City Council Commission Communication

Department: City of Council Bluffs -Community Development Department CASES #CP-23-005 & #MIS-23-008	Resolution No.:	City Council: 8/28/2023 Planning Commission: 8/08/2023

Subject/Title

Request: Public hearing on the request of the City of Council Bluffs to amend the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) by adopting and incorporating the Joint City-County Land Use Study and the associated 28E two-mile limit agreement between the City of Council Bluffs and Pottawattamie County.

Background/Discussion

Chapter 354.9 of the Code of Iowa (2023) allows the City of Council Bluffs to establish an extra-territorial area within two miles of the City's municipal boundaries for the purpose of reviewing and approving subdivisions. This Chapter further grants the City the authority to require that subdivisions within the two-mile area adhere to the City's subdivision standards and conditions, unless an alternative set of standards and conditions are created via a 28E agreement between the City and Pottawattamie County.

Chapter 28E of the Code of Iowa (2023) enables two or more local governments to enter into agreements to cooperate for their mutual advantage. In December 1995, the City and Pottawattamie County adopted a *Two-Mile Limit Area Policy Agreement* which identified and defined the administrative policies and responsibility for development regarding subdivisions, zoning, and annexation within two-miles of the City's municipal boundary. The agreement was later amended in March 1998, November 1999, June 2002, June 2005, August 2005, September 2007, and March 2010. The last 28E agreement amendment implemented a new growth service area map that was adopted by the City and County in February 2010 (see Attachment A). The new map created four service area designations (City Service Area 1, City Service Area 2, County Service Area 1, and County Service Area 2) and was accompanied by a set of goals, policies, and implementation strategies for guiding development within the two-mile area.

Below is a description of each service area adopted as part of the 2010 amendment:

- City Service Area I – Development served by municipal utilities, which are constructed to City subdivision and design standards. Annexation is required. The County will approve zoning requests, not involving annexation.

- City Service Area II – Developed served by municipal waste and septic systems or common sewage treatment plants, which are constructed to City subdivision and design standards. Annexation is required. The County will approve zoning requests, not involving annexation.

- County Service Area I – Development served by municipal water and septic systems or common sewage treatment plants. Location of these properties is such that they are beyond a reasonable expectation of future annexation by the City. All zoning requests will be reviewed and approved by the County. County subdivision and design standards will be applied to regulate development.

- County Service Area II – Development served by a combination of public/common water systems or individual private wells and septic systems or common sewage treat plants. Location of these properties is such that they are beyond a reasonable expectation of future annexation by the City.

All zoning requests will be reviewed and approved by the County. County subdivision and design standards will be applied to regulate development.

In 2020, the City and County mutually agreed that a new joint land use study and associated 28E agreement was needed to address current and future growth needs within the two-mile limit of Council Bluffs. As part of the study, the City and County sought to create new goals, policies, and implementation strategies to allow orderly and efficient growth within the two-mile limit area of Council Bluffs, and to provide the ability for development to occur in a non-haphazard manner and which does not preclude the City from making major infrastructure extensions in the future within the study area.

The proposed Joint City-County Land Use Study and associated 28E agreement (see Attachments B and C) are the embodiment of a cooperative planning effort between the City of Council Bluffs and Pottawattamie County over the last three years. The study evaluated existing land uses, current zoning maps, and the future land use plans as most recently adopted by Pottawattamie County and the City of Council Bluffs within a three-mile area adjacent to Council Bluffs' municipal boundary. The study identified appropriate and desirable land uses while taking into consideration the ability to serve areas with infrastructure, appropriate roadway networks, and natural development constraints within said three mile area. Additionally, the study established a set of mutually agreed upon goals, policies, and implementation strategies to promote orderly growth and efficient development within the two-mile area. The policies also serve to protect and preserve natural resources and environmentally sensitive features, direct development to areas with physical characteristics which can accommodate development, and effectively and economically provide services for future growth and development.

The study was completed by the firm Bolton and Menk and was led by a project steering committee comprised of members from the Council Bluffs Mayor's Office, Council Bluffs Community Development Department, Council Bluffs Public Works Department, Council Bluffs City Planning Commission, Pottawattamie County Board of Supervisors, Pottawattamie County Planning Department, Pottawattamie County Engineering, Council Bluffs Chamber of Commerce, Advance Southwest Iowa Corporation, and Steve Jensen (Planner).

