

Staff Report

UPDATE OF URBAN FRINGE IMPLEMENTATION

September 8, 2009

In April, 2008, the Ames City Council hosted a joint meeting with the Gilbert City Council and the Story County Board of Supervisors. The meeting was to update the three bodies on the status of the 28E intergovernmental agreement that would implement the Ames Urban Fringe Plan. One intended outcome was to seek clarification on two items:

- Effects of Denying Annexation in the Urban Services Area
- Unanimous Approval for Amendments to the Fringe Area Plan

At this meeting, the staffs of the City of Ames, the City of Gilbert, and Story County were directed to resolve these two outstanding issues. Staffs of the three jurisdictions are now ready to report that we have reached agreement on acceptable language regarding these two issues. At this point, each staff is seeking concurrence on this language from their governing bodies.

A third issue has arisen during the past year—an issue that was raised previously, but has been somewhat muted.

- County waiver of jurisdictional review of subdivisions within the Urban Services Area.

This is a fundamental issue that needs to be resolved for an agreement to be reached.

The three issues are discussed below. Staff is seeking direction on each of the issues.

Effects of Denying Annexation in the Urban Services Area.

In the initial draft, if land outside the City in the Urban Service Area was denied annexation or if the City failed to act on an annexation request within two years, the County could approve the subdivision as if it were within the Rural/Urban Transitional Area. The City was concerned that this would lead to development within the rural perimeter of the City that may be a future impediment to City growth if the development is not built to the City's urban densities and standards. This proposed language was also problematic because it could have forced the City to annex prematurely or suffer the consequences if approved by the County as a Rural/Urban Transitional Area.

New language in the draft calls for a two step process that better protects the City as it relates to annexation requests. This process allows the City to first determine whether land is "eligible" for annexation before having to decide on the merits of annexation. Eligibility for annexation is defined as follows:

Eligible for Annexation: The phrase "eligible for annexation" shall mean a condition describing any land that 1) is eligible for annexation pursuant to the *Code of Iowa*, 2) is located inside the Urban Service Area established by Plan, and 3) is ripe for annexation. The governing body of the City lying closest to the area proposed for annexation shall determine whether the land is ripe for annexation which may include an analysis of factors including, but not limited to, comprehensive plan policies, degree of contiguity to the City limits, proximity to existing City services, the cost of extending City services, the fiscal impact and funding sources for providing City services, and the development needs of the City.

This approach allows the City to determine whether the annexation best meets the needs of the City despite whether the land is contiguous to the City limits and is within the Urban Services Area of the Urban Fringe Plan. If the City finds that the costs of the annexation are appropriate, that the owner will pay his or her fair share of those costs, that there are no long term burdens expected of the general taxpayers of the City, and that the development needs of the City are served by the annexation, then the City Council would find that the land **IS RIPE**, and therefore, is eligible for annexation. If eligibility is determined, the second step would be for the City to act on the annexation petition. The proposed agreement allows the City to take up to two years to approve annexation after eligibility has been determined.

Alternatively, if the City analyzes the full costs of annexation, the portion of those costs to be borne by the City, the long term fiscal impact of the annexation, and whether the proposed annexation is needed in light of other recent annexations to the City, then the City may decide that a particular annexation is premature. In that instance, the City Council would find that the land **IS NOT RIPE** for annexation and, therefore, is not eligible for annexation. A decision on whether to approve or deny the annexation would not then be needed.

There may be an instance, however, when the City finds that the land is ripe and, therefore, eligible for annexation, but then subsequently denies the annexation. In this case, the 28E agreement allows the land to be subdivided according to the Rural/Urban Transition Area process and according to yet-to-be-determined standards.

The City, therefore, needs to perform its necessary analysis (the Plan gives the City 120 days) to determine whether the land is ripe for annexation to determine whether it is eligible. This time would be spent identifying the costs of annexation as well as agreeing on the points of any necessary development agreement. It would also allow the Council to review current land development opportunities and land absorption rates and see whether any new lands are needed to expand our capacity for growth. If it is determined that the land is eligible, the actual action to approve the annexation should be perfunctory.

Since the intent of the Urban Services Area is to allow annexation and development to City standards, the expectation is that annexation will occur when requested. However, there may be instances when the City would need to defer annexation and await a more propitious time. The new language provides for such deferral without risk of premature or inappropriate development.

