



Mayor
Ben White
Mayor Pro Tem
Ron Gay
City Manager
Glenn Brown

Councilmembers
John Crompton
James Massey
Lynn McIlhaney
Chris Scotti
David Ruesink

Agenda
College Station City Council
Workshop Meeting
Thursday, February 28, 2008 3:00 p.m.
City Hall Council Chambers, 1101 Texas Avenue
College Station, Texas

1. Presentation, possible action, and discussion on items listed on the consent agenda.
2. Presentation, possible action and discussion on an update of the city's Red Light Camera Program and approval of a citizen replacement for the Red Light Camera Citizen Advisory Committee.
3. Presentation, possible action, and discussion regarding trends for next year's legislative session and beginning the process of creating the City's 2009 State Legislative Action Plan.
4. Presentation, possible action, and discussion concerning the City Internal Auditor's Purchasing Card Audit Report.
5. Presentation, possible action, and discussion regarding growth management including the Comprehensive Plan, regulations in the ETJ, and infill practices.
6. Presentation, possible action, and discussion on an ordinance amending Chapter 12 of the City of College Station Code of Ordinances, Unified Development Ordinance Section 7.9.B.6 (Traffic Impact Analysis), Section 7.9.H (Submittal Requirements) and adding Section 7.12 (Traffic Impact Analysis).
7. Presentation, possible action, and discussion concerning the 2005 Bike Loop project preliminary design.
8. Council Calendar
 - February 29 CS Fire Dept Annual Employee Banquet, Pebble Creek CC 6:30 pm – 9:00 pm
 - March 5 City Council Mini Retreat, Conference Ctr., Rm 127, 8:30 am – 4:00 pm
 - March 7 Keep Brazos Beautiful Awards Gala, Hilton, 6:00 pm – 9:00 pm
 - March 13 Council Workshop and Regular Meetings, 3:00 pm and 7:00 pm
 - March 17 IGC Meeting, BVCOG office, noon – 1:30 pm
 - March 21 City offices closed, Good Friday
 - March 27 Council Workshop and Regular Meetings, 3:00 pm and 7:00 pm
 - March 31 Citizen University, Mayor/Council Council Chambers, 5:30 pm – 7:30 pm

9. Presentation, possible action, and discussion on future agenda items: A Council Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.
10. Discussion, review and possible action regarding the following meetings: Arts Council Subcommittee of the Council, Audit Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Cemetery Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Library Committee, Metropolitan Planning Organization, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate, Research Valley Partnership, Regional Transportation Committee for Council of Governments, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments (Notice of Agendas posted on City Hall bulletin board).
11. Executive Session will immediately follow the workshop meeting in the Administrative Conference Room.

Consultation with Attorney {Gov't Code Section 551.071}; possible action. The City Council may seek advice from its attorney regarding a pending and contemplated litigation subject or settlement offer or attorney-client privileged information. Litigation is an ongoing process and questions may arise as to a litigation tactic or settlement offer, which needs to be discussed with the City Council. Upon occasion the City Council may need information from its attorney as to the status of a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Application with TCEQ in Westside/Highway 60 area, near Brushy Water Supply Corporation.
- b. Civil Action No. H-04-4558, U.S. District Court, Southern District of Texas, Houston Division, *College Station v. U.S. Dept. of Agriculture, etc., and Wellborn Special Utility District.*
- c. Cause No. GN-502012, Travis County, *TMPA v. PUC* (College Station filed Intervention 7/6/05)
- d. Sewer CCN request.
- e. Legal aspects of Water Well and possible purchase of or lease of another water site.
- f. Civil Action No. H-04-3876, U.S. District Court, Southern District of Texas, Houston Division, *JK Development v. College Station.*
- g. Cause No. 06-002318-CV-272, 272nd Judicial District Court, Brazos County, Texas, *Taylor Kingsley v. City of College Station, Texas and Does 1 through 10, inclusive.*
- h. Cause No. 485-CC, County Court at Law No. 1, Brazos County, Texas, *City of College Station v. David Allen Weber, et al.*
- i. Bed & Banks Water Rights Discharge Permits for College Station and Bryan
- j. Cause No. 07-001241-CV-361, 361st Judicial District Court, Brazos County, Texas *Gregory A. & Agnes A. Ricks v. City of College Station*
- k. Water CCN request

Economic Incentive Negotiations {Gov't Code Section 551.087}; possible action

The City Council may deliberate on commercial or financial information that the City Council has received from a business prospect that the City Council seeks to have locate, stay or expand in or near the city with which the City Council in conducting economic development negotiations may deliberate on an offer of

financial or other incentives for a business prospect. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. University Town Center
- 12. Action on executive session, or any workshop agenda item not completed or discussed in today's workshop meeting will be discussed in tonight's Regular Meeting if necessary.
- 13. Adjourn.

APPROVED:

City Manager

Notice is hereby given that a Workshop Meeting of the City Council of the City of College Station, Texas will be held on the 28th day of February, 2008 at 3:00 p.m. in the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda

Posted this 25th day of February, 2008 at 3:00 pm



City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on February 25th, 2008 at 2:30 pm and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

This public notice was removed from the official board at the College Station City Hall on the following date and time: _____ by _____.

Dated this ____ day of _____, 2008.
CITY OF COLLEGE STATION, TEXAS

By _____

Subscribed and sworn to before me on this the ____ day of _____,

Notary Public – Brazos County, Texas

My commission expires: _____

This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764-

3517 or (TDD) 1-800-735-2989. Agendas may be viewed on www.cstx.gov. Council meetings are broadcast live on Cable Access Channel 19.

**February 28, 2008
Workshop Agenda 2
Red Light Camera Program Update**

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action and discussion on an update of the city's Red Light Camera Program and approval of a citizen replacement for the Red Light Camera Citizen Advisory Committee.

Recommendation(s): Staff recommends the City Council appoint the seventh member to the Red Light Enforcement Citizen Advisory Committee.

Summary: This item is placed on the Council's agenda to provide an update on the city's red light camera program, new funding distribution split, and for the council's consideration of an appointment to the Red Light Camera Citizen Advisory Committee to replace Dr. Hogg, who passed away earlier this year.

On February 7, 2008, the Governor's EMS and Trauma Advisory Council (GETAC) met in Austin, and approved a rule for the funding distribution to local area trauma centers. Based on the proportion of the unfunded trauma care, this rule splits the red light camera revenue that the City of College Station sends annually to the Comptroller's Office between the local trauma centers instead of sending 100% to the College Station Medical Center. Now that the GETAC has approved the ruling, the public hearing process will begin. Staff requests direction from the City Council regarding the City's position for or against this rule.

After speaking with Rick Moore, the College Station Medical Center's Trauma Coordinator, he commented that the final ruling to distribute the red light camera funds through the Regional Advisory Council was the best plan for all and anticipated a 60/40 split between St. Joseph's Regional Medical Center and the College Station Medical Center respectively. He indicated that some incorrect information had been given out prior to the meeting, but was able to address his concerns and straighten out the confusion at the meeting. He also mentioned that opposing the rule would delay getting the funding to the hospitals until after October 2008, and he doesn't want that to happen.

The Red Light Camera Citizen Advisory Committee is made up of individuals appointed by each City Council member and Councilman Gay appointed Dr. Hogg, who passed away earlier this year. Staff requests the approval of a new appointment to the committee.

Budget & Financial Summary: There is no financial impact at this time.

Attachments:
None

**February 28, 2008
Workshop Agenda Item 3
State Legislative Update**

To: Glenn Brown, City Manager

From: Kathy Merrill, Assistant City Manager

Agenda Caption: Presentation, possible action, and discussion regarding trends for next year's legislative session and beginning the process of creating the City's 2009 State Legislative Action Plan.

Recommendation(s): N/A

Summary: Dan Shelley was hired two years ago as the City's state legislative lobbyist.

Mr. Shelley and Mrs. Rodriguez are present today in order to update Council on expected on legislative trends for the 2009 session as well as beginning the process to prepare the City's 2009 State Legislative Action Plan.

Budget & Financial Summary: N/A

Attachments: N/A

February 28, 2008
Workshop Agenda 4
Purchasing Card Audit Report

To: Glenn Brown, City Manager

From: Ty Elliott, City Internal Auditor

Agenda Caption: Presentation, possible action, and discussion concerning the City Internal Auditor's Purchasing Card Audit Report.

Recommendation(s): Give staff direction to implement the recommendations contained in the Purchasing Card Audit Report.

Summary:

Reason for the Audit:

- The performance audit of the city's purchasing processes was included in the fiscal year 2008 audit plan based on the results of the citywide risk assessment conducted in October 2007.
- The Association of Certified Fraud Examiners estimates that over 50 percent of the reported cases of occupational frauds in the U.S. are related to the procurement process.
- City policy states that periodic purchasing card audits will be performed to ensure the continued success of the purchasing card program.
- Approximately 96 percent of all city purchases are transactions less than \$3,000, and a majority of these transactions are card purchases.
- For purchases under \$3,000, purchasing authority is delegated to the ordering department.

Background: Over the last six years the City of College Station has used purchasing cards as an alternative to the city's existing purchasing processes. In most cases, the purchasing card has replaced field purchase orders, some reimbursement requests, and other associated paperwork. An effectively administered purchasing card program offers the following benefits: (1) reduces invoicing, ordering, and processing costs; (2) enables faster delivery of goods and services; (3) decreases the need for petty cash; (4) provides staff with better purchasing flexibility (e.g. online ordering), but with built and variable control mechanisms; (5) reduces stock holding costs because goods are purchased when needed; and (6) offers automated reporting tools, which can provide (a) management information on purchases, (b) cost effective systems to monitor purchasing activity, and (c) audit trail functionality.

Scope and Methodology: For most audit tests, I reviewed transactions from October 2005 to October 2007, which comprised approximately 35,000 transactions for \$5,000,000. For some tests, however, data was not available during this period and I used fiscal year 2007 data or transactions between December 2005 and November 2007. One scope limitation was caused by the city's purchasing card vendor, JP Morgan Chase. JP Morgan Chase maintains the purchasing card management system database. Every month, JP Morgan Chase purges this database of city purchasing card data that is over two years old.

Audit Objectives: The three main objectives of the Purchasing Card Audit are as follows:

1. Are the city's processes and procedures in alignment with purchasing card best practices for a "Best in Class" government purchasing card program?

2. Are purchasing card users in compliance with city purchasing card policies and procedures?
3. Are the city's purchasing card internal controls effective?

Audit Results: Based on the results of several audit tests, the risk that employees are using purchasing cards for their sole benefit is low. In addition, the city's processes and procedures were found to be in general alignment with purchasing card best practices. Most card users are complying with purchasing card policies and procedures. Overall, the city's purchasing card internal controls are effective.

Audit Recommendations: The City Internal Auditor concluded that the purchasing card program only needs a few slight improvements, encompassed in the ten audit recommendations contained at the end of the audit report. Implementing these recommendations would strengthen internal controls to further prevent any inappropriate card misuse and help ensure the future success of the purchasing card program.

Attachments: Purchasing Card Audit Report

**February 28, 2008
Workshop Agenda 5
Growth Management**

To: Glenn Brown, City Manager

From: Bob Cowell, AICP, Director of Planning & Development Services

Agenda Caption: Presentation, possible action, and discussion regarding growth management including the Comprehensive Plan, regulations in the ETJ, and infill practices.

Recommendation(s): Staff recommends the Council direct staff to proceed in accordance with one of the options presented by staff in the presentation (proceed with current growth management proposals, proceed with amended proposal as stated in this coversheet, direct the entire discussion to CPAC with no interim actions).

Summary: This purpose of this agenda item is to provide the Council with an update on staff's recent activities in an effort to implement Council's directives regarding growth management and to seek additional direction from the Council. The presentation on this item will include recommendations on how this discussion is incorporated into the Comprehensive Plan Update, the content and timeline for proposed UDO and Subdivision Regulations amendments, citizen and stakeholder engagement, and efforts at promoting infill development within the City.