A general overview of the content in each chapter of the study is stated below:

1. Chapter 1: Introduction of Process.
   - This chapter provides an overview of the purpose and intent of the joint land use study, identifies the three-mile study area around the perimeter of Council Bluffs' municipal boundary, discusses the current "Two-Mile Limit Policy Agreement" between the City of Council Bluffs and Pottawattamie County, and discusses the various analytical processes that were used to complete the study.

2. Chapter 2: Three-Mile Study Area
   - The joint land use study evaluated all parcels within three miles of the Council Bluffs municipal boundary for planning purposes only. This was the desired approach by the steering committee in order to provide guidance on appropriate land use and growth area designations of parcels as the City's municipal boundary expands beyond the two-mile limit area. The policies outlined in Chapter 6: ***Proposed Land Use Recommendations*** are only applicable to parcels within the two-mile limit area.
   - The entire three mile area consists of 54,417 acres of land. An evaluation of geological/ environmental constraints within the three-mile area determined that 18,132 acres (33%) are not

encumbered with steep slopes (12% grade or more), floodplain, open surface water, and/or poor soil suitability and could be developed with a variety of commercial, industrial, and residential uses without any major engineering constraints. The remaining 36,285 acres (67%) contain one or more geological/environmental constraints, as stated above, and would not be as easily developable as the aforementioned less constrained areas.

- Infrastructure such as sanitary sewer, storm sewer, water, electricity, gas, and telecommunications were evaluated within the City of Council Bluffs and the three-mile study area. In general, the City of Council Bluffs has access to necessary utilities and infrastructure to support infill and new growth within their corporate limits. Major infrastructure extensions for sanitary sewer, storm sewer, and water must occur to develop the three mile-study area with a variety of land uses at urban and/or sub-urban densities, which is necessary to support the installation and maintenance costs of said major infrastructure extensions.
- Five specific geographic areas on the periphery of the Council Bluffs municipal boundary were reviewed for development and potential extensions of sanitary sewer service, as follows:
    a) Area 1: Southlands
    b) Area 2: South 192nd Street
    c) Area 3: Highway 92
    d) Area 4: Highway 6/I-80
    e) Area 5: Old Lincoln Highway

  The result of the analysis identified potential sanitary sewer trunk line extensions within the Indian Creek, Mosquito Creek, and Pony Creek basins that could facilitate new development in the five areas above. A general overview of the cost to provide sanitary sewer to said areas is outlined on Pages 18-22 of the study. A detailed engineer's opinion of probable costs for extending sanitary sewer throughout the Pony Creek Basin is shown on Pages 81-82 of the study.

3. Chapter 3: Council Bluffs Infill Areas
   Eight infill areas within the City of Council Bluffs were analyzed based on the characteristics of the property, proximity to and/or location on the transportation network, and the proximity to and/or availability of infrastructure, as stated below. This evaluation resulted in a future land use recommendation for each infill area.
    - Area 1: East Manawa Drive
    - Area 2: Council Bluffs Country Club
    - Area 3: South 192nd Street
    - Area 4: Highway 92/Harry Langdon Boulevard
    - Area 5: Veterans Memorial Highway (from Gifford Road to Council Pointe Road)
    - Area 6: Eastern Hills Drive (from McPherson Avenue to State Orchard Road, and Cedar Lane/Stevens Road extension)
    - Area 7: Highway 6 (from Railroad Highway to Hunt Avenue)
    - Area 8: Dodge Park Golf Course

   The future land use categories identified for each infill area are generally consistent with existing land use terminology used by the City in the Bluffs Tomorrow: 2030 Comprehensive Plan. Each land use category is described in detail on Page 26 of the study.

4. Chapter 4: Transportation and Traffic
   An assessment of existing transportation networks, traffic/roadway conditions, roadway connectivity, and roadway safety/capacity was conducted to help determine future land uses within the three-mile study area and the eight infill sites within the City. Data sources for this analysis were collected from

the City of Council Bluffs, Pottawattamie County, Iowa Department of Transportation (IDOT), and the Omaha-Council Bluffs Metropolitan Area Planning Agency (MAPA).

5. Chapter 5: Development and Infrastructure Funding Considerations
   This chapter discussed the development patterns of Council Bluffs over the last 20 years, and identified local and external funding sources that could assist with costs of infrastructure improvements (i.e., maintenance, repair, and extensions) within the three-mile study area and infill sites. Local funding sources include, but are not limited to, general obligation bonds, local option sales tax funds, tax increment financing, special assessment, self-supported municipal improvements districts (SSMIDs), and recapture agreements. External funding sources include, but are not limited to, private grants, RISE grants, road use tax funds, community development block grants (CDBG), U.S. Department of Transportation - Better Utilizing Investments to Leverage Development (BUILD) grants, and state revolving loan funds. Furthermore, this chapter discussed how infrastructure extensions can become cost prohibitive when development occurs in areas that are not adjacent to other existing development sites and/or infrastructure. This type of scenario is commonly known as "leap frog development", which typically has high infrastructure related costs that require municipal financial support.