Staff requests direction from the City Council on whether the proposed language is acceptable. If the City Council wishes to direct staff to seek some other arrangement or mechanism on how to protect the City's interest if a plat is denied, please provide that direction.

Unanimous Approval for Amendments.

By the language of the previous draft of the agreement, any change to the plan required approval from the governing bodies of all three parties—Story County and the cities of Gilbert and Ames. The intent of the Urban Fringe Plan is that the three jurisdictions that may be impacted by development in the rural fringe of Ames would cooperatively develop a plan that would be incorporated into each jurisdiction's comprehensive plan. To that end, each entity would be a partner in establishing that shared vision. If that vision would need to be amended, each party would likely want the opportunity to agree to the amendment. Each jurisdiction not only has a role in the shared responsibilities of the Ames Urban Fringe Plan, it has also adopted the Ames Urban Fringe Plan and made it a part of its own comprehensive plan. If the Urban Fringe Plan were not accepted unanimously or amended unanimously, it could not be a component of each jurisdiction's own comprehensive plan and, therefore, could not serve as a policy document guiding each jurisdiction's fundamental powers of zoning and subdivisions.

Staffs of the three jurisdictions working on this agreement believe that unanimity of action is an essential component of the process. Because the process is the implementation of the shared vision for growth in the fringe area, the staffs believe we need to maintain that unanimity through any updates to the Plan. During the *creation* of the Plan, there was give and take among the three entities in ensuring that all interests were protected. There is every expectation that all interests would be protected as *amendments* are brought forward.

During a previous discussion on unanimity by the governing bodies, concern was expressed that Gilbert, for instance, would have veto power over development around Ames. The representative from Gilbert indicated that Gilbert's interest would be limited to those issues that directly impact Gilbert. **While all parties have agreed that joint cooperation is in the best interests of all three, each jurisdiction retains the option of withdrawing from the agreement and the Plan if it is felt that the proposed voting arrangement becomes a detriment to their own interest.**

The current draft of the agreement retains the original language (slightly modified for clarity) which reads as follows:

The Plan may be amended at any time following a review pursuant to Section 6.1 above, by an affirmative vote of the governing body of each Cooperator.

Staff requests direction on whether the proposed language is acceptable. If the City Council wishes to direct staff to seek some other arrangement or mechanism on how to amend the plan, please provide that direction.

County waiver of jurisdictional review of subdivisions within the Urban Services Area.

The draft agreement calls for the City to relinquish its subdivision review and authority in the area designated Rural Service and Agriculture Conservation Areas. Subdivisions could occur consistent with the plan but review and approval would be the role entirely of the County. The subdivision standards and process for approval would be developed and implemented by the County.

Within the Rural/Urban Transition Area, subdivisions would be reviewed by both the City and the County according to a process and improvement standards that would be jointly developed and adopted.

The intent within the Urban Services Area was that the County would waive its subdivision authority and defer to the process and improvement standards developed and implemented by the City. Based on conversations with County staff, there appears to be some hesitancy with the County on this point. The entire basis of the cooperative approach to fringe planning is that the cities would reduce their extent of review in some areas (those areas where the cities are not to grow in the foreseeable future) while the County would reduce the extent of their review in those areas immediately adjacent to the Cities where urban growth is most likely to occur.

The current draft of the agreement has the following language. This language states that the County will waive its subdivision authority in the Urban Services area.

In areas designated Urban Services Area in the Plan, County agrees to waive the exercise of its subdivision authority. The County, however, shall retain its procedures and standards for Agricultural Subdivisions in the Urban Services Area.

Alternative language, below, more explicitly states the intent of the Urban Services Area. It also does not require the County to agree to waive its subdivision authority since no division of land would occur unless and until the land is annexed into the City. Then, any subdivision would be subject to City process and improvement standards.

In areas designated Urban Services Area in the Plan, no changes of zone or divisions of land (except Agricultural Subdivisions) shall occur unless and until said area is annexed by a City

Staff requests direction on whether the proposed or alternative language is acceptable. If the City Council wishes to direct staff to prepare other language on subdivision control in the Urban Services Area, please provide that direction.

Next Steps

With the direction from the City Council, staff will finalize the language of the 28E agreement. City staff is currently developing subdivision design standards and a review process to apply to Rural/Urban Transition Areas. County staff is developing zoning regulations that will apply to areas within the urban fringe. Upon completion of all three components (28E agreement,

subdivision standards and process, county urban fringe zoning regulations), the governing bodies will be asked to adopt them.