



## **MEMORANDUM**

### **2010 Comprehensive Plan**

### **Monroe County, Indiana**

**January 27, 2011**

The Bloomington Board of Realtors® (the “Board”), with the assistance of The National Association of Realtors® (“NAR”), requested review and comment on the Monroe County, Indiana 2010 Comprehensive Plan (the “Plan”). NAR responded by engaging Robinson & Cole, a nationally qualified land use consulting firm, who provided a thorough analysis and summary for use by the BBOR. From this report, the BBOR offers the following summary of issues and recommendations for use by County Officials engaged in developing the proposed comprehensive plan.

### **EXECUTIVE SUMMARY**

In the background section of this memorandum, we provide a brief overview of comprehensive planning in Indiana and describe the organization of the Plan, by chapter. We then begin our analysis by noting that the Plan is primarily focused on private development, with comparatively little attention paid to planning for public investment in infrastructure and public lands and buildings, and that this imbalance is a shortcoming that prevents the Plan from offering a comprehensive positive vision for the County. We note that the Plan may be a precursor to a County adequate public facilities ordinance and possibly also an impact fee program – both of which can tend to increase housing costs and slow growth. We observe that the Plan fails to adequately address some of the factors that are likely to have important implications for the County’s future growth and development. We comment that the Plan offers very specific directives concerning residential development in Rural areas, at a level of detail that is not generally appropriate for a comprehensive plan and is more suited for a zoning ordinance. We raise concerns about the County’s proposal to impose level of service standards for off-site traffic impacts on new residential developments. The final three issues discussed collectively address various shortcomings in the data and analysis presented in the Plan and in the drafting of the Plan.

### **BACKGROUND**

#### **COMPREHENSIVE PLANNING IN INDIANA**

Comprehensive planning in Indiana is permitted by Series 500 (Comprehensive Planning) of Title 36-7-4 of the Indiana Code.<sup>i</sup> A community in Indiana must adopt a comprehensive plan before it may adopt a zoning ordinance.<sup>ii</sup> Comprehensive plans may be implemented at the county or municipal level, as long as the plan is “for the promotion of public health, safety, morals, convenience, order, or the general

welfare and for the sake of efficiency and economy in the process of development.”<sup>iii</sup> A comprehensive plan must include at least the following three elements:

- (1) A statement of objectives for the future development of the jurisdiction.
- (2) A statement of policy for the land use development of the jurisdiction.
- (3) A statement of policy for the development of public ways, public places, public lands, public structures, and public utilities.<sup>iv</sup>

## **ANALYSIS OF THE 2010 MONROE COUNTY COMPREHENSIVE PLAN**

**Issue: The overwhelming focus of the Plan is on controlling private development, and as a result, the Plan does not do a good job of providing a positive comprehensive vision for the future growth of the County.**

Section 36-7-4-502 of the Indiana State Code states that a comprehensive plan must include: (1) A statement of objectives for the future development of the jurisdiction; (2) A statement of policy for the land use development of the jurisdiction; and (3) A statement of policy for the development of public ways, public places, public lands, public structures, and public utilities.<sup>v</sup> In addition, Section 36-7-4-503 provides that a comprehensive plan “may include” other elements and reports listed in that section, including:

- . . .
- (4) A short and long range development program of public works projects for the purpose of stabilizing industry and employment and for the purpose of eliminating unplanned, unsightly, untimely, and extravagant projects.
  - (5) A short and long range capital improvements program of governmental expenditures so that the development policies established in the comprehensive plan can be carried out and kept up-to-date for all separate taxing districts within the jurisdiction to assure efficient and economic use of public funds.
  - (6) A short and long range plan for the location, general design, and assignment of priority for construction of thoroughfares in the jurisdiction for the purpose of providing a system of major public ways that allows effective vehicular movement, encourages effective use of land, and makes economic use of public funds.

Moreover, from the standpoint of good planning practice, comprehensive plans should be adopted only after planning staff have identified broadly-based community concerns.<sup>vi</sup> In an apparent acknowledgment of this principle, and presumably to satisfy the statutory requirements for plan contents, the Plan identifies five distinct community goals: Economic Development; Residential Development; Transportation, Infrastructure and Public Services; Environmental Conservation and Natural Resources; and Intergovernmental Cooperation.