6. Chapter 6: Proposed Land Use Recommendations
   This Chapter identifies appropriate future land uses, as well as, proposed new growth service areas and their associated goals/policies/implementation strategies for parcels within the study area. The proposed policies were created by the steering committee to promote orderly and sustainable growth and development within the two-mile limit. The policies also allow opportunities for development to occur with or without immediate annexation depending upon factors such as growth service area designation, existing development pattern, proximity to the City's municipal boundary, and potential to be served with future urban services (i.e., sanitary sewer, storm sewers, and water).

   Additionally, the following definitions were created to provide clarity to terms that are stated throughout the proposed policies:

   A. Development shall mean the subdividing of land for the purpose of providing a buildable lot(s) for any new commercial, industrial, and/or residential land use(s) and/or structure(s);

   B. City development standards shall mean all land development, building, and construction regulations, as specified below:
      i. Iowa Statewide Urban Design and Specifications (SUDAS), as administered by the Council Bluffs Public Works Department;
      ii. Title 12: Council Bluffs Fire Code, of the Council Bluffs Municipal Code, as administered by the Council Bluffs Fire Department;
      iii. Title 13: Buildings and Construction, of the Council Bluffs Municipal Code, as administered by the Council Bluffs Permits and Inspections Division; and
      iv. Title 14: Subdivisions of the Council Bluffs Municipal Code, as administered by the Council Bluffs Community Development Department;

   C. Homestead parcel split shall be the dividing of a parcel or tract of land that contains one habitable residential unit into two parcels in which the "homestead" parcel (i.e., the parcel retaining the residential unit) contains no more than four acres, and the remainder of the parcel to be split is 20 acres or greater;

D. Parent parcel shall mean the existing parcel(s) or tract(s) of land, according to the Pottawattamie County Assessor's Office as of the first adoption date of this study. Parent parcel excludes any lots that are within a platted subdivision that was formally reviewed and approved by the Pottawattamie County Board of Supervisors as of the first adoption date of this study.

Four new service area classifications were created as part of the study in order to distinguish areas that are/are not a priority for future City growth, as follows:

i. City Growth Area 1A – *Land located within the three-mile study area that is generally adjacent to City limits and is substantially developed with subdivisions and smaller lots in County jurisdiction and may or may not have access or planned access for services including: water, sanitary sewer, storm sewer, emergency services, electricity, natural gas, communications, and roadways. Property in this area is not expected to be further developed unless assembled into larger development projects and fully served to urban standards. This area is not a priority for future annexation unless it provides a contiguous connection to future development, but may be annexed as subdivision or development of individual sites occur.*

ii. City Growth Area 1B – *Land located within the three-mile study area that is a priority for growth in an urban development pattern. The land is identified as an area having access, or planned access, for services including water, sanitary sewer, storm sewer, emergency services, power, natural gas, communications, and roadways. Areas should be developed to City standards. The area is projected to have access to a roadway network. In many cases this area can be serviced from existing infrastructure with extension and does not require installation of new main service trunk lines. Areas will be annexed and reclassified into the appropriate City zoning district as subdivision or development of individual sites occur.*

iii. City Growth Area II – *Land located within the three-mile study area that lies between areas that will likely be developed to urban densities and areas that will remain rural in character. It is possible that some areas may be serviced to the extent that urban densities could be achieved, but the timing of extension of services is uncertain and a level of development should still be allowed in the transitional time. In specific instances development could occur prior to the extension of services provided an agreement is reached that ensures connection would be made when available. Area should be developed to City standards, such that annexation and absorption into the City is possible in the future as infrastructure arrives and becomes adjacent to City limits. Upon annexation, property would be reclassified into the appropriate City zoning district. This area may also be suitable for transitional areas where some level of development is possible, provided it does not hinder the full development of the parcel at a later date. Development in this growth area shall be served by municipal water service and septic systems or common sewage treatment plants constructed to City subdivision and design standards.*

iv. County Development Area – *Land within the three-mile study area that is not likely to develop beyond rural and agricultural uses as the location of these properties is such that they are beyond a reasonable expectation of future annexation by the City due to difficulty of extending services to an extent that would support urban density patterns. Urban level of services and transportation enhancements area unlikely to occur. It is possible that water service may be available in portions of this area, but sanitation facilities will be by individual septic system. The transportation network varies in characterization from pavement, bituminous and gravel surface, and rural section without curb and gutter.*

