each plan element will be completed as they become available.

Plan Element	Estimated Start Date	Estimated Completion Date
Transportation Plan (Required)	March 2009	March 2010
Send out RFQ		
Select Consultant		
Provide communication/public input plan (significant part of timeline)		
Gather data from Washington County, Transportation Plan, MNDOT studies, other		
Incorporate AUAR data and gather other local data on trip generation, traffic and roadway volumes and capacity-deficiency		
Address future road systems, connectivity		
Address transit options		
Address		
Develop priorities and funding for transportation CIP		
Adopt transportation plan		
Village Future Land Use Comprehensive Plan Amendment <i>(if new development scenario selected different than comp plan)</i>		
Complete AUAR	April 2008	January 2009
Complete financial review of options	February 2009	March 2009
Select development scenario	March 2009	April 2009
Comprehensive plan amendment to capture new development scenario	April 2009	November 2009
Hire a consultant to assist the planning commission/planning director to lead the process		
Develop and implement a communication plan with all stakeholders		
Proceed with process/review		
Include AUAR mitigation plan where appropriate		
Adopt comprehensive plan amendment		
Proceed with zoning code changes to reflect Comprehensive plan amendment and subdivision regulations		
Airport zoning will become part of Village official controls		

3 September 2008

**City of Lake Elmo
Proposed Timeline for Completion of Comprehensive Plan Elements**

The steps for completing these plan elements may be modified as necessary and the dates for the steps under each plan element will be completed as they become available.

<i>Review, adoption and submission with other elements if timing is right</i>	Estimated Start Date	Estimated Completion Date
Review, adoption and submission timeline for required plan elements:		
<ul style="list-style-type: none"> • Release for comment to neighboring cities/county (assumes 6 months) • Public hearing on the plan amendment • Adopt plan amendment • Submit to Metropolitan Council 	<p style="text-align: center;">April 2010</p>	<p style="text-align: center;">October 2010*</p> <p style="text-align: center;">November 2010</p> <p style="text-align: center;">November 2010</p> <p style="text-align: center;">December 2010</p>

* This 6 month review period is often shorter than required.