Specifically, due to our inability to develop any form of consensus on the issue, staff is proposing that the broader growth management provisions recommended by the consultant (20 acre minimum lot size, 400' street frontage, and promotion of infill) be deferred until their full consideration is evaluated by the CPAC through the development of the Comprehensive Plan Update.

In response to the recognition that the problems that prompted Council to action remain, staff is proposing that in the interim more narrowly focused regulatory adjustments be pursued including prohibition of Master Plans in the ETJ and minimum lot size of five acres for new lots in the ETJ. These would be coupled with revision of current sewer extension policies to better link the policy to the guidance provided in the Comprehensive Plan and continued efforts at improved intergovernmental processes for drainage plans and construction inspections. Staff is proposing that the regulatory adjustments identified above be incorporated into currently scheduled UDO amendment moving the Subdivision Regulations into the UDO (3/27). Staff is proposing that the non-regulatory measures identified be pursued immediately and when appropriate be scheduled for a Council meeting.

It is believed through this more measured approach; when combined with the City's current annexation efforts, immediate concerns with prolific and problematic growth in the ETJ can be curtailed, while the broader and more far-reaching discussions can be linked better with the City's overall growth and development policies.

Budget & Financial Summary: N/A

Attachments:

1. Consultant's Growth Management Report (revised version)
2. Staff Recommendation to Council on Growth Management (October 2007)

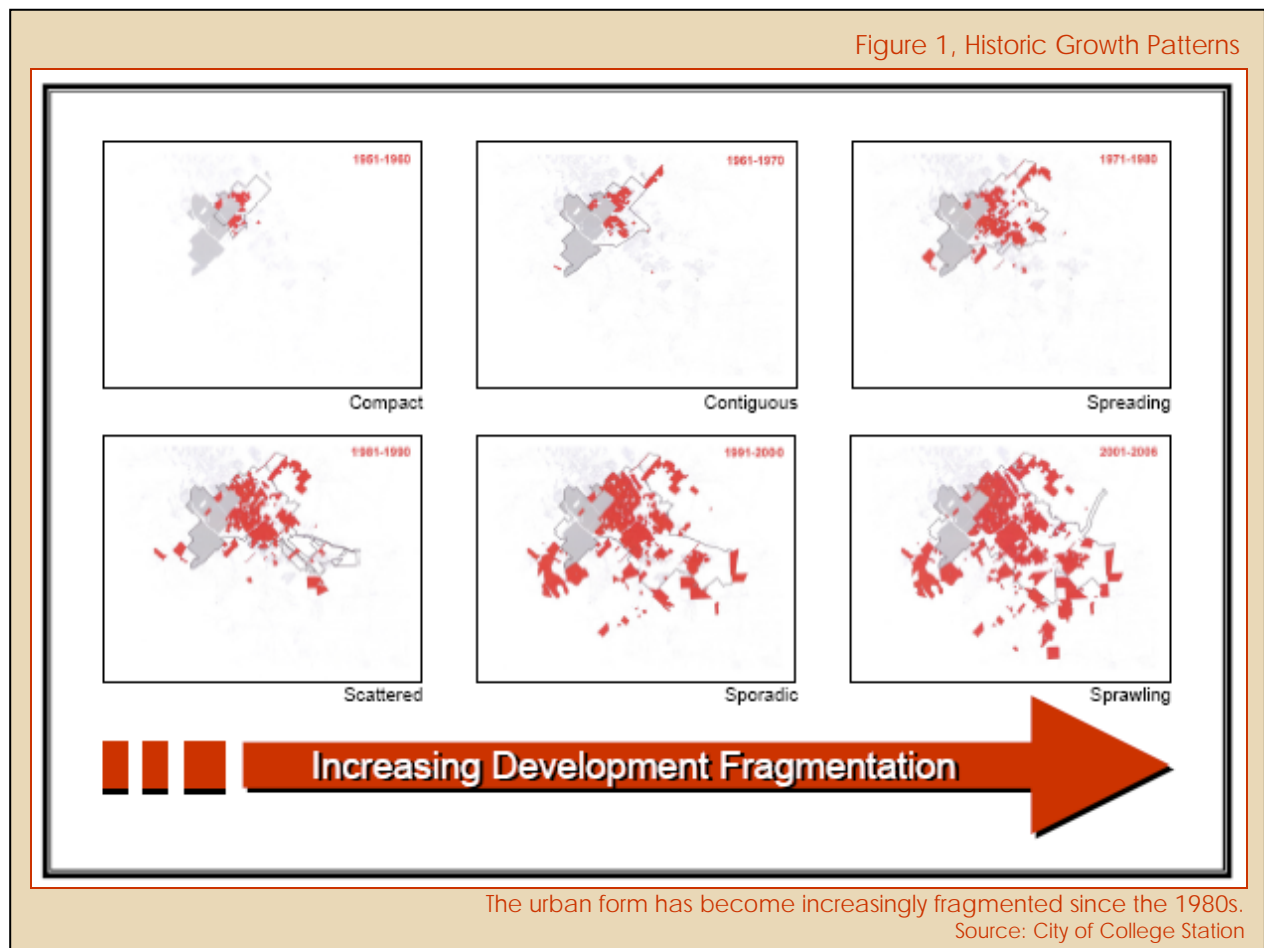
**TOOLBOX OF GROWTH MANAGEMENT TECHNIQUES
CITY OF COLLEGE STATION, TEXAS**

"The best way to predict your future is to create it."¹

INTRODUCTION

Over the course of the last six decades, College Station has experienced rapid growth, averaging 90 percent per decade. Excluding the 1940s (263 percent) and 1970s (111 percent), the average rate of growth per decade has been 42 percent. While the amount of growth has slowed since 1980, with 29 percent growth during the 1990s (compared to 111 percent and 41 percent during the 1970s and 1980s, respectively) it exceeds the rate of growth of Brazos County (34 percent) and Texas (22 percent).² From an economic perspective, the increase in population and corresponding employment growth is a positive indicator of the City's economic competitiveness and stability. A continuation of this economic growth is – and must remain – a primary goal of the community.

Figure 1, Historic Growth Patterns



The urban form has become increasingly fragmented since the 1980s.
Source: City of College Station

¹ ~ Peter Drucker

² This is partially explained by the relative size of the respective jurisdictions.

A question confronting this community, however, is not only how to attract and sustain economic development but how to maximize its net fiscal benefits. The pattern of growth and efficiency of service provision are contributing factors, among others. As displayed in **Figure 1, Historic Growth Patterns**, beginning in the 1970s the form of development has become increasingly scattered. In fact, since the Year 2000, the number of platted lots in the ETJ has averaged 16.6 percent of the total annual platted lots.³ As for the projected population, assuming a continuation of recent trends, the ETJ is expected to increase in population by 17 percent by the Year 2016.⁴ The trend of peripheral growth is long-standing as development began to scatter in 1980s and has since increasing sprawled outward. Continuation of this pattern – and trend – will become increasingly problematic, resulting in an increased inefficiency of services thereby lessening the economic gain and placing a growing strain on the fiscal resources of the community.

Reasons for the Growth Pattern

There are several reasons why this growth pattern has occurred, including, but not limited to, the following:

- ◆ There is a lure to green field development due to the ease of development approval, particularly since the City has no authority within its ETJ to regulate:
 - The use of any building or property for business, industrial, residential, or other purposes;
 - The bulk, height, or number of buildings constructed on a particular tract;
 - The size of a building that can be constructed on a particular tract of land, including without limitation any restriction on the ratio of building floor space to the land square footage;
 - The number of residential units that can be built per acre of land; or
 - The size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land, subject to specified criteria.⁵
- ◆ The City's oversize participation ordinance allows the City to pay up to 100 percent of the total cost for any over-sizing of improvements that it requires in anticipation of future development. There are no stated exceptions or criteria regarding its cost effectiveness; financial feasibility; or conformance with utility master plans, the comprehensive plan, or other development policies. Furthermore, the current Comprehensive Plan does not define a designated growth area nor is it directly coordinated with the utility master plans. Therefore, there is no mechanism to coordinate the pattern and timing of development and ensure cost efficiency in the provision of adequate public facilities and services. This must be a focus of the current Comprehensive Plan, coordinated with updates of the City's water, wastewater, and drainage master plans.
- ◆ The City's decision to extend its Certificate of Convenience and Necessity (CCN) boundary for sewer service to coincide generally with its ETJ enables development to occur throughout the ETJ. While there are advantages by way of limiting the number of private package plants and controlling the quality of sewer infrastructure, this contributes to an inefficient pattern of development. Without a growth sequencing plan to direct the location and timing of development, consistent with the City's infrastructure planning and capital programming, the City has limited control of its development pattern.
- ◆ The fiscal impact analysis used to judge the feasibility of annexation appears to be an abbreviated model that does not fully account for the long-term operating and maintenance costs, the distance

³ Based upon plat data provided by the City

⁴ Based on a City forecast, "Development Trends in the Extra-territorial Jurisdiction (ETJ)"

⁵ Section 212.003, Extension of Rules to Extraterritorial Jurisdiction

required to extend utility services, or the timing of build-out. Further, the City's future land use plan and corresponding zoning districts are too general and thus, do not offer a clear indication of the likely uses and densities. Therefore, to more accurately determine the net fiscal benefit of annexation a more elaborate, robust model must be developed and used.

- ◆ There are both allowances and limitations within the zoning ordinance, including:
 - The minimum lot size within the Agricultural-Open "A-O" district is only five acres. Instead, the minimum lot size could be increased to 20 acres or larger ensuring preservation of the agricultural character and enabling the City to determine the timing by which facilities will be provided and urban development is allowed. Zoning, in this case, may serve as an effective growth management tool.
 - The Rural Residential Subdivision "A-OR" district allows a minimum lot size of one acre meaning that residences on septic systems and wells are permitted. Use of this district in the outlying areas of the corporate limits where adequate municipal facilities are not yet available is contributing to development fragmentation.
 - There are a relatively large number of use-based zoning districts. Essentially, this means that a zone change is necessary to respond to a shift in the market, which adds process and delays development. This is a disincentive for development to occur in the City rather than the ETJ where it is much easier and with less delay. Instead, the ordinance should allow more flexibility while increasing the development standards in line with the City's expectations and desired outcomes.
 - There is a multi-step process required for the Planned Mixed-Use "P-MUD" and Planned Development "PDD" districts, which lengthens the review and approval time, increases development costs, and is a disincentive for what is otherwise a preferred development type.
 - The ordinance allows for zoning classification at the time of annexation without any criteria as to when and under what circumstances the City will consider a change in zoning. Therefore, a zone change to a more intensive district may be allowed without consideration as to its consistency with the City's growth plan, capital improvement plan, or other criterion.
 - There are no incentives, such as density bonuses, integrated into the ordinance to encourage certain development types. An increased density in exchange for development clustering and increased open space could allow a rural development environment within the City limits rather than necessitating ETJ development to achieve this character.
 - The requirements for use transitions and buffering are generally ineffective providing reason to develop in the open countryside in relief of the impacts of abutting development.
- ◆ There are several rural water providers (Wellborn Special Utility District, Brushy Creek Water Supply Corporation, and Wickson Creek Special Utility District) and sewer providers (Carter Lake Water Supply Corporation and River Side Wastewater Treatment Plan) around the periphery of the City and ETJ, meaning that development may get access to public water and sewer systems that meets the standards of the Texas Council on Environmental Quality (TCEQ) without requiring connection to the City's utility systems.
- ◆ The Brazos County Health Department's requirements for permitting septic systems is a minimum of a one acre lot, whether there is public water available or a private well. This exceeds the State's one-half acre minimum, and is now being considered by the County Commission for an increase to a minimum of two acres. While an increase in the minimum allowable lot size for authorization to construct a septic system is both warranted and helpful, unless it is further increased it still allows rural development throughout the ETJ.