Despite this broad range of goals, however, the Plan is most heavily focused on addressing residential development and its potential impacts on public facilities and the environment. In particular, the Plan provides an extremely detailed discussion of how the County should control subdivision in Rural areas. In contrast, it devotes surprisingly little attention to, and provides little detail about, planning for the

development or maintenance of publicly owned property and publicly provided utilities, roads, public transportation, or emergency services.

Indeed, the Plan seems to have been updated with a singular emphasis on curtailing residential development in Rural areas. In the Plan, at Part 2.2, “Necessity for Revision,” it states that since 1996 when the County’s comprehensive plan was last revised, the County has experienced minimal growth but a substantial conversion of agricultural land for rural subdivisions. The County explains that the revised Plan “responds to imbalances that have occurred over the years since the current plan’s adoption” in light of this development pattern.<sup>vii</sup> As a result, the Plan is more focused on reacting to recent land use patterns and devising ways to curtail them, than it is on providing, in any meaningful way, a positive and comprehensive vision for the future development of the County.

The imbalance between the Plan’s emphasis on controlling private development, and the little attention it pays to planning for future public investment in public lands, infrastructure improvements, and services, is cause for concern. Although limited in detail, Section 500 of the Indiana Code reflects a policy judgment that comprehensive planning is an important undertaking for local jurisdictions. More specifically, in specifying the elements that must be addressed in a comprehensive plan, the statute appears to place planning for public property and public infrastructure on an equal footing with planning for private land use and development. In the Plan, however, the County does not address public places, public lands, or public structures to any significant extent or in any detail. It also gives relatively little attention to the role that the provision of public lands and new public infrastructure can play in encouraging and guiding future growth and development.

**Recommendation:** BBOR notes that the Plan gives insufficient attention to providing a positive comprehensive vision for the County and its future, and instead focuses principally on reacting to perceived negative consequences of growth and residential development. BBOR is concerned with how little attention the Plan gives to planning for future County investments in public lands and public infrastructure. A coherent vision for the future development of the County must account for and include planning to address existing deficiencies in, and needed and anticipated improvements to, road and transportation systems, public utilities, and other public infrastructure that will serve existing and future County residents during the period covered by the Plan.

**Issue:** **The Plan appears to lay the framework for the implementation of costly and burdensome regulations, such as an adequate public facilities ordinance and an impact fee program, that tend to slow growth and increase housing costs.**

Because the 2010 Plan places such a strong emphasis on ensuring that future development does not place a strain on government resources, it appears that the County intends for the Plan to provide the basis for the adoption of regulatory programs intended to shift the cost burden of public infrastructure to private developers. Most notably, the Plan indicates that the County may consider the adoption of an adequate public facilities ordinance, also known as a “concurrency” requirement. This type of ordinance ties development approvals to the availability of adequate public infrastructure — if existing public facilities do not have sufficient capacity to serve a proposed development, the proposal may be denied. This encourages developers to delay development until the facilities become available. In many cases, however, the ultimate solution is for the developer to pay for or provide the needed public facility improvements as a way to accelerate their availability.<sup>viii</sup> Adequate public facility ordinances can be

used as no-growth measures when the “adequate” level of service is set at or above current levels. Developers of projects may be forced to pay for new infrastructure, increasing hard development costs.<sup>ix</sup> If the ordinance acts as a stop growth measure, the County may have difficulty ensuring that there is an adequate stock of affordable housing available for current and prospective residents.

The concerns the Plan expresses regarding the impact of future development on infrastructure costs are concerns that jurisdictions also frequently address by the adoption of impact fees. An impact fee is “a form of exaction that is assessed by local government upon new development in order to cover the capital cost of primarily off-site infrastructure (capital facilities) necessary to serve the new development.”<sup>x</sup> Indeed, the Plan’s “objectives” section in part 6.3 for transportation infrastructure & public services states that the County will “[e]stablish a mechanism for valuing both the direct cost of development to the developer and the direct and indirect cost of development to the property owners in the vicinity.”<sup>xi</sup> Such a study could be useful in any future effort by the County to justify the imposition of impact fees, and including this as an objective of the Plan suggests that the Planning Commission may very well view the Plan as the first step on a path to instituting an impact fee ordinance for the County.

