

C Community Development Committee Environment Committee

For the Metropolitan Council meeting of December 10, 2008

ADVISORY INFORMATION

Date Prepared: November 24, 2008

Subject: City of Orono Comprehensive Plan Update Extension Request

Proposed Actions:

The Metropolitan Council extends City of Orono's comprehensive plan update submission deadline from December 31, 2008 to July 31, 2009.

Summary of Committee Discussion / Questions:

Council staff presented an overview of the requests received from communities for extension of the deadline for submitting comprehensive plan updates. The Committee focused on two distinct groups of cities making requests; 1) those without local planning assistance grants from the Council; and 2) those that have been given local planning assistance grants. The committee adopted the proposed action for four cities - Chaska, Minnetonka Beach, Orono, and Vadnais Heights, as requested by the cities, without Committee discussion.

Motion to approve the recommendation shown above was made, seconded and approved unanimously.



Community Development Committee

Meeting date: November 17, 2008

Business Item

Item: 2008-333

ADVISORY INFORMATION

Subject:	City of Orono Comprehensive Plan Extension Request
District(s), Member(s):	District 3, Mary Hill Smith
Policy/Legal Reference:	Metropolitan Land Planning Act (Minn. Stat. § 473.175)
Staff Prepared/Presented:	James P. Uttley, Principal Reviewer, (651-602-1361) Phyllis Hanson, Manager, LPA (651-602-1566)
Division/Department:	Community Development / Planning and Growth Management

Proposed Action

That the Metropolitan Council extends City of Orono’s comprehensive plan update submission deadline from December 31, 2008 to July 31, 2009.

Background

Minnesota Statutes section 473.864 requires all local governments in the seven-county metropolitan area to review and update their local comprehensive plans submit those updates to the Metropolitan Council for review and comment by December 31, 2008. Section 473.864 authorizes the Council to grant extensions to local government units if they need additional time to complete their comprehensive plan review and revisions. According to statute, any extensions granted by the Council “must include a timetable for completion of the review.” The Metropolitan Land Planning Act requires the Council to establish guidelines and procedures to which local government units must conform when preparing, adopting, and submitting their plans. In June, the Council adopted guidelines and procedures for communities to follow when requesting extensions to the comprehensive plan update submission deadline.

Pursuant to the guidelines adopted by the Metropolitan Council on June 25, 2008, the City of Orono has submitted the required materials to request an extension to the statutory submission date for comprehensive plan updates. The City has requested that their submission date be extended from December 31, 2008, to July 31, 2009.

The City is doing portions of the Update in-house using City staff. During the last year, the City’s long-time city administrator left. His leaving, the selection of a temporary replacement and the search and subsequent recent hiring of a permanent replacement disrupted the flow of planning activities. Additionally, the City has identified an unresolved issue with respect Council staff denial of a sewer permit to provide sewer service to a house on a seven-acre lot adjacent to Lake Minnetonka as a contributing factor to the delay.

Rationale

Anticipating that some communities may encounter issues in completing and submitting their plans by the statutory December 31, 2008 submission date, the Council adopted a process and guidelines that allow for the extension of the submission date. Requests for extensions up to May 29, 2009 may be administratively reviewed and granted, while requests for extensions to a date beyond May 29, 2009 require Community Development Committee and Council action.

The City’s request for an extension to July 31, 2009 is two months beyond that which could be administratively reviewed to accommodate a full six-month adjacent review period. It has been Council staff’s experience that many communities have been able to obtain comments from the affected jurisdictions prior to the termination of the full six months.

Funding

No Metropolitan Council funding involved. The City did not receive a comprehensive planning grant or loan.

Known Support / Opposition

There is no known opposition



CITY of ORONO

Municipal Offices

Street Address:
2750 Kelley Parkway
Orono, MN 55356

Mailing Address:
P.O. Box 66
Crystal Bay, MN 55323-0066

October 29, 2008

Metropolitan Council
Community Development Committee
390 Robert Street North
St. Paul, MN 55101-1805

Re: Request for Extension of Planning Period

Dear Members of the Metropolitan Council:

Via this letter and the attached documents, the City of Orono is requesting additional time for completion of its Comprehensive Plan decennial review obligation. This request is to extend the review timeframe by 7 months, from December 31, 2008 to July 31, 2009.

The primary reason for the delay and this request for extension has been staff workload. Orono chose to complete the update process "in-house" for a variety of reasons, including an expectation that no major changes to the 2000-2020 Plan would be required, and that the unique nature of Orono and its philosophy & policies could be best portrayed using in-house resources rather than delegating this to an outside consultant.

To this end the City reallocated staffing responsibilities through position restructuring in the Planning & Zoning Department in August 2007 to allow for additional staff time to work on the Comprehensive Plan. However, staff time for work on the Plan has been largely usurped for the past 6 months due to resignation of the City Administrator in March 2008 (a position that remained functionally vacant until October 2008) and other key staffing vacancies over the past year.

While draft updates of the three "systems statement" elements of the plan have been completed and reviewed by the City Council, other sections requiring update are still being drafted and are not yet ready for review.