- ◆ There is a five-acre exemption of the platting requirements within State law that allows rural development to occur without platting and thus, without any provision for right-of-way dedication, delineation of easements, or other applicable – and warranted - development requirements.⁶
- ◆ The City’s parkland dedication requirements apply only within the City limits meaning that there are no requirements for the provision of parkland or payment in-lieu of land dedication. Therefore, effectively, this is an economic advantage for developing outside of the City limits to avoid payment of these fees.
- ◆ Development outside the City limits does not pay City taxes. Therefore, residents and businesses outside the City limits benefit from access to municipal facilities and services, such as parks, trails, libraries, and other community facilities, but do not share the tax burden associated with constructing and maintaining those facilities and services. Over time this increases the tax burden on in-City residents.
- ◆ Land is less expensive outside the City limits due, in part, to the absence of public infrastructure and improvements, which equates to cheaper development and hence, lower home costs.
- ◆ There is an attraction to the open, rural landscape, which will slowly disappear with increasing development over time and a lack of land use controls to protect the desirable character.

Potential Implications of Sprawl

While the growth of the community has brought great opportunity, without adequate foresight and preparedness it may involve long-term consequences, including:

- ◆ Erosion of a defined community edge thereby blurring its boundaries and contributing to a loss of community identity. This can be most readily seen along each of the entrances into the community where there is a proliferation of uses extending well beyond the City limits.
- ◆ Degradation of environmental resources, e.g. floodplains, wetlands, habitat, vegetated areas, etc.
- ◆ Overwhelmed public infrastructure (e.g., roads, water, and wastewater systems) and services (e.g., police and fire protection, parks, libraries, and schools), in some cases, creating unsafe conditions.
- ◆ A lack of coordinated planning between individual developments leading to, among other things, a discontinuous and disjointed street system and inability to plan for linear linkages and greenways.
- ◆ Premature and unexpected shifts in traffic patterns causing congestion and environmental impacts as development occurs in an uncoordinated fashion before adequate road infrastructure is in place.
- ◆ The provision of private streets and infrastructure systems such as package treatment plants, for which the burden may shift to the City in future years without the requisite funding to pay for it.
- ◆ Cumulative impacts on the natural environment due to stormwater runoff and non-point source pollution of area streams and watercourses.
- ◆ Inefficient provision of services meaning a larger investment in infrastructure systems with fewer than the optimal number of connections to pay for it.
- ◆ Increased traffic, as vehicles have to traverse relatively longer distances to reach places of work, shopping, services, education, recreation, and entertainment. This means that more public dollars must be expended on road building, expansion, maintenance, street lighting, and traffic enforcement.
- ◆ Declining community character and agricultural operations, as formerly large, contiguous farms are broken up by scattered development and the proliferation of “exurban”, 5-plus acre lots. The agricultural industry is a significant sector of the regional economy, and the presence of local

⁶ Section 212.004. Plat required (a)

agricultural products is good for local consumers. Moreover, farming is an important part of the region's heritage that continues to contribute to the quality of life and identity of the community.

GROWTH MANAGEMENT APPROACHES

Often, the elements that fuel growth (*e.g.*, community livability, quality schools, economic diversity, etc.) are slowly and ultimately sacrificed by the pattern, quality, and character of development. The integrity of public fiscal resources is also compromised because the new development is inefficient and does not contribute sufficient revenues to cover the costs of the services it demands. Modern "growth management" is a combination of techniques that allow municipalities to direct its pattern of growth and the timing of infrastructure provision, leading to better long-term economic sustainability. In broad terms, growth management techniques include:

- ◆ Comprehensive planning to establish the policy basis for the institution and administration of growth regulations;
- ◆ Regulatory approaches, including zoning and subdivision controls, which to varying degrees, directly impact the character, form, location, and quality of development.
- ◆ Annexation, which expands the geographic jurisdiction of the City to implement a full range of regulatory and fiscal approaches to growth management.
- ◆ Development and/or participation agreements, which provide for infrastructure funding (and may, in some instances, include land use controls).
- ◆ Impact fees, which provide funding for capital improvements that are needed to serve new development.
- ◆ Improvement districts and political subdivisions, which are independent entities that provide for infrastructure funding and operation.
- ◆ Interlocal cooperation contracts as a means for local governments to agree with other units of government with regard to providing administrative functions, infrastructure, and public services.
- ◆ Extension of publicly-owned utilities by way of capital improvement programming.

In Texas, state law provides a complex set of rules regarding which growth management techniques are available, and how those techniques may be implemented. The purpose of this issue paper is to summarize the provisions that may serve as viable and practical solutions for the City to manage its community character, efficient provision of adequate public infrastructure and services, and long-term fiscal health. This paper also establishes a framework for growth management, with strategic directions as to the changes in policies and practices to better manage future growth and development.⁷

There are an array of strategies for managing the pattern and timing of development, ranging from simply minimizing the impacts of growth without affecting the pattern to strictly controlling it. Given the limitations of Texas law there are few, if any, mechanisms currently available to entirely prevent sprawl. For the purposes of this discussion the growth management techniques are as follows:

⁷ This review of the applicable statutes is intended to provide a general overview of available tools and techniques, and shall not be considered legal advice with regard to the validity of any of the identified approaches or the potential legal consequences of implementing any particular approach. Potential risks are identified only if explicitly set out in the statutes. KKC recommends that the City consult with its attorney with respect to the legality and potential risks and exposures presented by any particular approach.

Comprehensive Planning

Chapter 213 of the Texas Local Government Code contains a broad authorization to develop and adopt a Comprehensive Plan.⁸ The statute allows the City to decide for itself what its Comprehensive Plan will address and how it will relate to the land development regulations. With regard to content, the statute says a Comprehensive Plan may:

- ♦ Include, but is not limited to, provisions on land use, transportation, and public facilities;
- ♦ consist of a single plan or a coordinated set of plans organized by subject and geographic area; and,
- ♦ be used to coordinate and guide the establishment of development regulations.

State law provides that “A municipality may define, in its charter or by ordinance, the relationship between a Comprehensive Plan and development regulations, and may provide standards for determining the consistency required between a plan and development regulations.” In other words, there is not a requirement that the comprehensive plan be applied in strict terms in all land use decision-making. However, there is latitude regarding the extent to which the land development regulations may be used to implement the plan. This is essential if the City is to successfully control its destiny.

In many cases, the availability of a particular growth management technique depends upon the type of municipality (e.g., general law or home rule), the population of the County, and the population and geography of the City.

The City of College Station is a home rule municipality with a 2000 population of 67,890 persons. Per Section 42.021 of the Texas Local Government Code, the extraterritorial jurisdiction (“ETJ”) extends 3½ miles from the City limits. College Station is located in Brazos County, which has a 2000 population of 152,415 persons.

It does not appear that the City Charter specifically authorizes the purpose or use of a Comprehensive Plan. While a plan is generally recognized as a “guide” for decision-making, given its relevance and essential role in managing the City’s growth and development, it is advisable for the City to specify its value in its long-range planning interests. Therefore, this may be an opportunity to make the plan for authoritative in land development decisions and capital expenditures.

The City’s Unified Development Ordinance (UDO) identifies as one of its objectives to “Implement the Comprehensive Plan through compliance with its individual elements.” Furthermore, the relationship between the UDO and Comprehensive Plan is expressed as follows:

- ♦ “It is intended that this UDO implement the City’s planning policies as adopted as part of the City’s Comprehensive Plan, as amended and periodically updated.
- ♦ The City’s Comprehensive Plan, and any associated plans or studies adopted by the City Council, shall be required to be amended prior to, or concurrent with, permitting development which would conflict with the plan.
- ♦ The alignments of proposed thoroughfares and bikeways on the “College Station Thoroughfare Plan map? And the “College Station Bikeway and Pedestrian Plan map” are generalized locations that are subject to modifications to fit local conditions, budget constraints, and right-of-way availability that warrant further refinement as development occurs. Alignments within 1,000 feet of the alignment shown on the aforementioned maps will not require a thoroughfare plan amendment.”⁹

⁸ Chapter 213 is not the only source of authority to adopt a comprehensive plan. Home rule may also be a source of authority, which is accomplished via the City charter in some Texas communities, e.g. Georgetown.

⁹ Section 1.6, Relationship to the Comprehensive Plan, Unified Development Ordinance, July 3, 2006

Therefore, to further strengthen the relationship between the Comprehensive Plan and UDO, the following should occur in the interest of better managing growth:

- ◆ Areas within the City limits that are not within the defined “growth area(s)” should be zoned Agricultural-Open “A-O”, provided the minimum lot size is increased from five to 20 acres, or more.
- ◆ The decision as to the zoning of newly annexed property must strictly adhere to the City’s growth plan. Annexation of land that is not within the defined “growth area(s)” must be zoned “A-O”, giving the City the decision as to the timing of development and its provision of services.
- ◆ The area defined as “Rural” on the Land Use Plan¹⁰ should strictly adhere to the City’s growth plan. Those portions of this area that are inadequately served and are not feasible for the extension of adequate public facilities and services should be re-designated as Agricultural-Open.
- ◆ The Rural Residential Subdivision “A-OR” district should coincide with the boundaries of the “Rural” designation on the Land Use Plan. The ordinance should subsequently be revised to increase the minimum lot size from one to five acres, with density bonuses for development clustering and increased open space.
- ◆ The use designations on the Future Land Use Plan should be reconciled with the zoning districts. Rather than indicating land use with a general reference to density, both should more clearly define the intended character of development. In other words, low, medium, and high density residential should include additional performance standards to ensure the intended character. Standards such as maximum gross density and open space and floor area ratios will better ensure the development outcomes. Otherwise, if more than one zoning district is allowed and there are not definitive standards, there is no mechanism for the City to control the development character. As it relates to growth management this is essential as a means for improved utility systems planning (since the density and hence, infrastructure demands are known) as well as controlling the form and character of development.

The Comprehensive Plan offers the ability for the City to establish its growth policies, which must then be directly related to the zoning regulations to effectuate them. This must be accomplished in tandem with the City’s water, wastewater, and drainage master plans, as well as the capital improvement program. Generally, the Comprehensive Plan should direct development first, to the areas where there is already adequate infrastructure and secondly, to the areas that may be readily and efficiently served with public facilities and services. Targeted upgrades of the infrastructure may be required to facilitate an infill development program. Lastly, the areas around the periphery of the City that may not be efficiently served - or are simply premature for development – should be reserved in the near term for agricultural (Agricultural-Open) or very low intensity uses (Rural Residential Subdivisions) with infrastructure staging for longer-term development. The means of executing these general policies are described in detail below.

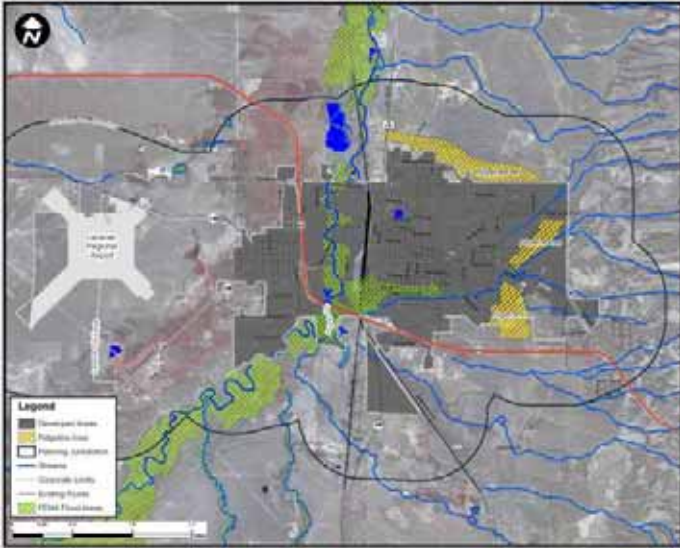
The City’s over-sizing policy should cite as an exception for refusing to extend water or wastewater mains consistency with the Comprehensive Plan. The update of the plan must then define the area for which urban development is to be accommodated. More specifically perhaps is the definition of the areas that are not intended for infrastructure investment during the horizon of the plan and thus, subject to the growth control mechanisms of this paper. In so doing, rather than responding to development, instead,

¹⁰ Land Use Plan, November 2004

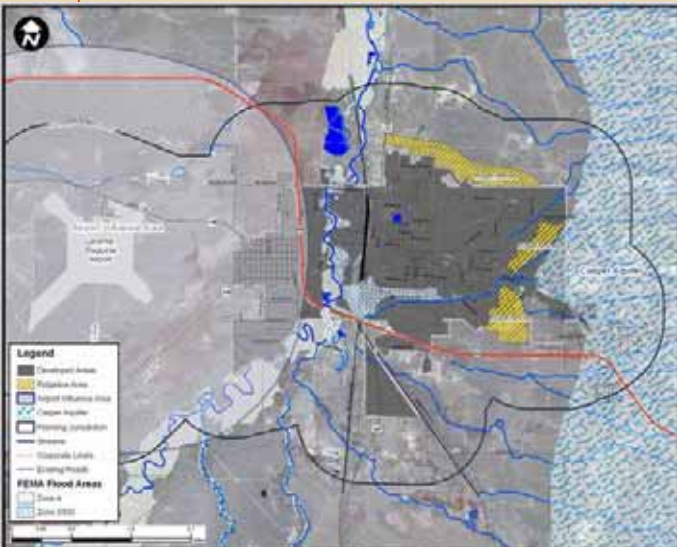
the City may proactively direct development to occur in appropriate locations and concurrent with the availability and provision of adequate public facilities and services.