In Indiana, it appears that a governmental body is authorized to adopt an impact fee ordinance only after it has an adopted comprehensive plan.<sup>xii</sup> Studies in Illinois,<sup>xiii</sup> California,<sup>xiv</sup> Texas,<sup>xv</sup> and Colorado,<sup>xvi</sup> among others, have documented that impact fees result in more costly housing. Developers will typically pass increased development costs on to purchasers if market conditions allow. To the extent that the market will not allow developers to pass along the full cost of impact fees, they may turn their efforts to higher priced housing products, where profit margins per unit tend to be higher. It is possible, especially in a depressed market, that when fees are set at a high level, developments with more affordable housing will not be built, although more expensive housing may still be profitable.<sup>xvii</sup>

**Recommendations:** BBOR asks the County whether it expects to adopt an adequate public facilities ordinance or impact fee program or perhaps both. If the County is seriously considering these regulatory tools, BBOR cautions the County Commissioners of the potential negative consequences that such programs often have for housing affordability and the willingness and ability of developers to provide new housing at all price ranges.

**Issue: The Plan does not address many of the existing and future factors that will shape land use in the County.**

In the Plan’s mission statement, the County observes that a comprehensive plan must be “based on a factual understanding of the forces and trends shaping the community.” The emphasis on private development, however, has resulted in a plan with an inadequate integration of planning elements. Comprehensive plans should be internally consistent and each element should be based on common assumptions. For example, “the analysis of transportation needs in the transportation element ought to be derived from the assumptions about development patterns in the land-use element” and vice versa.<sup>xviii</sup> Two conditions of the County’s existing transportation system, which are discussed in Chapter 4 of the Plan but not mentioned again, exemplify the Plan’s lack of internal consistency.

Part 4.3.1 of the Plan briefly discusses the expansion of Interstate 69 through the southwestern part of the County. Existing State Road 37 was identified as a future corridor for the proposed extension of

Interstate 69. The Plan states that uses in this area are “currently agricultural and low density residential with little, if any, commercial or industrial uses.” The Plan does not, however, discuss how the addition or expansion of a state highway through rural lands will influence future land use, housing, or public infrastructure needs. The land use polices detailed throughout the rest of the Plan make no mention of the prospective highway development and its potential impact on surrounding property values and development patterns. The addition of a highway interchange will presumably change the economics and feasibility of land development near by. The expansion of State Road 37 will presumably have impacts on the existing townships of Harrodsburg and Smithville/Sanders. The Plan fails to observe, let alone analyze, this correlation. Similarly, beyond the description in Chapter 4, the Plan does not address the planned expansions of the Monroe County Airport. Expansion of a transportation hub typically impacts surrounding land-use patterns. The Plan does not address how the expansion may affect land use patterns other than to mention, without elaboration, that the Airport has identified a “Noise Sensitive Area” where further residential development is discouraged.<sup>xi</sup>

Additionally, the Plan pays little attention to how the Indiana University (“IU”) and Ivy Tech populations influence land use patterns in the County’s planning jurisdiction. University students often live inside the city limits of Bloomington, however, the IU’s housing services website notes that that some students live outside of the city limits and are Monroe County residents, subject to County programs and regulations.<sup>xx</sup> According to the Plan, 42,347 students were enrolled for the 2009 Fall Semester at IU.<sup>xxi</sup> Also, Ivy Tech’s main campus in Bloomington has a population of 4,700 students,<sup>xxii</sup> and IU sporting events draw “tens of thousands of fans.”<sup>xxiii</sup> The Plan does not discuss how the student population impacts County housing demand or factors into the Plan’s proposed polices and plans for ensuring the availability of housing that is affordable to people with limited means. Similarly, the Plan does not discuss the impact that “tens of thousands” of fans traveling to sporting events may have on the County’s transportation network.

**Recommendation:** BBOR notes that the Plan falls short as a comprehensive plan to guide the County’s future development, because it gives insufficient attention to known factors beyond the County’s immediate control, like the planned extension of an interstate highway and the housing and other demands of a growing student population, that have the potential to significantly influence future demand in the County for development of various types. We ask the County to revisit the plan to analyze these factors and address the impact they will have on the County’s future development patterns, policies and plans, and its infrastructure and services.