Each service area has its own set of goals, policies, and implementation strategies for subdividing land and allowing development to occur in an orderly and efficient manner. Some of the more notable policy changes between the current City-County two-mile agreement and the new agreement include the following:

- Delayed voluntary annexation agreements in situations where development is proposed but cannot be annexed since they are not immediately adjacent to the City's municipal boundary. Said annexation agreements will be recorded with Pottawattamie County and will apply to the current landowners as well as any future successors or assigns;
- Allowing lot line adjustments, which do not create new parcel(s) of land, without annexation in certain areas of the two-mile limit;
- Allowing a 'homestead parcel split', as defined above, so that a property owner or estate can retain an existing habitable residential dwelling and sell the remaining acreage, or vice-versa.
- Establishing minimum acreage requirements for parcel splits, homestead parcel splits, and subdivisions so that development in the two-mile limit area occurs at urban and/or sub-urban densities, which is necessary for funding and maintaining major infrastructure extensions.

The last component of Chapter 6 is a service area matrix that provides guidance for subdivision activity within each growth service area, as stated above. This matrix indicates each type of subdivision action that is allowed, infrastructure and annexation requirements, and the jurisdictional roles of the City of Council Bluffs and Pottawattamie County in each area. A copy of this service area matrix is included with this report as Attachment 'D'

On June 22, 2023, a study session meeting was held between the City/County elected officials, City/County Planning Departments, and City/County Planning Commissions in the Council Bluffs Public Library to discuss the goals, policies, and implementation strategies stated in the joint City-Council Land Use study. The following people attended the meeting:

- City Council: Steve Gorman, Chris Petersen, and Roger Sandau
- City Planning Commission: Doug Rew, Dan VanHouten, Dave Stroebele, Susan Opperman, and Deborah Bass
- Mayor's Office: Mayor Walsh and Brandon Garrett
- Community Development Department: Courtney Harter, Christopher Gibbons, and Moises Monrroy
- Legal Department: Graham Jura

- County Board of Supervisors: Scott Belt, Brian Shea, Jeff Jorgensen, and Tim Wichman
- County Planning Commission: Dolores Silkworth
- County Planning Department: Matt Wyant and Pam Kalstrup

The general consensus amongst the meeting attendees was the proposed goals, policies, and implementation strategies ensure orderly and efficient growth will occur within the two mile limit area of Council Bluffs and provide the ability for development to occur in a non-haphazard manner which does not preclude the City from making major infrastructure extensions within the study area.

The next steps in the process to complete the joint City-County Land Use Study and to implement the study's goals and policies are as follows:

1. City/County adopt the study as part of their respective comprehensive plans and adopt the associated 28E agreement;

2. City/County continue to work together to create a set of unified development standards that will apply to new developments within the two-mile limit area;
3. The City of Council Bluffs will undertake a sanitary sewer study of the two-mile area to determine costs and feasibility of sanitary sewer extensions. The results of the sewer study will be used to re-examine the boundaries of the service areas and make decisions on future land uses within the study area; and
4. City/County coordinate to amend their adopted future land use plans based on the sanitary sewer study findings.

Recommendation

The Community Development Department recommends approval of the request to amend the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) by adopting and incorporating the Joint City-County Land Use Study and associated 28E two-mile limit agreement between the City of Council Bluffs and Pottawattamie County into the document.

Public Hearing

Staff speaker for the request:
1. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

The City Planning Commission recommended approval of the request to amend the Bluffs Tomorrow: 2030 Plan (Comprehensive Plan) by adopting and incorporating the Joint City-County Land Use Study and associated 28E two-mile limit agreement between the City of Council Bluffs and Pottawattamie County into the document.

VOTE: AYE – Bass, Bailey, Hutcheson, Knauss, Opperman, Rater, Rew, Stroebele, and Van Houten. NAY - None ABSTAIN – None. ABSENT – None. VACANT - Two Motion: Carried.

Attachments

Attachment A*:* 2010 Service Area Map
Attachment B: Proposed Joint City-County Land Use Study
Attachment C: Proposed 28E agreement
Attachment D: Service Area Matrix

Prepared by: Christopher Gibbons, AICP, Planning Manager, Council Bluffs Community Development Dept.