Through the course of plan development the following areas should be identified and delineated, as displayed in the illustrative examples:

Illustrative Examples of Area Delineations



Developed Area



Protection Area

- ♦ The **developed area** is where there is existing infrastructure. Remaining opportunities within this defined area would consist of infill development, redevelopment, and areas that are immediately contiguous to existing development. It is important to note that there is approximately 2,010 acres of vacant, residentially-zoned land within the City limits. This amount of developable land will support an additional population of 18,650 persons¹¹, which is approximately 60 percent of a mid-range estimate of added population by the Year 2025. Therefore, the plan must quantify and determine the area necessary to support the projected population and employment increases, and coordinate the infrastructure plans accordingly.
- ♦ The **protection area** encompasses areas of floodplain, wetland, streams and drainage ways, or other natural areas that warrant permanent protection. These are areas where the City's zoning or subdivision regulations should prohibit development. The protection area may also include the Agricultural-Open "A-O" district that is intended to remain in agricultural use and where residential development is restricted.
- ♦ The **growth area** is where new growth is to be encouraged for which there are readily available services that may be efficiently extended. This is the area where the City will commit to extending infrastructure and improvements to support urban development. The size of this

area should support 20 years of development potential. This area may be further delineated to include five-year growth increments to be timed with the extension of facilities and services. It is common to upsize this area by 20 to 30 percent to allow market flexibility. The size and location of the growth areas need to be closely evaluated and clearly defined given the amount of currently available land. The City would also need to revisit these areas and make periodic adjustments.

¹¹ This assumes four units per acre and 2.32 persons per dwelling unit (U.S. Census, 2000)

- ◆ The **holding zone** is all remaining land in the ETJ and outside of that identified above described areas. Due to the limitations of State law, this is the most difficult of the four areas to address. Given the reasons identified earlier, development may now occur within this area. Development in areas for which the City cannot readily and efficiently provide services is clearly premature and results in sprawl. Therefore, the question is to what extent the City is willing to enact control by the below described growth management techniques.

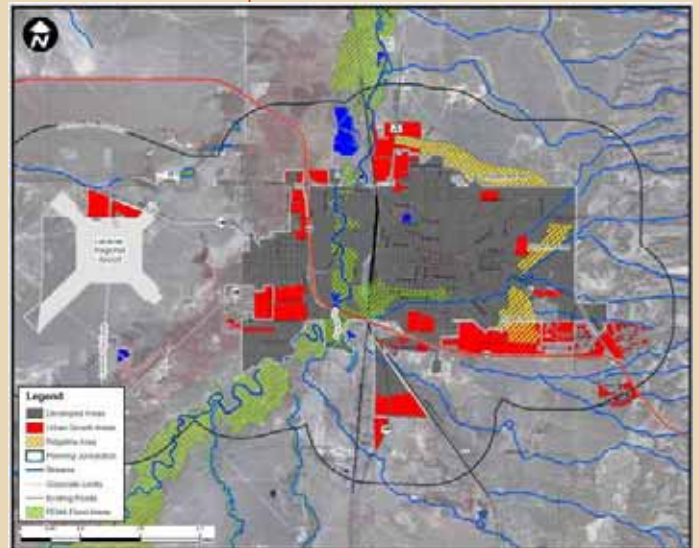
In order for the City to manage the location of development it must employ some of the techniques described below. Effectively, the strategy should direct a vast majority of development to occur in the developed and growth areas as infill or contiguous development. The controls must be designed to minimize the amount of urban development in the holding zone.

Amendment of the Subdivision Regulations

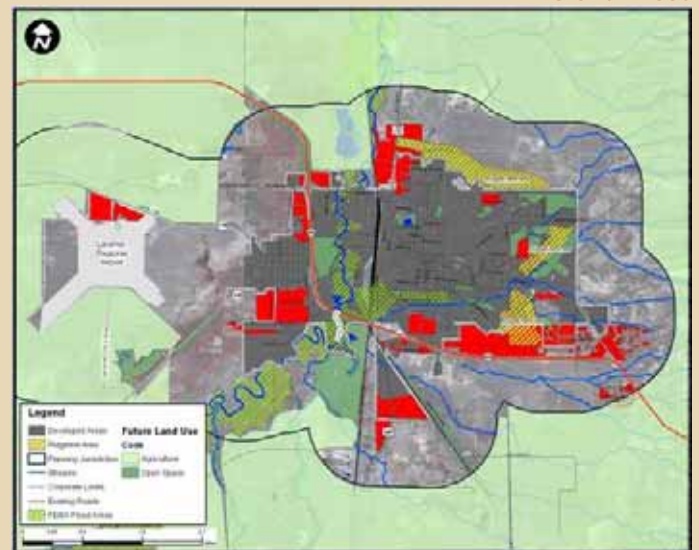
The most readily available means for minimizing the impacts of peripheral growth is by way of amending the subdivision regulations. However, while certain controls may be put in place to solve anticipated problems, this approach will not have any material affect on the pattern or timing of urban growth. It remains though, a warranted and necessary step to ensure quality development and to ameliorate unnecessary problems.

Unlike zoning regulations, the value of the subdivision regulations is that they may be extended into the ETJ.¹² While subdivision controls typically include requirements for lot size, access, and infrastructure, State law also authorizes the City to adopt “other municipal ordinances relating to access to public roads or the pumping, extraction, and use of groundwater by persons other than retail public utilities . . . for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health” within the ETJ.¹³

Illustrative Examples of Area Delineations - Continued



Growth Areas



Holding Zones

¹² Unlike subdivision controls within the City, enforcement of the subdivision regulations in the ETJ is limited to injunctive relief (fines and criminal penalties in the ETJ are prohibited). See § 212.003(b) and (c), TLGC.

¹³ Section 212.003, Texas Local Government Code

Summary: Subdivision Controls

| | |
|--------------------|--|
| Purpose: | Generally, the purpose of subdivision controls is to regulate the dimensions of lots and the provision of access, utilities, and public facilities. |
| Strengths: | Along with zoning, access management, and other regulatory tools, subdivision controls are an important means to ensure adequate infrastructure and regulate community character. Generally, utilities may not be connected to subdivided property without an approved plat. |
| Weaknesses: | Subdivision controls generally must stand alone in the ETJ (where zoning is not allowed without consent). Statutes do not allow regulation (without consent) as to land use, bulk, height, number of buildings, size of buildings, or residential units per acre in the ETJ. |

Provided the Comprehensive Plan is sufficiently specific, subdivision controls can be a strong tool for ensuring that adequate water, sewer, and road service is provided to new development in the City, and more importantly, in the ETJ. This is so because State law provides that a plat *shall* be approved if:

- ◆ it conforms to the general plan of the municipality and its current and future *streets, alleys, parks, playgrounds, and public utility facilities*;
- ◆ it conforms to the general plan for the extension of the municipality and its roads, *streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities*;
- ◆ it conforms to any [adopted subdivision] rules . . .¹⁴

By implication, the plat can be denied if the standards are not met. This requires a Comprehensive Plan that sufficiently defines the standards by which development must uphold. For instance, the thoroughfare plan must encompass the entire ETJ – and beyond in some cases – with denoted alignments of collector and arterial streets, and other regional, intra- and inter-state highways.



Access management standards applied within the ETJ would help to avoid unsafe conditions while preserving the capacity of the roadway.

Potential amendments to the subdivision regulations may include the following:

- (1) **Access management** standards could – and should – be imposed consistent or similar to those recommended by TxDOT. For example, if the spacing requirement between driveways is 360 feet (recommended for streets with 45 m.p.h. posted speed), then 100 to 200 foot frontage lots with individual drives would not be allowed. This would preserve the safety and traffic carrying capacity of roadways that may be improved to collector or arterial standards in the future. Strict application of spacing requirements would: (1) encourage platting (which is required when infrastructure – here, access streets – is dedicated); or (2) likely reduce lot depth, which would make more efficient use of the land.

¹⁴ Section 212.010, Texas Local Government Code

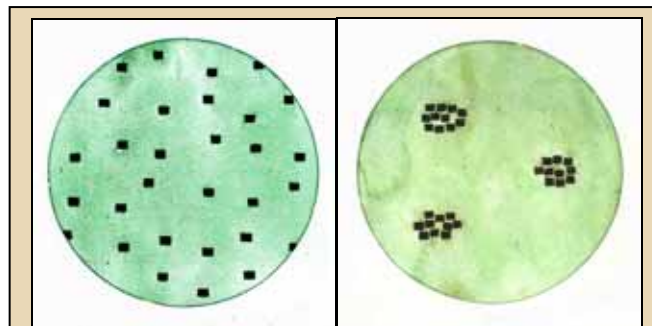
(2) Although the City is not allowed to directly regulate “the number of . . . units . . . per acre” in the ETJ, as a practical matter, because the City may regulate the dimensions and layout of the lots, density may be, more or less, influenced by authorized rules like minimum lot size, minimum lot width, and right-of-way dimensions.¹⁵ Therefore, if the City were to require a **minimum lot size** of five acres, for instance, due to the capacity of the adjoining roadway and/or where there are not public water and sewer systems available, effectively, a relationship may be forged between lot size, infrastructure demands, and the availability of adequate public facilities. This authority is granted to the City “to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.”¹⁶

(3) Together with the requirements for an increased lot size could be an allowance – or incentive - for **development clustering**. The option would be given to the land owner as to whether they choose to develop with a large lot size or select a clustering option that allows more density. In other words, rather than constructing a rural large lot subdivision with no public open space, smaller lots would be required with a high ratio of public open space. The result allows the rural character to remain with the advantages of fewer required access points, less impervious cover, reduced water demands, increased recharge, and land conservation. Given certain performance standards, the open land could continue to be used for agricultural purposes.

(4) Through the delineation of “protection areas” the City may strengthen their standards relating to the protection and preservation of its resources. While the City has regulations for floodplain areas, there are few other standards for the delineation and protection of wetlands, habitats, mature vegetated areas, or other natural features. **Resource protection standards** would provide a method and means for requiring varying degrees of protection of resource features, depending on their scale and significance, with development flexibility and incentives by way of density bonuses for constructing on the developable portions of the site. The use of density bonuses

Section 212.004, of the Texas Local Government Code exempts from subdivision requirements “a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.” “Exempt” development encourages lots that are narrow and deep, with 100 to 200 feet of frontage and 2,178 to 1,089 feet of depth. This development form creates a number of challenges:

- ◆ Narrow lots often front on roads that are intended to serve a city wide mobility function. Connecting residential driveways to these roads invites future traffic conflicts.
- ◆ Narrow lots alter the rural character of the landscape – and the rural economy – in five ways:
 1. Buildings are closely spaced and close to the street blocking views from the street of the open spaces behind them;
 2. The lots are “too small to farm and too big to mow,” so it is not uncommon for the yards to be poorly maintained;
 3. The land within the lots is often lost to agricultural use because such uses generally need large, regularly-shaped parcels, and assembling a reasonable leasehold from separate residential landowners, 100 to 200 feet at a time, is not practical (especially since the early morning noise and dust from agricultural operations is ultimately likely to be a point of contention between the homeowner and the farmer);
 4. The new residential uses are usually not compatible with the existing agricultural uses, which generates increasing political pressure against agriculture; and
 5. When they reach a critical mass, the new residential uses attract supporting commercial uses that further squeeze agricultural land and agriculture-supportive commercial uses.