**Issue:** **The Plan states that it is for guidance purposes only; however, the Plan provides a very high level of specificity and appears to mandate specific land-use policies.**

A basic principle of comprehensive planning in most jurisdictions is that “a comprehensive or master plan is generally the planning commission’s recommendation of the most desirable use of land and is advisory only and not binding.”<sup>xxiv</sup> This principle is true in Indiana, and as one court recently stated, “[t]he comprehensive plan is an important ground, but not the sole ground, on which the Indiana Code says [zoning] decisions should be made. . . . A comprehensive plan is a community’s long-range vision for physical development, but implementing the plan as regards a given piece of real estate may not be the best course of action for the community on a given day.”<sup>xxv</sup>

In the introduction to the Plan, the County appears to recognize that comprehensive plans should be neither binding nor overly specific: “A Plan *does not provide the details* sufficient for a property owner or resident to determine the manner in which the resulting ordinance will impact their particular circumstance.”<sup>xxvi</sup> Nonetheless, in certain respects the Plan uses directive language to make specific pronouncements about how future development will be addressed by county regulators. For example, section 9.2.1 of the plan states that subdivision of Rural property for non-residential use will require that a conservation easement be imposed to “reserve the rural setting and use.” It goes on to say that “[t]hese constraints *shall* prohibit employment uses that are not associated with agriculture, mineral extraction, or tourism and *shall* limit intensity of use to the current use intensity designation.” In other words, rather than providing guidance on preferred uses for Rural property that can be adapted to address changing circumstances (such as the proposed interstate highway extension and interchange, for example) and market and other forces; the Plan purports to direct the County in the future to maintain the development density and other restrictions that currently apply to a parcel of Rural property. It also purports to require that a Rural property owner grant a conservation easement formally binding the parcel land to those restrictions and limiting the use to agricultural, mineral extraction and tourism uses, before the owner of Rural property that is suitable for non-residential use can divide a parcel for that purpose. The purpose of requiring the owner to grant a conservation easement is, presumably, to better ensure that a future County Plan Commission or County Board will not be able to alter the uses and development densities permitted on that parcel, or at least will find it much more difficult to do so.

Likewise, in section 9.2.2 which addresses residential subdivision of Rural property, the County states that “subdivision of rural property *shall* be regulated by three different approaches.” The section goes on to describe the three approaches as “traditional regulatory,” “the large parcel rule,” and “density-based approach,” and to elaborate in great detail on how each will be implemented. These approaches are intended to apply to “all rural property in the Farm and Forest, and the Rural Residential Property Use Areas as designated on the Monroe County Property Use Map.”<sup>xxvii</sup>

The Plan not only describes the three approaches, but it also includes a Rural Property Land Use Table (“Use Table”) in its Annex. The Use Table is supposed to distinguish property by “alignment with survey quarter section boundaries and their average parcel size within the survey section or quarter section in which they are situated.”<sup>xxviii</sup> The Use Table contains difficult to follow calculations and appears to list property by a Township section and number code. The Use Table, like many other elements of the Plan, is introduced without any context, contains a high level of detail, and is extremely difficult to follow.

An unfortunate irony of the County’s approach is that it mandates future restrictions on the development of individual parcels in quite specific ways and with great detail, and yet individual property owners will find it difficult to know exactly how the Plan will ultimately affect their property. Even though the Plan sets forth the rules that “shall” govern the creation of residential subdivisions, actually determining the subdivision potential for a particular parcel requires an understanding of the nuances of all three complicated regulatory approaches, knowledge of what quarter section and Township the parcel is located in and the use of that information in connection with the Use Table, and the ability to figure out what “context section” creates the “Area of Concern” for the parcel to be subdivided.<sup>xxix</sup> Even though it does address the creation of new parcels through subdivision with a level of detail more appropriate for a zoning ordinance, the County nonetheless virtually ensures that the Plan “does not provide the details sufficient for a property owner or resident to determine the manner in which the resulting ordinance will

impact their particular circumstance.” This is because the regulatory approaches as described in the Plan create a complexity that most property owners would presumably find challenging.

**Recommendation:** BBOR, as well as the Greater Bloomington Chamber of Commerce, and the BEDC have already noted that the Plan announces specific policies at a level of detail and with language that is more appropriate for a zoning ordinance than for a comprehensive plan. We continue to stress this concern and point out the internal inconsistency between the Plan’s own introductory language advising the reader that a Plan is not intended to provide specific regulatory detail, and the complex and detailed requirements announced in Chapter 9 for the creation of new parcels through subdivision.

**Issue: The Plan proposes to make the approval of new subdivisions contingent on maintaining the traffic LOS standards that were in place at the time of Plan adoption.**

Level of service (“LOS”) for roads is frequently described by transportation planners on a letter-based scale with each letter representing performance characteristics ranging from free flowing conditions (LOS A) to heavy congestion with delays and low speed travel (LOS F). At several points in the Plan, the County states that new subdivisions should not cause a road’s LOS to become lower (more congested) than it is at the time of Plan adoption.<sup>xxx</sup> This limitation would not apply to congestion on state or interstate highways or local arterials, but would apply within the local road network feeding those larger roads.