Additionally, in June 2008 the City applied for a permit for extension of sanitary sewer to serve a single home on a 7-acre lakeshore residential property in Orono that was added to the MUSA in 1998. That permit was denied by MPCA pursuant to a recommendation for denial by Metropolitan Council staff, on the basis that extending sewer to this property subjects it to the density calculation process. For a variety of reasons enumerated in a letter to Kyle Colvin dated July 25, 2008 the City of Orono disagrees with this interpretation of Metropolitan Council policies. Discussions with Met Council staff in October 2008 have

failed to resolve this issue, and potential solutions suggested by Met Council staff may have consequences for future development in Orono that require further analysis. As a result the City is further considering its options in light of the potential implications on the land use, sewer and housing elements of the Orono Comprehensive Plan. The following analysis of the situation by City staff was presented to the City Council for discussion on October 28, 2008:

“A key element of Met Council policy with which Orono is faced is the use of overall development density as a factor in the approval of municipal sewer extensions. The implementation of MC policies has become an immediate issue which has placed additional sewer development in the current MUSA (as well as sewer lateral extensions to merely allow existing homes to be connected within the current MUSA) at a virtual standstill in Orono.

This issue is based on the Metropolitan Council goal that all metro-area sewer development should occur at an average density of 3 units per acre, to make efficient use of the metro sewer system operated by MCES. Policy guidelines issued by Met Council in 2004 and revised in 2007 with regards to proposed Comprehensive Plan Amendments (CPAs), are being implemented by Met Council staff as if they are pertinent to any sewer extension within the current MUSA regardless whether a CPA is involved.

It is clear from MC guidelines that any expansions of the MUSA for low-density (i.e. less than 3 units per acre) housing, whether it's retrofitting existing neighborhoods or proposed new development, will become an issue. Orono placed most remaining low-density unsewered Shoreland properties in the MUSA in 1998 or within the 2000-2020 CMP, so no further comp plan amendments should be necessary to bring sewer to those areas. Sewering these areas is not an expansion of the MUSA. Yet Met Council in July 2008 denied extension of sewer to an existing Orono lakeshore home on a 7-acre lot in the MUSA on the basis that this is a “change in staging of sewer extensions” from Orono's 2000-2020 Plan. This is not the case; it is not a change in staging, and staging within the existing MUSA is not addressed in the MC 2004 or 2007 guidelines.

The denial letter also indicated that this is not “undeveloped” land and not subject to the exclusion from the density calculation. We would counter that any land guided and zoned in a manner that is further developable should be considered as “undeveloped” from a practical standpoint. Further, the denial stated that Orono's density of new development since 2000 is just above the 3.0 units per acre threshold and any new low-density developments that become part of the “density calculation” will place Orono out of compliance. We acknowledge Orono's current status just above the threshold level, but would argue that requests to extend sewer lines to properties added to the MUSA either in 1998 or in the approved 2000-2020

Comprehensive Plan that are not developing, or are developing at the densities guided in the 2000-2020 Plan, do not require a CPA, are not changes in staging, and should not become part of the density calculation.

The immediate issue for Orono is whether Met Council will ultimately honor its own guidelines in a reasonable and responsible manner. As the situation currently stands, Orono is unable to consider allowing new sewer residential development at the historically guided and zoned densities in our fully sewer 1/2-acre and 1-acre zones, much less within the 2-acre zoned MUSA area. The impact of the denial action by Met Council has functionally placed a moratorium on further sewer development in Orono.

At the same time, Met Council staff have suggested that sewer extensions in the existing MUSA to serve existing homes will be allowed as long as sufficient acres of land are guided/developed at higher densities elsewhere in the City to keep the density calculation above 3.0 units per acre. The difficulty in addressing this on an individual parcel basis is that Orono has approximately 150 parcels (totaling about 600 net buildable acres) already in the MUSA that have not yet been provided with sewer connections. Most of these parcels are in the Shoreland and contain an existing residence. Of these 150 Shoreland parcels in the existing MUSA, 46 are lakeshore parcels that actually abut the shore of Lake Minnetonka, and another 30 or so are lakeshore lots abutting the shore of other Orono lakes. Orono expects to provide connections for all 150 of these homes by 2020. Under the Met Council suggested scenario, to provide sewer connections to each of these parcels merely to serve the existing homes without subdivision or further development, Orono would have to re-guide as much as 550 developable acres elsewhere to a density of 6 units per acre in order to average 3.0 units per acre, i.e. add 3300 households, virtually doubling the City's population. The method of calculation is shown here:

$$(150 \text{ units on } 600 \text{ acres}) + (3300 \text{ units on } 550 \text{ acres}) = (3450 \text{ units on } 1150 \text{ acres}) \\ = \text{Avg. Density of } \mathbf{3.00} \text{ units per acre}$$

Note that Orono currently has approximately 3100 households and by 2020 we estimate this will increase to 3600 under Orono's intended land use plan. Besides being totally in conflict with the City's low-density philosophy, the scenario described above would result in Orono far exceeding its allotted regional sewer capacity which was negotiated in the early 1980s, and would have major impacts on transportation and other local systems. These seem to be extreme measures to impose on Orono to simply allow provision of sewer service to existing Shoreland homes already in the MUSA."