By clustering development open views may be protected thereby preserving a rural, open character.

¹⁵ Such rules are permitted by Section 212.010(4), TLGC, which allows the same rules for subdivision in the ETJ as in the municipality. Of course, in the ETJ, these rules are limited by Section 212.003, TLGC, so, for example, if a developer found a market for multiple homes or buildings on a single lot in the ETJ, the City could not prohibit the development.

¹⁶ Section 212.002, Rules, Subchapter A, Regulation of Subdivisions, Texas Local Government Code

may allow a higher gross density as an incentive by adjusting lots sizes or using different housing types in combination with an open space ratio.

- (5) A **development plat** is a way for the City to regulate development within the City limits and ETJ that may otherwise be exempt from the subdivision plat process.¹⁷ The City has provisions for development plats, with stated exemptions. It is advisable for the City to reconsider the waiver allowance as well as the exemptions and instead, require submittal of a development plat for all projects in the ETJ. Such a requirement would be of great value to document all improvements, easements, and rights-of-way, and most importantly, because it must be approved to conform to: (1) the general plans, rules, and ordinances of the municipality concerning its current and future streets, sidewalks, alleys, parks, playgrounds, and public utility facilities; (2) the general plans, rules, and ordinances for the extension of the municipality or the extension, improvement, or widening of its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and (3) [the subdivision plat regulations]. The subdivision plat process does not allow the municipality to require building permits or enforce its building code in the ETJ.¹⁸
- (6) Incorporation of the **parkland dedication requirements** into the subdivision regulations, which will allow the dedication or fee in-lieu provisions to be extended into and throughout the ETJ. Effectively, this will ensure that development outside of the City limits is fulfilling its proportionate demands on the community's park system similar to the requirements for development inside the City. This would remove this current advantage for developing in the ETJ.

Annexation

The means that most communities use to exercise control of the pattern and type of development outside of the City limits is to extend the City limits by annexation. Annexation allows the City the ability to impose its land development regulations, which provides an essential growth management tool to implement the Comprehensive Plan. Annexation also extends the City's ETJ enabling it to regulate the subdivision and development of land over a larger area. However, it is important to realize the stringent requirements mandated by State law for extending services to newly-annexed areas in a timely and adequate manner, which must be comparable to pre-existing services and service levels in similar incorporated areas. Requirements for annexation include:

- ◆ A three-year annexation plan to identify specific properties the City intends to annex following a three-year waiting period;
- ◆ Acting on annexation proposals within 31 days after the three-year waiting period to prevent the subject properties from becoming exempt from annexation for another five years;
- ◆ Inventorying all current services in the annexation area (including services provided by all entities, the condition of facilities, existing public safety response times, and current service costs);
- ◆ Preparing a municipal service plan for the targeted area within 10 months of receiving data for the service inventory;
- ◆ Immediately extending basic public services (police, fire, and EMS) and "full municipal services," including necessary capital improvements, within 2.5 years of annexation, unless certain exceptions apply (such as a negotiated service schedule for a requested annexation);
- ◆ Possibly negotiating agreements in lieu of annexation to formalize interim service provision and cost-sharing arrangements and possible compliance with City ordinances or development standards;

¹⁷ The authority to require a development plats is provided in Section 212.044, Local Government Code.

¹⁸ Section 212.049, Texas Local Government Code

- ◆ Potentially entering into arbitration proceedings if annexation planning and negotiation is unsuccessful; and,
- ◆ Potentially negotiating “strategic partnership agreements” with special districts.

Of significance in the law is an exemption from the above requirements for annexation proposals that will involve fewer than 100 tracts of land where each tract contains at least one residential dwelling. With the exception of sizeable developments, most annexations are exempt from the above requirements. Also, the City may not annex more than 10 percent of its land area in any given year. If it does not annex all of the land that is allowed, the difference rolls over to the next year. If multiple carryovers are accumulated, the City can annex up to 30 percent of its land area in a single year.

State law provides for the minimum level of service that must be extended to the annexed areas, as described in **Table 1, Annexation Level of Service Requirements**.

Significantly, State law does “not require that a uniform level of full municipal services be provided to each area of the municipality if different characteristics of topography, land use, and population density constitute a sufficient basis for providing different levels of service.”¹⁹ Therefore, the law appears to allow the City to annex territory and provide minimal services if those services are commensurate with that provided in areas of similar “topography, land use, and population density” within the City. Yet such a strategy is not necessarily without risk -- disputes with affected landowners over levels of service could expose the municipality to civil penalties, court costs, and attorneys’ fees.²⁰ Accordingly, the City should plan carefully and involve the City Attorney early in the process if it chooses a growth management strategy that involves providing a minimal (rural) level of service to a newly annexed area.

- ◆ Often, there are warranted reasons for considering annexation, including, among others, the ability to impose the City’s land development regulations along major transportation corridors and in prime development areas that may otherwise compromise the community’s long-term interests. There are several areas for which the City is now considering annexation. Since the primary purpose for annexing these areas is to exert control of probable growth areas, it is advisable for the City to employ

Table 1, Annexation Level of Service Requirements

| Generally | |
|--|---|
| If the level of services, infrastructure, and infrastructure maintenance in the affected area before annexation was: | Then services, infrastructure, and infrastructure maintenance must be: |
| Lower than in the municipality | “Comparable to the level . . . available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the [annexed] area.” |
| Equal to the municipality | “[T]hat same [pre-annexation] level” |
| Superior to the municipality | |
| Re: services | “Comparable to the level . . . available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the [annexed] area.” |
| Re: operating and maintaining infrastructure | Equal to or superior to the pre-annexation level. |

¹⁹ Section 43.056(m), Texas Local Government Code

²⁰ Section 43.056(l), Texas Local Government Code

growth management techniques in these areas to prevent premature development. For instance, unless the City is prepared to extend full municipal facilities and services – and such are determined to be efficient and feasible – these area should be zoned for Agricultural-Open, which may serve as a holding zone until which time as the City determined development to be appropriate and of fiscal benefit.

Zoning Regulations

Chapter 211 of the Texas Local Government Code authorizes the City to enact zoning regulations to control building height and size; lot coverage; yards and open spaces; population density; the location and use of buildings; the location of land that may be put to various business, industrial, residential, or other purposes; the extraction of groundwater (except by retail public utilities); and, in home-rule municipalities like College Station, the bulk of buildings. Zoning regulations are not authorized outside of the municipality’s corporate boundaries without the consent of the affected landowner(s).²¹

The Texas statutes set out several purposes for zoning. Zoning regulations must be designed to:

1. lessen congestion in the streets;
2. secure safety from fire, panic, and other dangers;
3. promote health and the general welfare;
4. provide adequate light and air;
5. prevent the overcrowding of land;
6. avoid undue concentration of population; or
7. facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

Source: Section 211.004, Compliance with Comprehensive Plan

In concert with annexation, all newly incorporated areas should to be zoned “A-O” Agricultural-Open, without consideration of any other zoning district classification unless merited by way of being within a defined “growth area.” However, to serve its growth management function, the minimum lot size must be increased from five to 20 or more acres. Therefore, the open, rural character of these areas would be maintained and their rezoning to another district classification could be timed with the City’s staged growth plan and infrastructure improvement plans.

The City could allow for very low density residential development in these agriculturally zoned areas by allowing extreme clustering. This enables there to be development value to this land and also allows for construction of additional homes. As an example, one dwelling unit per 20 acres with no required open space equates to a gross density of 0.050 units per acre. A one acre lot with a septic system and well and 85 percent open space allows an increase to 0.070 units per acre. Similarly, a one acre lot with a septic system and public water and 90 percent open space equates to the same 0.150 units per acre. Therefore, clustered residential development may be allowed with a corresponding high open space



Clustering allows development value while preserving the rural, open character.

²¹ Generally, the power to zone may only be exercised within the municipality. “The governing body of a municipality may divide the municipality into districts of a number, shape, and size the governing body considers best for carrying out this subchapter.” § 211.005(a), TLGC (emphasis added). However, one way to enforce zoning regulations in the ETJ is to enter into a development agreement with the affected landowner pursuant to Subchapter G of Chapter 212 of the Texas Local Government Code. See § 212.172(b), TLGC.

requirement to preserve the agricultural character. Slightly higher levels of density may also be permitted to allow more development value without compromising the character of pattern of peripheral development.

The most viable means of growth management for the City, given the limitations of State law, is to annex the maximum allowable 30 percent of its land area, followed by annexations of the maximum allowed 10 percent each year until the incorporated area encompasses land sufficient to support 30 to 50 years of growth, all areas of strategic interest, and the defined long-term growth boundary. This strategy, however, requires the City to establish that there are areas within the corporate limits that have similar “topography, land use, and population density” to those being annexed for which there are minimal facilities and services being provided. If this is the case, a uniform level of municipal service is not mandated making large-scale annexation more feasible. If this cannot be established, a service plan must be prepared and robust cost-benefit analysis conducted to determine the feasibility of the annexations. Then, a policy decision would be necessary to consider the value of annexation and growth control versus the added cost for providing the state mandated services.

Zoning Ordinance Simplification and Development Streamlining

If the City is to successfully entice development to occur within the City limits rather than the ETJ, its development processes and timing of approvals must not be a constraint. Since a plat is the only required approval for development (of less than five acre lots) in the ETJ, the complexity of the process and length of time to gain approval within the City may outweigh the benefits of in-City development (public utilities, improved emergency response times, increased convenience, zoning controls, etc.). Therefore, although the City’s current process is not atypical, there are significant improvements to be made, of which the more significant and relevant include the following:

- ◆ First and foremost, there are opportunities to reduce the number of zoning districts. The structure of the current districts requires a zone change should a property owner decide to development more than one use or to change the use. At the same time, use-based districts offer no assurance of the character of compatibility of abutting developments.
- ◆ The use-based districts may be consolidated into fewer districts that are based on the intended character of the district. For residential districts, character is defined by the allowable density and required open space ratio, as well as other performance standards relating to the floor area ratio (FAR), landscaping, etc. The character of non-residential districts is defined by the use intensity (measured by FAR) and a landscape surface ratio, along with standards relating to building scale, lighting, signage, and other design requirements. As displayed in **Figure 3, Illustrative District Classification**, within each district is allowed a range of development options, each with corresponding standards to retain the intended character. The benefits of this approach include:
 - Ability to determine the character of future development.
 - Increased certainty in the development process and assurance of outcomes.
 - Improved compatibility within and between districts.
 - Multiple development options within each district adding flexibility while preserving development character.
 - Fewer zoning map amendments.
 - Ability to preserve resources while achieving an equivalent or higher density.
 - Ability to better plan for infrastructure needs.
 - Allowance for mixed use without a separate Planned Development District zoning process.