This proposed approach raises multiple issues. First, it would likely result in the denial of development proposals in the future. The only developments that could be approved under that approach would be those that would not trigger a decline in the benchmark LOS on surrounding roads. As a practical matter, this is the equivalent of an “adequate public facilities” test for roads. Depending on how receptive the County will be to allowing developers to provide off-site road capacity improvements in order to address LOS concerns, this approach may cause developers to incur the cost of paying for traffic mitigation projects. Alternatively, it may slow the rate of development if the County refuses to fund and schedule the necessary road improvement projects itself and also if it is not receptive to offers by private developers and property owners to pay for and construct such improvements in a timely way.

Second, it seemingly does not account for the potential effect of increased traffic for reasons other than the cumulative effect of new development. Changing traffic patterns or increased usage of local roads by pass-through traffic may reduce LOS on some roads independently of new development.

Third, it would seem to impose an undue burden on the first developer who “tips the balance” and causes a decline in a road’s LOS to a lower classification, even if adjacent development has also contributed to the overall decline. There is no doubt that capacity enhancing projects such as providing a traffic signal or adding a lane or modifying the configuration of an intersection may in fact provide more capacity than the immediate need, and thereby benefit future development as well.

Fourth, there is no indication that the County has or is even proposing specific LOS classification standards for local feeder roads. At one point in the Plan the County makes a vague reference to “higher than desirable levels of traffic” on some rural roadways, but does not specify what standards the County uses to determine whether traffic is “higher than desirable.”<sup>xxxix</sup> The County should adopt reasonable LOS standards for its roadways and have a plan for undertaking and paying for the improvements

needed to attain those standards on currently deficient road segments, before it implements a requirement that further development not cause a decline in existing LOS.

Fifth, the Plan accepts existing conditions as they are and focuses on preventing further declines in LOS classification for any given road segment, whatever the existing LOS may be. This means that the developer of similar projects at two different locations may be treated quite differently based solely on the pre-existing LOS characteristics of the roads surrounding the location, and not on the extent of the traffic burden created by the project itself. The project that “tips the balance” from LOS A to LOS B will run afoul of the proposed standard and will be denied (or required to provide traffic mitigation) while the project that maintains an existing LOS D can be approved without a mitigation requirement. Yet the local road network in the first instance is clearly more capable of accommodating an increase in traffic than the one that is already at LOS D. If a road currently operates at LOS A (no congestion) a slight increase that results in the road operating at LOS B for some part of the day may not be very objectionable from a planning standpoint, and the investment in improvements needed to restore LOS A may not be worth it, particularly if evaluated on a cost-benefit basis without regard to where the money comes from.

Finally, although the Plan provides an extensive discussion of County demographics and other existing conditions, the Plan does not adequately describe the state of the County’s road network. One of the few transportation statistics provided in the Plan is this: between 1994 and 1999, the Monroe County Highway Department tracked a 15.3% increase in daily vehicle miles traveled.<sup>xxxii</sup> This statistical tidbit is offered with little context or background. Was the increase focused more heavily in a certain part of the County or on particular roads? Has the County kept up with capacity improvements where needed to accommodate the increased traffic? To what extent was the increase the result of more vehicle trips and to what extent did it reflect an increase in the average length of a trip? Did the County determine how much of that increase related to pass through trips rather than trips that originated or terminated within the County?

An adequate public facilities program may provide the County with a vehicle for addressing traffic level of service issues. Such a program would be difficult to implement properly, however, until there has at least been a thorough study of existing conditions to lay the foundation for LOS standards and the consideration of planning policies. In addition, such programs implicate more general concerns about effects on housing costs and the timing of development, as discussed earlier in this memo.

***Recommendation:*** BBOR points out these concerns with the proposal to limit development by referencing a baseline of existing LOS at the time of plan adoption. We urge the County to develop and apply reasonable and objective standards for LOS on roadways of various types and to undertake a County program to bring roads with pre-existing capacity constraints up to those standards.

