

# Minneapolis could save its 2040 Plan with an environmental review. Here's why it isn't interested.

Rather than submit to environmental review, Minneapolis hopes to change state law to overcome the legal challenge that suspended its citywide development plan.

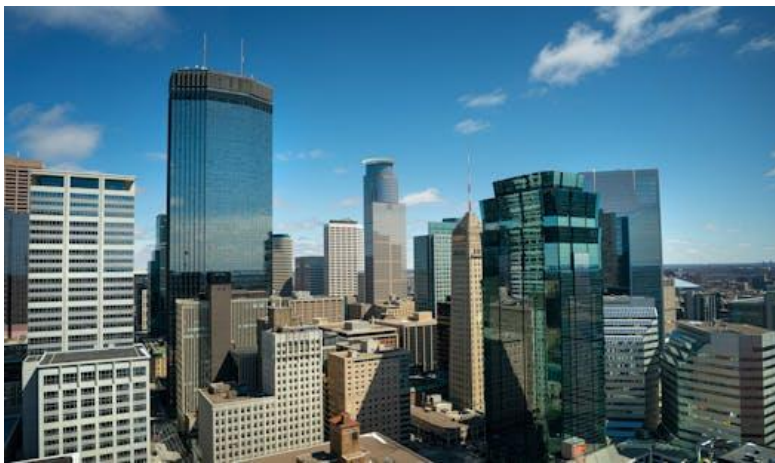
By [Susan Du](#) Star Tribune

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GLEN STUBBE, STAR TRIBUNE

The Minneapolis skyline, pictured in April 2022. Months after a judge threw out Minneapolis' 2040 Comprehensive Plan — prompting in-progress housing projects to [grind to a halt](#) — local developers are still hoping that the plan that made Minneapolis the first American city to end single-family zoning can be reinstated, and their [projects resurrected](#).

One way that could happen? The city could comply with court orders and conduct an



environmental study of the 2040 Plan. But though they have few other options, Minneapolis leaders have little interest in going that route.

The problem, said Mayor Jacob Frey, is that while 2040 is an environmentally conscious plan, it has been undermined by groups weaponizing environmental law to stall development patterns that are, ironically, designed to use energy more efficiently, reduce the need for cars and contain urban sprawl.

"Environmental laws, they were set up with benevolent intentions decades ago," Frey said. "More recently, we have seen them utilized in a way that has a negative impact on the environment."

The state Supreme Court [ruled](#) that the landmark Minnesota Environmental Rights Act gives residents the right to sue for environmental reviews of cities' comprehensive plans. But the mayor is adamant that such reviews only make sense for individual projects with concrete specifications because "the smartest minds in the world can't determine" the environmental impacts of a theoretical citywide build-out.

Yet there are examples of other cities — ones that pay special mind to their water resources — that do environmental studies of comprehensive plans.

Moorhead, on the banks of the Red River along Minnesota's western border, voluntarily [evaluates](#) the environmental tradeoffs of the full build-out scenarios envisioned for three large swathes of the city. Seattle has been [required](#) to conduct an environmental study with every comprehensive plan update since the 1990s;



environmental organizations there say the review process can defuse controversy and ease delays for new projects.

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Lawyer Jack Perry, who represents Smart Growth Minneapolis and Minnesota Citizens for the Protection of Migratory Birds, the groups suing for an environmental study of the 2040 Plan, suspects Minneapolis is worried its plan might not survive public scrutiny of its environmental tradeoffs.

He pointed to a 2018 podcast [interview](#) in which then-City Council President Lisa Bender said, "We probably would have been [prevented] from voting on our plan" if "we would have had to do an environmental impact assessment." Bender could not be reached to provide additional context for her statements.

Perry said he proposed a settlement deal that would allow stalled developments to proceed as long as the city committed to conducting an independent environmental study and paid the plaintiffs for the more than \$1 million in attorney fees they've racked up over five years of litigation. He said he's gotten no response from the city, and called it "scandalous that they are continuing to say they're 'exploring every option.'"

The city felt that the offer wasn't "serious," city spokesperson Sarah McKenzie told the Star Tribune.

## Moorhead and Seattle

Moorhead has conducted environmental studies on parts of the city since 2004. Community Development Director Kristie Leshovsky said the goal is to capture the holistic consequences of a city's planning decisions on nature.

"There's everything from storm water to tree canopies to climate adaptation and resilience, fish, wildlife and plant communities," she said. "It covers so many things that from my perspective as a planner, it's very beneficial so that you're not having to try and figure those things out on the fly, or individually, development by development."

Every five years, Moorhead pays about \$55,000 to update its environmental studies. The city checks the health of its utilities and infrastructure and calculates the likely impact of increased density. In Leshovsky's experience, having detailed environmental impact documentation has helped the city respond credibly to residents who might be opposed to development.

Seattle, meanwhile, follows a Washington state environmental law that requires citywide environmental reviews of major land use changes. It's not a pass-fail test that can be used to argue against growth, said Seattle long range planning manager Michael Hubner. Rather, the process helps the city mitigate the potential problems of growth, including clogged roads, tree loss and displacement of the less privileged.

But the process is not without burden. Seattle is paying \$700,000 for the consultants doing its 10-year comprehensive plan update. And once the final study is produced, concerned parties can appeal and potentially delay Seattle's housing construction goals.

Still, Hubner said, the process is worth it.



"We do a lot of talk in Washington state about reforming our State Environmental Policy Act to make it less burdensome, but still retain its core value," he said.

Tiernan Martin of Futurewise, a Washington sustainable growth organization, said that while environmental policy has been used in Seattle to thwart individual projects on less-than-sincere grounds, recent law changes have made it easier for cities to use comprehensive plan environmental findings to override some of those efforts.

"While an [environmental study] can be expensive and time-consuming to produce, we believe it provides real benefits to the public by requiring the city to collect and share information like the existing conditions, environmental impacts, and potential mitigation measures."

## Remaining options

Minneapolis hired the engineering consulting firm Stantec last year to perform some kind of environmental analysis of the 2040 Plan but has declined requests for additional information about that process.

This year the city is prioritizing other strategies for saving the 2040 Plan.

First, it [continues](#) to litigate, with oral arguments in the Court of Appeals scheduled for Wednesday. City attorneys will argue that District Judge Joseph Klein imposed too tough an injunction when he told Minneapolis to conduct an environmental study or scrap 2040 for good. The Court of Appeals has already heard the case [twice](#).

Second, the city hopes to change state law. Minneapolis' first policy goal for the new legislative session: [tweaking](#) the Minnesota Environmental Rights Act so that the comprehensive plans of metro cities are automatically considered conduct that wouldn't pollute natural resources.

**Susan Du** covers the city of Minneapolis for the Star Tribune.