Table 3, Illustrative District Classification

| District and Development Type | Min. OSR | Density | | Required Utilities | Minimum Site Area |
|-------------------------------|----------|------------|----------|--------------------|-------------------|
| | | Max. Gross | Max. Net | | |
| Suburban (S) | | | | | |
| Single-Family | 0.10 | 1.92 | 1.92 | public | 15,000 sf |
| Cluster | 0.30 | 2.17 | 2.17 | public | 5 ac |
| Planned | 0.85 | 2.25 | 3.50 | public | 15 ac. |
| Auto-Urban (AU) | | | | | |
| Single-Family | 0.10 | 2.61 | 2.90 | public | 20,000 sf. |
| Cluster | 0.30 | 3.23 | 5.54 | public | 10,000 sf. |
| Planned | 0.35 | 4.37 | 7.50 | public | 10,000 sf. |
| Urban (U) | | | | | |
| Single-Family | 0.10 | 3.27 | 3.64 | public | 15,000 sf. |
| Cluster 1 | 0.25 | 4.15 | 5.54 | public | 8,000 sf. |
| Planned | 0.35 | 5.56 | 8.50 | public | 6,000 sf. |

Within the Suburban Residential zoning district, for example, are three development options, each with a corresponding lot size, open space ratio (OSR), and allowed intensity/density. Note the incentive for planned development by way of increased density while retaining 85 percent open space.

- Buffering commensurate with the level of impact.
- Lessens use incompatibility due to the cumulative nature of the current districts.
- ◆ The above approach incorporates planned development as an option that is permitted by right, subject to applicable standards. Density bonuses are used as an incentive for encouraging this type of development, offering more density in exchange for increased open space and amenities. Therefore, the approval process is streamlined by avoiding the timely zoning map amendment process.

Adequate Public Facilities Requirements

An approach that may help to manage the pattern of growth is allowing development to occur only as adequate facilities and services are available. This requires other growth management provisions though,



Adequate public facilities requirements would essentially stage the scale of development concurrent with the requisite capacity improvements. This may be applied to roads, utilities, and schools, among others.

to determine where and when infrastructure will be provided. If the City commits to provide sewer service with an expanded CCN and water is readily available through other sources, then the question of adequate public facility availability is a moot point. If however, facilities are requested outside of the City's designated growth area, this mechanism may be effective if there is not other means of acquiring the requisite infrastructure.

Also known as concurrency requirements, essentially this mechanism ensures that infrastructure is existing or readily – and efficiently - available prior to or concurrent with development. Adequate Public Facilities Ordinances (APFOs) require applicants for new development to demonstrate that facilities and services will be available to serve the project at the time the development is available

for occupancy. Utilizing this system, the City is able to adopt level-of-service standards, which can be used as criterion for judging conformance with the subdivision regulations. The provisions of State law²² allow the City to condition property development for a portion of the infrastructure costs, which supports this method. As an alternative, higher impact fees and/or increased developer participation in infrastructure construction and financing may be necessary to shorten development timeframes.

This approach is practical in that it ties development to the capacity of the infrastructure systems to support it. The value of this approach is its ability to establish a direct, causal link between the provision of public facilities and the public health, safety, and welfare. The general components include:

1. Determining a service threshold at which demand exceeds the desired capacity of public facilities, whether it is water and wastewater systems, roadways, parks, or schools. Generally, the difference between the established threshold and the existing level of service is the amount available for development.
2. Determining if there are projects that will be exempted or receive flexibility in meeting the threshold requirements by way of achieving other community objectives, such as infill development, mixed use, affordable housing, etc.
3. Determining the measures to remedy situations when the threshold is exceeded, including delay of development until such time as the project no longer exceeds the threshold, reducing the project's impact to the point that it meets requirements, or mitigating the impact of the project by upgrading public facilities or infrastructure.
4. Reserving the amount of capacity projected for a development during the time between approval of a project and its completion, which counts against the total capacity of public facilities in future applications for development. An expiration date for approved projects may be necessary so as not to unnecessarily burden or deny other projects.

Provisions related to adequate public facilities could be added to the subdivision regulations. For instance, the following – or similar – language could be used: *“The City does not directly regulate the use, density, or intensity of development in the ETJ. However, neither subdivision plat nor development plat approval shall be granted for property located in the ETJ unless all of the following are demonstrated:*

1. *The water service to or within the development is sufficient to provide necessary potable water and sufficient volume and pressure for fire flows to an appropriate number of appropriately spaced fire hydrants that are necessary to protect the development.*
2. *The wastewater service to or within the development is sufficient to protect the health of the residents or the general public.*
3. *The proposed subdivision plat or development plat has no material potential to cause contamination of a municipal water supply that the City has jurisdiction to protect.”*

Market Performance Standards

This approach is an alternative to an APFO, which better addresses the conflict between property rights and the City's obligation to provide infrastructure and services in a fiscally responsible manner. It accomplishes the same things as performance standards in terms of added flexibility and clustering, but it alters the approach to density and infrastructure level of service.

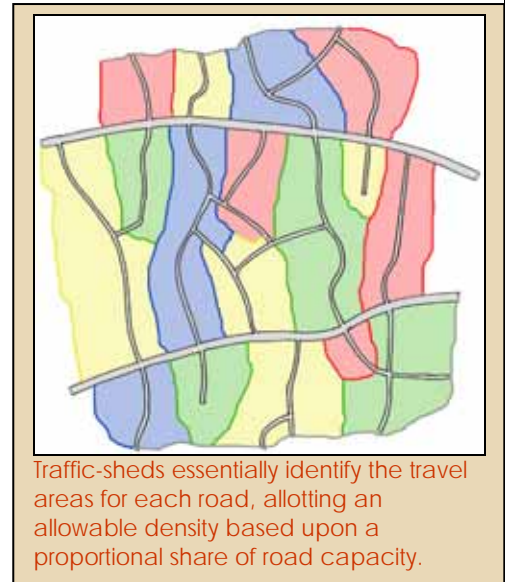
²² Section 212.904, Apportionment of Municipal Infrastructure Costs

Many argue that the market is the best way to regulate development. This has merit only when all elements are properly priced in the market. A problem as it relates to infrastructure, though, is that support of development by adequate roads, police and fire services, schools, and other public services is not part of the market equation. For example, road improvement and long-term maintenance are not considered in a real estate transaction. A person who purchases a home on a gravel road does not necessarily pay less for the home. Therefore, when the road requires maintenance it becomes the City's obligation to make the improvements. Except for the most expensive housing, the tax revenue from residential development is insufficient to cover the requisite costly infrastructure improvements and service expansion.

A market performance ordinance addresses the capacity of infrastructure. Where growth occurs roads will eventually require widening or surface improvements as the traffic volumes exceed the road capacity. Therefore, market performance ordinances create what is known as traffic-sheds for unimproved and under-improved roads. Since the traffic volumes and capacity of the road may be known, there may be an allotment of dwelling units per acre based upon a proportionate share of the road capacity. Therefore, the capacity is spread evenly across all properties in the traffic-shed rather than on a first-come-first-serve basis as in the APFO approach.

Each landowner has the right to use their proportionate share of the available road capacity. Roads with very low capacity or where there is a very large area within the traffic-shed result in lower densities. The difference is that the market offers the landowner a range of options not available under other types of ordinances, including the following:

- ◆ The allowable density may be altered by improving the road as part of the development cost. If a few hundred feet of improvements are needed to improve capacity, the improvements will likely be funded. If there is a long distance that must be improved it is unlikely that it will be funded, meaning that the development pattern occurs in a more contiguous – rather than leapfrog - manner.
- ◆ A new road may be constructed to create a new traffic-shed, which may reduce the size of the traffic-shed allowing increased density. This option is available only where there is direct access to an improved collector or arterial roadway.
- ◆ Development may occur in phases reserving the balance of land for subsequent phases as additional capacity becomes available upon improvement of the road.
- ◆ Development may occur at the permitted density with large acreages. If the acreages are of sufficient size and have proper frontage, there may be added development potential upon improvement of the road.
- ◆ There may be a transfer of development rights to other property. Upon improvement of the road the agricultural area may receive additional density allowing development at that time.
- ◆ A landowner or group of landowners could form an improvement district to pay for road improvements, subject to City standards and criteria.



Since State law specifically indicates that “a municipality shall not regulate: ... (4) the number of residential units that can be built per acre of land”,²³ there would have to be a legal basis established for the ordinance based on the City’s jurisdiction to “promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality.”²⁴

Impact Fees

Impact fees are charged to new development for the construction of new infrastructure that is needed to serve the development. They are related to special assessments, except that: (1) they are charged to new development upon approval rather than to all owners within a particular district; and (2) they may only be charged for the fair share of infrastructure required as a result of the new development. Provided in

Table 2, Impact Fees, is a summary of their purpose, strengths, and limitations.

Impact fees facilitate a planned, coordinated approach to providing infrastructure. In Texas, impact fees may be used to fund water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; storm water, drainage, and flood control facilities; and roadway facilities that are needed to serve new development according to a capital improvements plan (including planning, engineering, land acquisition, and construction).²⁵ They cannot be used to fund:

- ◆ Facilities that are not in the capital improvements plan;
- ◆ Repairs, operation, or maintenance of existing facilities;
- ◆ Upgrades to existing facilities to meet new standards;
- ◆ Upgrades to existing facilities to better serve existing development;

- ◆ Operating costs of the local government; and
- ◆ Payments on debt that is not related to expenditures that may be paid by impact fees.

Impact fees must be supported by technical analysis of qualified professionals, set out in a capital improvements plan. The plan must:

- ◆ Describe existing capital improvements and projected costs to meet existing needs (including stricter safety, efficiency, environmental, or regulatory standards, if applicable);
- ◆ Analyze the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements;
- ◆ Describe the capital improvements (including costs) that are necessitated by and attributable to new development based on the approved land use assumptions;
- ◆ Provide a definitive table that relates capital improvements costs to “service units” that will serve as the basis for impact fees;

| Summary | |
|---------------------|---|
| Purpose: | To allocate the costs of providing additional infrastructure to serve new development to that new development. |
| Strengths: | Fair share fee allocation; cash payments help avoid potentially dangerous piecemeal improvements to dedicated rights-of-way. |
| Limitations: | No street impact fees may be charged in the ETJ (where formerly rural roads are likely to be more easily overwhelmed by new development). |

²³ Section 212.003, Extension of Rules of Extraterritorial Jurisdiction, Texas Local Government Code

²⁴ Section 212.002, Rules, Texas Local Government Code

²⁵ Impact fees for roadway facilities may not be charged in the extraterritorial jurisdiction. See § 395.011(b), TLGC.

- ◆ Estimate the total number of projected service units necessitated by and attributable to new development within the service area, based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria; and
- ◆ Project the demand for capital improvements required by new service units, over a reasonable period of time up to 10 years.

Impact fees use the same theoretical basis as adequate public facilities ordinances. Essentially, the City would establish the capacity of all applicable facilities and the required standard; for example, the level of service (LOS) for roads or number of acres of parks per one thousand persons. The impact fee is then established to generate the funds needed to provide the desired level of service for all facilities. Rather than exhausting capacity, impact fees require payment for a proportionate share of the burden created.

Since the City has impact fees for some defined service areas,²⁶ this instrument could be expanded to encompass other areas of the City and ETJ, as allowed by State law. Impact fees may be particularly appropriate for portions of the City's defined growth area for which there are no plans for infrastructure improvements within the five-year capital improvement program. This would essentially allow development to occur consistent with the growth plan, but without committing the City to prematurely construct such facilities and services. Specific criteria must be established as to the appropriateness of and under what circumstances the City may consider the use of impact fees to allow development to occur – or not occur – in areas outside of the defined growth area(s). This would be an essential prerequisite for the development of this program to ensure that the integrity of the City's growth strategy may be upheld.

Conservation Easements

Conservation easements cover a broad range of purposes, whether it is for wildlife or resource management, scenic preservation, or to limit the use of land. A few communities are using conservation easements to control their growth and preserve their agricultural areas, such as Solebury Township in Bucks County, Pennsylvania. With a conservation easement, the landowner continues to own the land and is responsible to maintain it. The land remains on the tax roles although there may be significant tax advantages to the landowner for the dedication of an easement, which also lowers the cost of acquisition. An agricultural easement could allow the landowner the right to continue to farm the land and keep their home and buildings. It could also allow some additional development.

An important aspect of this concept is its flexibility. It can identify a variety of restrictions and development options that may be tailored to the needs of the landowner and the City as the agency accepting the conservation easement. This provides an opportunity to tailor the acquisition to meet landowner concerns and reduce the cost of the easement.