**Issue:** **Some of the information that appears in the Plan is unattributed, based on unexplained analysis or assumptions, or presented in a misleading or inconsistent fashion.**

There are several examples of figures or graphs included in the Plan that do not appear to be supported by data, are included without explanation or context, or appear to misconstrue or misinterpret data. Most notably, the graphs depicting population growth and projected growth (Figures 1 and 21) provide a skewed view of future population growth because the horizontal axis, representing time, uses an

inconsistent scale. Years 1900 through 2000 are graphed at twenty year increments. Then, years 2000 through 2008 are graphed at two year increments. The period of projected growth (2020 to 2040) again uses a twenty year increment. This inconsistency creates a graph that does not accurately represent population growth. As drawn, it looks as if population grew quickly between 1900 and 2000 and then leveled out to a much slower rate of growth over the past decade. The graph visually suggests a more rapidly- growing future population, although fairly slow growth is actually projected. Moreover, the Plan leaves unclear whether the population projections were created by the County Planning Department using “STATs Indiana” data or taken directly from a STATs Indiana publication. Manipulated data and misleading analysis is sometimes employed to induce greater support for a favored policy or program. It is not clear that this is the reason for the unusual presentation and ambiguous attribution of the population growth data, but it leaves the Plan somewhat open to suspicion in that regard.

Other figures may also leave a thoughtful reader of the Plan with unanswered questions. For instance, how was Figure 14, the Flood Prone Road map created? What qualifies a road as flood prone? The process used to identify such roads and the standards applied to their evaluation are not included or explained. Similarly, what data was used for Figure 16, Vacant Land Characterized by Slope, and how was it analyzed to create the map?

Ideally, all of the data contained in a Plan should be attributed to its source, and the methods of analysis used to present it should be identified and, where appropriate, explained so that the public can better understand and critically evaluate the Plan’s conclusions and recommendations. Comprehensive plans should be produced with public input to present a collective vision for a community’s future that is credible and has public support. Data that is unattributed and analysis that is conclusory or unclear or presented in a misleading way undermines the credibility of a plan and calls into question the validity of its conclusions and the soundness of its recommendations.

***Recommendation:*** BBOR respectfully points to these and other examples where the Plan presents information in a conclusory, unattributed, unexplained or misleading fashion. We ask the County Commissioners to call on the Planning Commission to revise the Plan to address these concerns throughout the Plan and to return with a document in which all data sources are attributed, all assumptions are stated clearly, all analysis is explained, and all figures and graphs are straightforward presentations of meaningful information that forms the basis for Plan goals and objectives or bears on recommendations for strategies and actions.

**Issue: The Plan includes repetitive information and states similar policies and objectives in a variety of ways, resulting in a document that is difficult to follow.**

In his influential “Guidelines for Preparing Urban Plans,” Larz Anderson observes that “[s]ome lengthy plans are incomprehensible when considered as an entity. . . . When this is the case, it is very difficult to grasp ‘the big picture’ of what is planned.”<sup>xxxiii</sup> This is true for the Monroe County Plan. Someone reading it in its entirety may have difficulty understanding the County’s overall vision and its expectations for future growth. Some of the reasons for this shortcoming are: the high-level of specificity the Plan applies to some topics (particularly Rural subdivision); the repetitious and inconsistent information presented in some plan chapters, and the lack of clear connections between the Plan’s lengthy and often scattershot description of existing conditions and the analysis and

recommendations in the other elements of the Plan. These shortcomings are compounded by the issues discussed previously and by drafting issues discussed below.

Chapter 3, “Visions” describes five broad goals. Chapter 5 provides planning policies and assumptions. Chapter 6 “defines the goals” with strategies, objectives, and actions. Chapter 7 provides “guiding principles and frameworks.” Chapter 8 details property use policies. It is unclear what distinctions the County thinks it is making by its use of the terms “visions” “goals” “guiding principles” and “frameworks.” It is unclear how these categories relate to one another within the construct of the Plan. Some of the visions, goals, frameworks and principles presented in the Plan are redundant, while others are inconsistently or inadequately tied to one another. For instance, the “Vision” for economic development in part 3.1 of the Plan states that the County will provide constraint-free property for the development of business, focusing growth on “underdeveloped or brownfield properties, or properties in targeted business corridors.” In the section of Chapter 6 addressing goals, strategies, objective, and actions regarding economic development, however, the Plan does not once mention development on brownfields or “targeted business corridors.”

