In the last couple of weeks there have been more than a few questions about a proposed amendment to the City of Evansville's smart growth comprehensive plan.

Extraterritorial Plat Review

By state statute, if a city or village adopts a subdivision ordinance or an official map, then the city or village also has extraterritorial powers to review subdivision applications beyond its corporate limits. This extraterritorial power is automatic.

The purpose of extraterritorial plat approval jurisdiction is to help cities and villages influence the development pattern of areas outside the city/village boundaries that will probably be annexed to the city/village. In addition, it helps a city/village protect land use near its boundaries from conflicting uses outside the city/village limits.

Within the extraterritorial plat approval jurisdiction of a city/village, plat approval is exercised by the town board, the county planning agency, and the city council. If there is a conflict in the requirements of the various ordinances, the proposed subdivision must comply with the most restrictive requirements, typically those of the city/village.

The City of Evansville (like most other cities and villages) has an extraterritorial jurisdiction encompassing all properties within one and a half miles of the city limits.

Smart Growth Plan

In 1999, the Comprehensive Planning Law was adopted in Wisconsin. The law was developed to provide a framework for planning throughout the state. Up until that time, some communities were planning, but many more made land use decisions without a long-range plan in place. And the plans that did exist varied greatly in format, content, and ultimate use in the decision making process from community to community.

In June 2005, the City of Evansville adopted its smart growth comprehensive plan. The plan included a couple future land use maps to designate specific areas to be developed in accordance with the requirements of local regulations. In developing its future land use maps, the city considered current land use and development patterns and future extension of infrastructure (water and sewer utilities and streets).

By allowing development to occur in these areas, many of the city's smart growth goals can be attained. For example, the character of the community would be preserved, with minimal interference with agricultural production, and avoiding negative impacts from mixing nonresidential and residential development.

The state statutes regarding amendments to the adopted smart growth plan also prescribed a rigorous process for amendments. This process includes public notices and hearings at the plan commission and city council.

In 2010, at around the same time that the city was conducting a periodic five-year review of its smart growth plan, state law changed regarding extraterritorial plat review. Under the changed law, a property's land use could no longer be the only factor in a decision regarding an extraterritorial plat. The city would be required to take into account particular needs for future orderly development of the area, including factors such as traffic flow, public utilities, and safety.

Future Growth Area

The changed law became a major emphasis on the city's review and update of its smart growth comprehensive plan. Over a number of months, city staff considered the state's official estimates for future population growth, transportation issues, and potential water and sewer extensions. The factors were discussed with the city's plan commission and reported to the public works and water and light committees.

Among the results is a recommended update to the city's future land use map to make it reflect a reasonable area for growth over the next twenty years. This area is contiguous to the city and includes realistic extensions of the city's water and sewer utilities. Extension of the utilities will enable cost effective development and provision of city services. The proposed future growth area is actually much smaller than the current extraterritorial plat approval jurisdiction.

The city has a relatively limited area in the directions in which growth can occur. Wetlands, hydric soils, Allen Creek and a tributary drainage ditch, and over 500 acres of Wisconsin Department of Natural Resources permanent conservancy area limit potential growth to the northwest, west, and south of Evansville.

Northward expansion is generally defined by a prominent ridge north of the city. The highlands northeast of the city are a suitable area for residential expansion. Portions of this area have already been platted with unsewered subdivisions. This causes a difficult situation with the future growth area, but it should not serve as an excuse to continue making the situation more difficult.

As new development occurs, new subdivisions in this area should be brought into the city and served by municipal utilities. The cost of extending utilities to new subdivisions should continue (as has been past practice) to be the responsibility of individual developers as new lands are platted.

As for the already developed rural subdivisions in the area, this really is a long-term situation. It may be difficult to predict the actual timing or details such as impact fees or assessment district, but it is reasonable to point to existing development along Walker Street and Fair Street over the last couple decades. In these locations, the city has annexed individual properties into the city, allowing them to connect to city sewer service (and water) when their private septic systems failed. This has occurred when necessary and appropriate for the individual properties.

A quick note on annexation since it can be a very loaded term: since December 1987, the City of Evansville has had forty-one actions to change its corporate boundary. In all but one case, every action has been the result of "petition for Unanimous Direct Annexation…signed by all of the property owners in the territory to be annexed and signed by all of the electors residing in the territory to be annexed." The property owners may have needed utility service and had few options, but the city's history has been to annex property when the owner was ready – hardly a land grab by the city.

The exception: in 2007, the city council approved a detachment to remove property from the city and include it within the town's jurisdiction to match a change in private property lines.

The actual phasing or sequencing of development within the proposed future growth area will depend on market factors, availability of infrastructure, and the timing of development proposals by land owners. Additionally, other development would be permitted on an interim basis: allowing no more than five lots with minimum lot sizes of ten acres or with each lot having at least two-hundred feet of frontage on an existing public road. This low density would enable relatively easy future extension of utilities and streets when a more urban development pattern is warranted.

Boundary Agreement

There are several types of boundary agreements; the one which may hold the most long-term promise for Evansville and Union is the boundary agreement by cooperative plan. The purpose of this type of agreement is "guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the plan." It cuts through and eliminates the extraterritorial plat review process.

Its major advantage is that it allows planned, orderly development. Any boundary changes not specifically designated in the agreement are prohibited. Procedurally, state law requires the agreement to be consistent with the comprehensive plans of both the city and town and a public hearing is required. The agreement may (and typically does) include other topics such as services, infrastructure, revenue sharing, town islands, etc.

Its main disadvantage is that it may be complicated – requiring engineering, fiscal, and legal input. Being a contract, any future amendments would require agreement by both the city and town.

Also of note, under state statute, a town (or city) may petition for mediation of such a boundary agreement if a city (or town) refuses to negotiate one.

Coincidentally, last week the Rock County planning department hosted a workshop an attorney and representatives from the Wisconsin Department of Administration speaking on boundary agreements. Both Evansville and Union had several officials in attendance.

A boundary agreement does have a legal process and statutory requirements. It has to be consistent with city and town comprehensive plans. But one of the state representatives recommended a focus on the agreement with a perspective on local needs, then packaging it to fit the statutory requirements. They also said the Department of Administration prefers to act more as a resource than a regulator for boundary agreements.

An observation during the workshop was that this is a good time to talk. The development pressures are much less now than they were five or ten years ago; it should be less heated and of less immediacy. With less pressure, we should be able to take off our city and town hats and discuss the long-term as rational people. There is a legitimate need for a reasonable expectation of growth. And there is a legitimate need for a reasonable expectation of controlling one's own future. There can be a balance between reasonable growth and relatively permanent boundaries.

The presentation itself was helpful, and a brief conversation among Evansville and Union officials afterwards was hopeful.