This instrument is most appropriate for and may best be used to supplement a host of other management techniques, rather than as an independent method of conserving resources and open space. For instance, there may be attractive incentives integrated into the zoning ordinance whereby density bonuses are offered in exchange for preservation of open space. This tool can and is being used effectively in some jurisdictions.

²⁶ Chapter 15, Impact Fees

Development Agreements

Development agreements are written contracts that can be used for a wide variety of purposes, including to impose land use and environmental controls (planning authority, existing zoning regulations, new land development regulations, or specific uses and development, and environmental regulations) over property in the ETJ in exchange for the provision of infrastructure and public services (e.g., streets; drainage; and water, wastewater, and other utilities), and/or a guarantee to annex the property (on agreed upon terms), or not to annex the property for a period of not more than 15 years. Development agreements run with the land, but do not bind end-buyers of fully developed lots, except with respect to land use and development regulations that apply to the lots. Provided in **Table 3, Development Agreements**, is a summary of their purpose, strengths, and limitations.

Table 3, Development Agreements

| Summary | |
|---------------------|---|
| Purpose: | Allow municipalities and developers within the ETJ to negotiate and agree to terms regarding annexation, land use controls, infrastructure and utilities. |
| Strengths: | Allows municipalities to exercise some control over the use, character and quality of the development within the ETJ, provided that the landowner consents. |
| Limitations: | Many limitations reduce the leverage of the municipality to encourage developers to enter into a development agreement. |

Development agreements are contracts, and as such, require negotiation and execution by the City and developer. In many cases, there is little incentive for the developer to enter into a development agreement because the City has relatively little leverage. For example:

- ♦ The City may not condition the provision of municipal utilities on the execution of a development agreement.²⁷
- ♦ No leverage is created by impact fees for roadway facilities because such fees “may not be enacted or imposed in the extraterritorial jurisdiction.” This is apparently so even if the roadway facilities are provided by development agreement.
- ♦ Developers have several alternatives to provide for infrastructure and utilities, such as a petition for the creation of a political subdivision (as described below). The City may place only very limited conditions on the formation of the political subdivision.²⁸

This is not to say however, that the City has no leverage. Indeed, cooperation may bring mutual advantages to the City and developer, especially if the City is able to provide timely infrastructure and services on reasonable terms. Since the City may enter into development agreements with landowners in the ETJ²⁹ this may offer an opportunity for providing services in exchange for abiding by the City’s development regulations and meeting other community objectives, e.g. resource protection, etc.

Improvement Districts

Improvement districts may be created to fund infrastructure improvements by special assessment against the property owners who principally benefit from them in fair proportion to the level of their benefit. Improvement districts are run by the governmental unit that creates them, in this case, the City. They have the power to impose a special assessment, but not to tax. Provided in **Table 4, Improvement Districts**, is a summary of their purpose, strengths, and limitations.

²⁷ “A municipality may not require [a development] agreement . . . as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally owned or municipally operated utility that provides any of those services.” § 212.174, TLGC.

²⁸ The conditions do not involve land use controls or annexation.

²⁹ Development agreements are authorized by Subchapter G of Chapter 212, Texas Local Government Code.

Public improvements that may be funded by an improvement district include:

1. landscaping;
2. erection of fountains, distinctive lighting, and signs;
3. acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;
4. construction or improvement of pedestrian malls;
5. acquisition and installation of pieces of art;
6. acquisition, construction, or improvement of libraries;
7. acquisition, construction, or improvement of off-street parking facilities;
8. acquisition, construction, improvement, or rerouting of mass transportation facilities;
9. acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;
10. the establishment or improvement of parks;
11. projects similar to those listed in 1 through 10 above;
12. acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
13. special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and
14. payment of expenses incurred in the establishment, administration, and operation of the district.

Table 4, Improvement Districts

| Summary | |
|---------------------|--|
| Purpose: | To fund public improvements and programs by assessing those landowners who benefit from them. |
| Strengths: | Those who pay special assessments are those who directly benefit from the improvements funded by them; improvement districts are administered by the governmental unit that formed them. |
| Limitations: | Potentially lengthy process for improvement district formation. |

And, in the case of home rule municipalities like College Station:

15. levying, straightening, widening, enclosing, or otherwise improving a river, creek, bayou, stream, other body of water, street, or alley; [and]
16. draining, grading, filling, and otherwise protecting and improving the territory within the municipality's limits.

The City may create an improvement district within its corporate limits or ETJ, after a process in which:

- ◆ A petition is initiated by the affected landowners or the local government;
- ◆ One or more public hearings are held regarding: the advisability of the improvement; the nature of the improvement; the estimated cost of the improvement; the boundaries of the public improvement district; the method of assessment; and the apportionment of costs between the district and the municipality or county as a whole;
- ◆ The local government issues an improvement order (by majority vote); and
- ◆ Notice of the order is published.³⁰

An ongoing service plan must be approved by the City. The plan "must cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements." The

³⁰ The local government may also undertake a feasibility study and appoint an advisory committee with regard to the formation of the improvement district. See §§ 372.007 and 372.008, TLGC.

service plan must include an assessment plan³¹ and must “be reviewed and updated annually for the purpose of determining the annual budget for improvements.”

Use of this instrument may be feasible and warranted as a means for meeting the infrastructure needs within the City’s “growth area(s)” for which the City is not yet prepared to commit capital resources. This may include outlying portions of the “growth area(s)” where near-term infrastructure provision and service expansion is not yet feasible.

Interlocal Cooperation Contracts

Interlocal cooperation contracts are authorized by Chapter 791, Texas Government Code (TGC). The purpose of the interlocal cooperation contract is to: “increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state.” Provided in **Table 5, Interlocal Cooperation Contracts**, is a summary of their purpose, strengths, and limitations. Chapter 791 provides broad authority for municipalities to contract with each other, with counties, with special districts and political subdivisions, with federally recognized

tribal governments that are located in the state of Texas, and with state agencies to provide “governmental function[s] or service[s] that each party to the contract is authorized to perform individually.” Such functions and services include:

- ◆ “Functions normally associated with the routine operation of government, including tax assessment and collection, personnel services, purchasing, records management services, data processing, warehousing, equipment repair, and printing.”
- ◆ “Police protection and detention services; . . . fire protection; . . . streets, roads, and drainage; . . . public health and welfare; . . . parks and recreation; . . . library and museum services; . . . records center services; . . . waste disposal; . . . planning; . . . engineering; . . . administrative functions; . . . public funds investment; . . . comprehensive health care and hospital services; or . . . other governmental functions in which the contracting parties are mutually interested.”

Table 5, Interlocal Cooperation Contracts

| Summary | |
|---------------------|---|
| Purpose: | To increase the efficiency of local governments by enhancing cooperation among them. |
| Strengths: | High degree of flexibility to contract in order to provide a wide variety of governmental services. |
| Limitations: | Interlocal cooperation contracts facilitate the use of other growth management tools, therefore their effectiveness depends largely upon how well they are implemented and what they provide for. |

- ◆ Water supply and wastewater treatment, various types of correctional and criminal justice facilities, transportation infrastructure, and purchasing contracts.³²

Growth management is most effective when approached from several levels of government. Therefore, interlocal cooperation contracts are advised between the City, Brazos County, as well as each of the applicable water control and improvement districts (WCIDs).

³¹ City and County owned property is not exempt from assessment. See §§ 372.014, TLGC.

³² Sections 791.021 *et seq.*, TGC set out additional substantive and procedural requirements for these types of agreements.

STRATEGIC DIRECTIONS

Given limited mechanisms within State law to directly manage growth,³³ the City must use a multi-pronged strategy to effectively direct its future growth and development in a contiguous and fiscally responsible manner. First and foremost, the City must have a sound statement of its growth policies through the Comprehensive Plan, effectively stating the purpose and intent for managing the timing and pattern of urban development. The Comprehensive Plan must be sufficiently detailed to express the general pattern and character of future development, as well as the general plan for providing (or allowing to be provided) the infrastructure (i.e. streets, water and sewer lines, drainage facilities, parks, etc.) required to support it. Without a certain degree of specificity as to the City's sequential growth plan - and its corresponding capital infrastructure plan - the City will be handicapped in its ability to adequately regulate the subdivision of land in the peripheral and outlying portions of its ETJ.

The standards of approval set out by the Texas Local Government Code,³⁴ state that:

- (a) The municipal authority responsible for approving plats shall approve a plat if:
1. it conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 2. it conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities, et al;

Since the approval of subdivision development is ministerial in function given the above requirement, the City must use the authority granted to it by Chapter 212, Municipal Regulation of Subdivisions and Property Development, to spell out its "general plan" and what is required for the subdivision of land. In other words, "level the playing field" with regard to the expectations of development standards in the ETJ that are proportional and comparable to that in the City limits. After all it is the expectation that the ETJ will become part of the City at an appropriate point in the future thereby warranting adherence to the City's plan.

Lastly, the City must consider its authority to annex land into the corporate limits, which offers the most direct control as to managing the timing, pattern, and character of future development. While strengthening the subdivision regulations is an essential step, its most substantive benefit is to affect the standard of development without the benefit of specifying the use or character (density, intensity, bulk, height, etc.) of land.³⁵ The City must therefore, consider its plan for incorporating that portion of the ETJ that is within its defined growth area, either by way of landowner petition or City-initiated annexation. In and of itself, incorporating land does not necessarily commit it for urban development. Rather, depending on the plan and timing for the provision of adequate facilities and services, the City may choose to zone areas outside of the defined near-term growth area (to be defined through the Comprehensive Plan process) Agriculture-Open "A-O" until which time as it is appropriate to extend adequate facilities and services.

³³ There are no growth management provisions per se within State law other than the methods and means outlined in this paper.

³⁴ Section 212.010. Standards for Approval, Texas Local Government Code

³⁵ Section 212.003, Extension of Rules to Extraterritorial Jurisdiction, Texas Local Government Code, limits the City's ability to regulate in the ETJ the use, bulk, height, or size of buildings or property; the number of buildings or residential units; and the size, type, or method of construction of a water or wastewater facility that meets minimum standards of state and federal regulatory entities, et al.

There are a series of steps that are advisable for the City to take in its commitment to manage its urban form. These include:

1. **Strengthen the Sewer Extension Policy** – The application requesting a Certificate of Convenience and Necessity (CCN) that generally coincides with the boundaries of the ETJ (assuming authorization by the Texas Commission on Environmental Quality) obligates the City to provide sewer service when it is requested and consistent with its sewer extension policy. It is therefore, essential that the City critically review and subsequently clarify and strengthen its sewer extension policy to ensure that development occurs in a manner that is consistent and compatible with its growth plan and capital infrastructure plan. The policy should include, but not limited to, provisions regarding:
 - a. Consistency with the strategic growth staging plan and future land use plan outlined in the Comprehensive Plan;
 - b. Conformance with the City’s utility master plans and the five-year capital improvement plan;
 - c. Strict adherence to the City’s growth policies and rural development standards, including verifiable demonstration on behalf of the subdivider that adequate facilities and services (i.e. minimum required fire flows, on-site drainage capacity, road capacity, parkland dedication, etc.) are present or will be present concurrent with development phasing; and
 - d. Criteria regarding the cost effectiveness and fiscal impact on the City for its participation in over-sizing improvements that it requires for future development.
2. **Amend the Subdivision Regulations** – The following amendments are advisable:
 - a. Establish a minimum lot size of 20 acres for rural development that is within the ETJ. So as not to be inconsistent with the limitation of State law concerning regulating the density of development in the ETJ, allow an equivalent density to coincide with the five acre platting exemption³⁶ with a mandatory requirement for development clustering. Effectively, this approach reallocates density and does not limit it below what is allowed by State law. For instance, the lot size may be reduced to two acres as long as the density remains at 0.25 units per acre. As an incentive, the City may also allow a reduction in lot size to as small as one acre (or greater should it increase to two acres as now being considered by the County Commission) to coincide with the Brazos County Health Department’s requirement for permitting septic systems, with an increase in density from 0.25 to 0.30 or more.
 - b. Clarify and strengthen the provision in the current subdivision regulations stating that “All subdivisions shall be provided with water supply and distribution systems for fire protection and domestic use.”³⁷ More specifically, the regulations should establish under what circumstances development is required to connect to a public potable water system or is allowed on-site service. Furthermore, minimum quantity (gallons per minute), pressure (psi), hydrant spacing, and minimum line size should be established within the City’s standards. In cases where fire protection demands are greater than set forth by City standards, then the supply and pressure requirements for fire protection should control. Fire hydrants should be placed in accordance with City standards, State Board of Insurance, Insurance Service Organization, or adopted Fire Code requirements, whichever is most stringent.