Generally, chapters 7, 8 and 9 contain overlapping land descriptions and characterizations. The interrelationship between the guiding “framework” discussed in chapter 7, the “use policies” discussed in 8, and the subdivision scheme laid out in chapter 9 is very difficult to follow. Chapter 7 characterizes land in terms of whether it is urban or rural and “vulnerable” or “resilient.” Chapter 8 frames Plan policies in terms of “resilient” or “vulnerable” land, while Chapter 9 frames additional Plan policies in terms of Urban or Rural property. This oscillating approach is confounding to a reader of the Plan and obscures any positive or nuanced vision that the Plan may have for the County. The message that comes through most clearly is that the County fears growth and will make it more difficult and costly to subdivide and develop Rural property.

***Recommendation:*** Based on these concerns, BBOR urges the County to revise the Plan. Before it is taken up for further consideration by the County Commissioners, the Plan should be better organized, internally consistent, without unnecessary redundancy and irrelevant information, clearly written so that a typical County resident can read it and understand its implications, and present a clear and detailed positive vision for where and how the County can best accommodate future growth and development in light of policy goals that fairly reflect the consensus views of its residents.

**Issue:** **There are other indications that the Plan may not have received adequate review and therefore should not be adopted in its current form.**

We understand that the Plan has been approved by the Planning Commission, which has forwarded it to the County Board for adoption. Presumably, therefore, the Plan is a final draft and that reflects an adequate level of review and careful editing. A reader of the Plan, however, may fairly question those assumptions. The Plan contains unexplained inconsistencies in the population data it uses to project future housing demand among other flaws that help to undermine the credibility of its substance because they suggest a hurried or inadequately considered work. It also includes a glossary that uses terms not found in the Plan itself and omits terms that are used in the Plan but inadequately explained.

**Use of Inconsistent Data.** The Plan is internally inconsistent in its presentation of baseline population. On page 4, the Plan references a **2008** County population of 127,655. The source of that 2008

population estimate is not stated. It then uses that estimate multiplied by 2008 average household size to impute the estimated number of new housing units needed to serve an estimated 2040 population that the Plan states will “approach” 141,893 according to the Indiana Business Research Center (“IBRC”).

Figure 1 on the same page uses a different 2008 population estimate of 128,992 which it attributes to STATSIndiana and describes as reflecting “Census data.” There is no explanation as to why this figure is used as the 2008 population in Figure 1 in lieu of the 2008 estimate stated in the text on the same page. Conversely, the Plan also does not explain why the higher population figure was not the one used to estimate future housing needs. There is also no explanation of why future housing needs are calculated using a projection based on current household size rather than on a more refined analysis that takes into account expected changes in household size over time based on factors such as the estimated population in various age cohorts.

On page 34, the Plan references a **2009** Census estimate for the County of 130,738 residents. Depending on which of the two 2008 estimates is used, the implication of this figure is that the County increased in population from 2008 to 2009 at an annual rate of either 2.41% (if 127,655 is used as the baseline) or 1.35% if the 128,992 figure is used. In either case, it is difficult to understand how such growth correlates to the Plan’s projection of future growth. The difference between the Plan’s projected 2040 population of 141,893 and the 2009 estimate of 130,738 equates to only 8.5% growth in total over a 31 year period or an annual growth rate of only about 0.25% (i.e. one-quarter of one percent). The Plan does not attempt to explain the discrepancy or provide any basis for crediting the assumption that the population will grow only 8.5% over the next 31 years in a County that has seen steady growth of 16.4%, 10.3% and 10.6% per decade during the 1970’s, 1980’s and 1990’s, and that appears to have sustained similar growth during the past decade. To the extent that the County’s future population estimates are too low, perhaps significantly so, there will be obvious implications for future housing demand and other forms of development and the County’s future infrastructure needs. The Plan simply fails to address these issues at all.

**Inadequate Glossary.** The Glossary section in the Annex of the Plan does not appear particularly relevant to the Plan as a whole. For instance, terms such as Wildlife Corridor, Flood Fringe, Focused Development Pattern, and Leadership in Energy and Environmental Design are included in the Glossary but are not discussed in the Plan. Conversely, the Plan lacks concise definitions for some crucial terms. For instance, the “four residential density qualifiers,” (Target Average Parcel Size, Parent Parcel Percent, Area of Concern, and Existing Parcels) used throughout chapter 9, are discussed at length, but never defined in a concise way. Without clear definitions for these terms, the density-based approach for rural subdivision is very difficult to understand and apply.