A separate but related long-term issue that has delayed the completion of the Comp Plan Update is whether Orono can reasonably re-guide additional areas of the City for higher density residential development in a good-faith effort to begin to address the Met Council

**Metropolitan Council
Extension Request
October 29, 2008
Page 4**

housing goal of 300+ affordable dwelling units. At the current time the only property in the City guided for potential multi-family use at a density in excess of 3 units per acre is the southwest quadrant of the Old Hwy 12/Old Crystal Bay Road intersection. This land consists of two separately owned parcels totaling 49 developable acres guided for 2-4 units per acre, i.e. a potential of as many as 100-200 total dwelling units, of which some portion might feasibly be developed under affordability guidelines. The current owners of the westerly 30 acres of this site have no intent at this time to sell the property and it is currently being used as an apple orchard and homesite. While there are a few other scattered properties in the Navarre or Highway 12 areas that have the capacity for infill development at densities at or exceeding 3 units per acre, the availability of large tracts of suitable land to reguide to higher density is very limited due to the type and location of existing development, the abundance of wetlands and water bodies, the proximity to sewer and urban services, etc.

The process timeline provided in the attached Extension Request Form anticipates completion of the draft Plan by December 31, 2008 with the public hearing process in mid-January. Distribution of the Plan to adjacent jurisdictions for the 6-month comment period would occur by January 31, 2009 with final submittal to Met Council by July 31, 2009. We do expect that any necessary code revisions and review/amendment of fiscal devices and local controls will also be completed by July 31.

Thank you for the opportunity to request this extension. If you have any questions, please feel free to contact Mike Gaffron at 952-249-4622.

Sincerely,



William Wells
City Administrator

encl.

cc: Mayor and City Council
Mike Gaffron, Asst. City Administrator

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 ORONO Request Date OCT. 27, 2008
 Community Contact Person MIKE GAFFRON Phone 952-249-4622
 Email Address MGAFFRON@CI.ORONO.MN.US Fax 952-249-4616

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	December 31, 2008
Initiation of 6-month review/comment period by adjacent jurisdictions, affected special districts, and school districts	January 31, 2009
Public hearing date	Week of January 19-23, 2009
City Council action	January 26, 2009
Date of plan submission to Metropolitan Council	July 31, 2009
Completion of fiscal devises and official controls review/amendment	July 31, 2009

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 checked="" type="checkbox"/> Data/mapping/GIS <input checked="" type="checkbox"/> MUSA expansion issues <input 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 <input checked="" type="checkbox"/> Metropolitan Council density policy issues | <ul style="list-style-type: none"> <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 checked="" type="checkbox"/> Housing <input checked="" type="checkbox"/> Surface water management <ul style="list-style-type: none"> <input type="checkbox"/> Transportation <input type="checkbox"/> Sewer Plan <input type="checkbox"/> Park/Open Space Plan <input type="checkbox"/> Water Supply Plan <input type="checkbox"/> Historic Preservation Plan <input type="checkbox"/> Implementation Plan <input type="checkbox"/> Critical Areas/MNRRRA <input type="checkbox"/> Other _____ |
|--|--|

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.)

PLEASE SEE ATTACHED LETTER OF REQUEST



CITY of ORONO

RESOLUTION OF THE CITY COUNCIL
NO. 5785

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

1. The City is completing the Plan revisions and update “in house”, requiring that staff time be devoted to the update process.
2. While major sections requiring updating have been drafted by staff and reviewed by the City Council, updating of additional sections is still in progress.
3. The updating process has been slowed during 2008 due to unanticipated City staffing changes.
4. Although the Plan update is expected to be completed and distributed to adjacent jurisdictions for review by January 31, 2009, the 6-month review period afforded to adjacent jurisdictions will not be completed until July 31, 2009.



CITY of ORONO

RESOLUTION OF THE CITY COUNCIL
NO. 5785

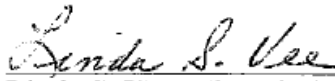
WHEREAS, the City Council finds it is appropriate to request from the Metropolitan Council an extension so the City can have additional time to complete and submit to the Metropolitan Council for review an updated comprehensive plan and amend its fiscal devices and official controls.

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

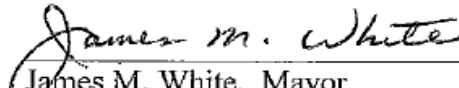
1. The City Administrator is directed to submit to the Metropolitan Council no later than November 1, 2008, an application requesting an extension to July 31, 2009.
2. The City Administrator shall include with the request a letter of request describing the reasons for the request and include a reasonably detailed timetable and plan for completing: (a) the review and amendment by July 31, 2009; and (b) the review and amendment of the City's fiscal devices and official controls.

Adopted by the City Council of the City of Orono this 27th day of October, 2008.

ATTEST:



Linda S. Vee, City Clerk



James M. White, Mayor