³⁶ Section 212.004, Plat Required, Texas Local Government Code, provides that “A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.

³⁷ Section 8: General Requirements and Minimum Standards of Design, Subsection 8-O, Water Supply, City of College Station Subdivision Regulations (reference Ordinance No. 1971 of August 27, 1992)

1. For public water systems, provisions should be added to the City's standards specifying that water service by a public water supply approved by TCEQ may be permitted if the subdivider provides an executed agreement with a retail public utility demonstrating that:
 - a. the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision; and
 - b. The subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs in accordance with provisions of the City Code on water rights.
2. For non-public water systems, the subdivider should have prepared and provide a copy of a groundwater availability study and certifies long-term quantity and quality of available groundwater supplies, and a demonstration that the water meets standards for water quality required for community water systems as set forth by the State.
- c. To preserve the safety and traffic carrying capacity of rural roadways, which may become urban arterials in the future, adopt access management requirements for rural development that are consistent or similar to those recommended by the Texas Department of Transportation (TxDOT). The minimum spacing of property access points should be based on the posted speed limit, with greater spacing required for roads with higher posted speeds. The minimum widths of lots must then correspond to the access standards to allow adequate access for each property or development. In the example outlined in 2.a. above, a clustered development should have a single point of joint access rather than individual driveways accessing the abutting roadway. Application of these access requirements would encourage platting and likely reduce lot depth.
- d. The above recommended amendment pertaining to access management will help to control the number and location of access points to rural roadways but does not restrict the volume of traffic that may be generated by development relative to the capacity of the adjacent roadway. In the outlying portions of the ETJ the City should consider the use of traffic sheds, together with the increased minimum rural lot size requirements, as an important approach to ensure that traffic does not outstrip the capacity of the rural roadway. This approach controls the amount of development by the capacity of the roads in the traffic shed by dividing the capacity of the traffic shed in a peak hour by the number of acres in the traffic shed. Each landowner would then have the right to use their proportion share of the available capacity. (*Note: The options available to the landowner are outlined on Page 18.*)
3. **Amend the Zoning Ordinance** – For those portions of the future growth area that are within the City limits but not yet suitable for urban development there are advisable amendments to the zoning ordinance, as follows:
 - a. Similar to the above recommended minimum lot size for rural development, increase the minimum lot size of the Agriculture-Open "A-O" district from five to 20 acres. A series of development options should be allowed within the district allowing smaller lots sizes and increased densities with corresponding increases in the amount of open space. For instance, development types may include farmstead, cluster, and planned options with density bonuses provided for cluster and planned development. This approach will prevent sprawling large-lot development and instead, result in development clustering thereby preserving the open, agricultural character.
 - b. Prepare infill development standards so as to allow feasible development of vacant parcels within the developed area of the City. Undeveloped tracts within the City limits usually remain vacant for a variety of reasons, sometimes resulting from "green field" development

requirements or a publicly infeasible zone change. In these instances there need to be options and standards in place to allow compatible development.

4. Annexation of Areas Prone to Development –

- a. For the purpose of protecting the City’s long-term interests regarding ETJ development, strategic community assets, and adjacent to major transportation corridors, seek first, to attain by way of voluntary petition inclusion of properties into the ETJ.³⁸ To establish reason for such voluntary inclusion the City may consider negotiation of a non-annexation development agreement³⁹ with those landowners that are outside of the 10-year growth area and not interested in development. A certain amount of development may be granted subject to the recommendations of 2.a. above.
- b. Use the City’s annexation authority on an “as needed” basis to incorporate other development pressure areas. The City may annex up to 10 percent of its land area each year, with a maximum carryover up to 30 percent. To enable maximum growth control the City should seek to annex the primary growth areas (to be defined through the Comprehensive Plan), which will generally constitute a 10-year holding capacity.
- c. The City is obligated to provide for the extension of full municipal services (including police protection, fire protection, emergency medical services, solid waste collection with stated exceptions, and operation and maintenance of water and wastewater facilities not within the service areas of another provider; roads and streets including lighting; parks, playgrounds, and swimming pools; and other publicly owned facilities, buildings, or services. However, the level of services, infrastructure, and infrastructure maintenance is only required to be comparable to that available in other parts of the municipality with topography, land use, and population density. Therefore, it is advisable for the City to undertake a study to gauge the level of service within similar areas within the City limits to establish a legal basis as to the requirement for the provision of “full municipal services.”

5. Intergovernmental Cooperation – Coordinate and cooperate with the Brazos County Health Department’s pursuit of increasing the minimum required lot size for permitting septic systems from one to two acres. This will further the City’s pursuit of preserving the rural, agricultural character of the outlying portions of the ETJ that are not within the horizon of the growth plan.

³⁸ Chapter 42, Extraterritorial Jurisdiction of Municipalities, Section 42.022, Expansion of Extraterritorial Jurisdiction, provides that “The extraterritorial jurisdiction of a municipality may expand beyond the distance limitations imposed by Section 42.021 to include an area contiguous to the otherwise existing extraterritorial jurisdiction of the municipality if the owners of the area request expansion.

³⁹ Section 212.172, Development Agreement, authorizes the City to make a written contract with an owner of land in the ETJ to, among other things, guarantee the continuation of the extraterritorial status of the land and its immunity from annexation for a period not to exceed 15 years.

Growth Management Strategies Staff Recommendation

Stated purposes for growth management strategies:

- Protection of health, safety, and welfare of area citizens (traffic, drainage, building safety, etc.)
- Maximize net fiscal benefits of growth and development to the City of College Station
- Maximize the efficiency of the delivery of City of College Station public services
- Protection of area character, particularly clear delineation of rural and urban areas
- Protection of environmental resources

Techniques to respond to these purposes:

- Comprehensive Planning
- Zoning Regulations
- Subdivision Regulations
- Annexation
- Development Agreements
- Impact Fees
- Improvement Districts
- Interlocal Cooperation
- Capital Improvement Programming

To some extent, the City is engaging in each of these techniques. The consultant recommends adjustments in each of these areas to effectively manage growth and development to achieve the stated purposes. Further, *the consultant states that the most readily available means for minimizing the impacts of growth in the ETJ is through the subdivision regulations*, though such revisions must be accompanied by adjustments in many of the other identified techniques.

Staff believes that all options presented by the consultant except for those identified for no further action will result in achieving the stated purposes and therefore recommends that the those items identified for text amendments proceed and that those items identified for incorporation into the Comprehensive Plan proceed.

Staff Recommended Options:

- Take No Action at This Time
- Proceed with Text Amendment
- Incorporate into Comprehensive Plan Update

Take No Action at This Time

- Ü Transfer or Purchase of Development Rights
- Ü Development Clustering – develop incentives for clustering of development in the ETJ
- Ü Development Plat – revise waivers and exemptions

Proceed with Text Amendments

- Ü Access Management – minimum lot width of 400'
- Ü Minimum Lot Size - minimum lot size of 20 acres
- Ü Parkland Dedication – extend parkland dedication into ETJ (already enacted)
- Ü Urban Density Street Option – remove development incentive
- Ü Redevelopment Standards – streamlined redevelopment procedures

Incorporate into Comprehensive Plan Update

- Ü Resource Protection Standards – identification of resource protection areas and related standards
- Ü City A-O Zoning – minimum lot size of 20 acres
- Ü City A-OR Zoning – minimum lot size of 5 acres
- Ü Character based Zoning – shift from use based zoning to character based zoning
- Ü Adequate Public Facilities Ordinance – establish APFO or Concurrency requirements
- Ü Traffic sheds – development of traffic shed provisions in development ordinances
- Ü Impact Fees – extension of impact fees into the ETJ
- Ü Conservation Easements – identification of protection areas and acquisition of easements
- Ü Improvement Districts – establishment of improvement districts to pay for infrastructure
- Ü Identification of Growth Areas – identify planned growth areas and protection areas
- Ü Master Plans Related to Land Use Plan – ensure that all master plans (utilities, thoroughfares, parks, etc.) relate directly to the city's land use plan.
- Ü Revise Oversize Participation Requirements – revise OP practices to minimize city participation in “non-growth” areas

Other Activities to Proceed with

- Ü Annexation – exempt areas and development and continued maintenance of 3 year annexation plan
- Ü Development Agreement – development agreements in the ETJ
- Ü Interlocal Cooperation – interlocal cooperation agreements with the County and service providers regarding subdivision review, floodplain management, thoroughfare planning, utility provision, etc.

- ü CCN – extension of the City’s sewer service area into the ETJ to ensure that service provision in the ETJ will be consistent with city’s growth management strategies
- ü Implementation of CIP – Continued development and funding of the City’s CIP for capital projects within the City

February 28, 2008
Workshop Agenda Item 6
UDO Amendment, Section 7.9.B.6 (Traffic Impact Analysis), Section 7.9.H
(Submittal Requirements) and adding Section 7.12 (Traffic Impact Analysis)

To: Glenn Brown, City Manager

From: Bob Cowell, AICP, Director of Planning & Development Services

Agenda Caption: Presentation, possible action, and discussion on an ordinance amending Chapter 12 of the City of College Station Code of Ordinances, Unified Development Ordinance Section 7.9.B.6 (Traffic Impact Analysis), Section 7.9.H (Submittal Requirements) and adding Section 7.12 (Traffic Impact Analysis)

Recommendation(s): N/A

Summary: This purpose of this agenda item is to provide the Council with an overview of the UDO amendment pending on the Regular Agenda regarding traffic impact analysis and to answer any questions that the Council may have about the proposed amendment.

Budget & Financial Summary: N/A

Attachments: N/A

**February 28, 2008
Workshop Agenda 7
College Station Bike Loop Preliminary Design**

To: Glenn Brown, City Manager

From: Mark Smith, Director of Public Works

Agenda Caption: Presentation, possible action, and discussion concerning the 2005 Bike Loop project preliminary design.

Recommendation(s): N/A

Summary: Staff requests input from council concerning the preliminary design of the 2005 Bike Loop project. This project is a combination of several projects that will benefit pedestrians and the biking community, including Phase III of the College Station Bike Loop Project, the Bee Creek crossing, and Longmire Drive Pedestrian Improvements.

The Bike Loop Phase III design will extend the Bike Path that terminates in Bee Creek Park along the creek maintenance shelf to Texas Avenue, looping around the Arboretum. This project is part of the ISTE A grant from TxDOT to create a circular connection of bicycle facilities in College Station to improve mobility and connect the Texas A&M campus, retail centers, and several City parks and buildings. This project will complete the design of the original College Station Bike Loop project.

The Longmire Drive Pedestrian Improvements will add bike lanes, curbing, sidewalks and pedestrian signals to the Longmire-FM 2818 intersection, as well as bicycle lanes along Longmire from Airline Dr. north leading to the Bee Creek crossing at the end of Longmire Ct. The design also includes dedicated right turn lanes that will improve the flow of traffic at the intersection and improve the safety of crossing conditions for pedestrians and cyclist.

Budget & Financial Summary: The budget for this project consists of ISTE A funds from the 2005 Bike Loop project (ST-0530) in the amount of \$327,202, the Miscellaneous Bike Trails project (ST-9803) in the amount of \$169,000, and Hike and Bike Trails (ST-0521) in the amount of \$981, 624.

Attachments:

- 1.) Project Map