**Recommendation:** BBOR wishes to bring these concerns to the attention of the County Commissioners and Residents.

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- <sup>i</sup> The Indiana Chapter of the American Planning Association, *Indiana Citizen Planner's Guide*, Ch.7, p. 3 (hereinafter "INAPA"), available at <http://www.indianaplanning.org/displaycommon.cfm?an=1&subarticlenbr=7>.
- <sup>ii</sup> *Id.* at Ch.1, p. 1.
- <sup>iii</sup> IC 36-7-4-501 (West 2011).
- <sup>iv</sup> IC 36-7-4-502 (West 2011).
- <sup>v</sup> IC 36-7-4-502 (West 2011).
- <sup>vi</sup> Larz T. Anderson, *Guidelines for Preparing Urban Plans*, at 47 (2000).
- <sup>vii</sup> Plan at 4.
- <sup>viii</sup> For further discussion of concurrency requirements, please refer to NAR's *Growth Management Fact Book* (2d ed. 2008) Section 4 (Adequate Public Facilities and Concurrency).
- <sup>ix</sup> NAR's *Growth Management Fact Book* (2d ed. 2008) Section 4 (Adequate Public Facilities and Concurrency).
- <sup>x</sup> NAR's *Growth Management Fact Book* (2d ed. 2008) Section 5 (Impact Fees).
- <sup>xi</sup> Plan at 72.
- <sup>xii</sup> Indiana DOT, *Managing Transportation and Infrastructure, Impact Fees*, p. 1, available at [http://www.in.gov/indot/div/projects/i69planningtoolbox/\\_pdf/Impact%20Fees.pdf](http://www.in.gov/indot/div/projects/i69planningtoolbox/_pdf/Impact%20Fees.pdf). See also IC 36-7-4-1312 (a) ("A unit may not adopt an impact fee ordinance under section 1311 of this series unless the unit has adopted a comprehensive plan under the 500 SERIES of this chapter for the geographic area over which the unit exercises planning and zoning jurisdiction.")
- <sup>xiii</sup> Baden, Bret M., Don L. Coursey, and Jeannine M. Kannegiesser, *Effects of Impact Fees on the Suburban Chicago Housing Market*, Heartland Institute Policy Study No. 93 (November 19, 1999).
- <sup>xiv</sup> Dresch, Maria and Steven M. Sheffrin, *Who Pays for Development Fees and Exactions?* (Public Policy Institute of America, 1997).
- <sup>xv</sup> Mark Dotzour, the National Board of Home Builders, *Fiscal Impact Studies: Does Growth Pay For Itself?*
- <sup>xvi</sup> Larry D. Singell & Jane H. Lillydahl, An Empirical Examination of the Effects of Impact Fees on the Housing Markets, 66 *Land Econ.* 82, 89 (1990).
- <sup>xvii</sup> NAR's *Growth Management Fact Book* (2d ed. 2008) 25–26 (citing American Planning Board, Local Land Development Regulation, Draft of Chapter 8 in *Growing Smart Legislative Guidebook* (APA: March 2, 2000) at 8-133).
- <sup>xviii</sup> American Planning Association, *Growing Smart Legislative Guidebook*, 2002 Edition at p. 7-63.
- <sup>xix</sup> Plan at 51.
- <sup>xx</sup> Indiana University, Living Off Campus, <http://www.indiana.edu/~uconnect/living/>.
- <sup>xxi</sup> Plan at 34.
- <sup>xxii</sup> Ivy Tech Community College, Bloomington, <http://www.ivytech.edu/about/campuses/bloomington.html>.
- <sup>xxiii</sup> Plan at 59.
- <sup>xxiv</sup> McQuillin The Law of Municipal Corporations Database updated October 2010 § 25:86. Zoning plans—Comprehensive plans.
- <sup>xxv</sup> P. Salkin, 1 *Am. Law. Zoning* § 6:6, n.20 (5th ed.) (quoting *Borsuk v. Town of St. John*, 820 N.E.2d 118 (Ind. 2005)).
- <sup>xxvi</sup> Plan at 3 (emphasis added).
- <sup>xxvii</sup> Plan at 98.
- <sup>xxviii</sup> *Id.*
- <sup>xxix</sup> *Id.* at 100.
- <sup>xxx</sup> See, e.g. Plan at 72 and 88.
- <sup>xxxi</sup> Plan at 50. The "higher than desirable" comment is part of the following conclusory assertion: "[a] number of roads in the non-urban areas of the County experience higher than desirable levels of traffic due to urban-scale residential development in rural areas not planned for higher intensity residential development."
- <sup>xxxii</sup> *Id.*
- <sup>xxxiii</sup> Anderson at 17.