

OPINION EXCHANGE

Counterpoint: From an urban-planning perspective, 2040 dispute is mystifying, worrisome

Here's why the Minneapolis comprehensive plan itself, not the work sought in a lawsuit and demanded by a court, provides the appropriate environmental review.

By PeggySue Imihy Bean | MARCH 4, 2024 — 5:30PM

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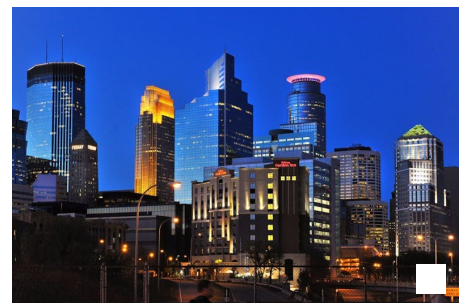
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A recent article ("[Minneapolis could save its 2040 Plan with an environmental review. Here's why it isn't interested](https://www.startribune.com/minneapolis-could-save-its-2040-plan-with-an-environmental-review-heres-why-it-isnt-interested/600344371/) (<https://www.startribune.com/minneapolis-could-save-its-2040-plan-with-an-environmental-review-heres-why-it-isnt-interested/600344371/>)," Feb. 20) and opinion ("[Minneapolis should stop stonewalling on 2040 environmental review](https://www.startribune.com/minneapolis-should-stop-stonewalling-on-2040-environmental-review/600346034/) (<https://www.startribune.com/minneapolis-should-stop-stonewalling-on-2040-environmental-review/600346034/>)," Feb. 26) both ask the question of why Minneapolis doesn't simply comply with last year's ruling from a district judge ordering an environmental review of the city's 2040 comprehensive plan.

Notably absent from both pieces (or indeed, the court record): expertise from anyone who has ever developed an environmental review or a comprehensive plan in Minnesota.

The district court has ordered Minneapolis to develop either an environmental impact statement (EIS) or an Alternative Urban Area-wide Review (AUAR). These are valuable documents for protecting the environment. But people closely familiar with either of them will understand that they are completely inappropriate standards of review for a comprehensive plan.

Both an EIS or an AUAR are intended to be applied to specific projects. An EIS is more appropriate for evaluating a single project (for example, a large office building). An AUAR is appropriate for evaluating a collection of linked projects (for example, a new business park). In either case, there are well-established guidelines for these reviews, and they rest on the assumption that the project being evaluated will have discrete boundaries and a quantifiable scale. Neither document has ever been applied on the scope of an entire city to evaluate the environmental impacts of over a hundred thousand purely speculative buildings. It's a category error akin to asking a biologist to measure an elephant with a microscope.



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The Minneapolis skyline from I-35W south of Minneapolis.

As it happens, there is a different environmental review document that would be appropriate to evaluate such impacts. That document is called a "comprehensive plan." Under state law, the Metropolitan Council forecasts regional population growth. Municipalities in the seven-county metro area are required by law to plan for managing that estimated growth in a way that is environmentally sustainable. The Minneapolis 2040 Plan — like the comprehensive plans of St. Paul, Stillwater, Waconia and others — contains high-level analysis and policy recommendations for how the city will mitigate the effect of forecasted growth on a wide array of natural and human systems. These documents are written under strict environmental standards and are reviewed by environmental policy experts at the Metropolitan Council. The courts are demanding environmental review of a document that is itself an environmental review.

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Moreover, an EIS or an AUAR are thorough documents which take significant time to prepare and are very costly. For comparison, the recent AUAR for the 12-acre East Gateway District adjacent to the University of Minnesota was 63 pages long with 431 pages of appendices and took 16 months and more than \$200,000 to complete. Assuming that it were even possible to extrapolate the same level of analysis to a fictional "citywide full build-out" scenario, it would take an unfathomable amount of staff hours and taxpayer dollars to complete.

It's this concern that most worries my colleagues in cities and towns across the metro and the state. As the president of the Minnesota Chapter of the American Planning Association (APA MN), I have heard from planners in urban, suburban and exurban communities who have been baffled by what they have read about this case. Not only do the rulings make no sense within the reality of planning practice, but the implications of these rulings would be to destroy the next decennial comprehensive plan cycle for which municipal planners have already begun preparing.

If cities and towns have reason to fear that their comprehensive plans might expose them to impossible-to-satisfy environmental requirements, then they will find themselves in a bind. Should they comply with state law mandating that they plan for growth and risk a ruinous citizen lawsuit? Or should they defy state law and plan to change nothing, instead risking a lawsuit from the Met Council?

It is well past time that the voices of the actual professionals who are most familiar with the documents in question be heard. We need either more guidance from the courts as to what degree of environmental review would be accepted, a reversal from the state Court of Appeals, or an intervention from the Minnesota Legislature that clarifies the law that has been so bizarrely applied.

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