

**COURT ORDER
2016-1411**



Proposed Strategy for County's Unincorporated Area

On a motion made by Commissioner John Wiley Price, District 3, and seconded by Commissioner Dr. Elba Garcia, District 4, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: 11/1/2016
FUNDING SOURCE: General Fund

Be it resolved and ordered that the Dallas County Commissioners Court does hereby adopt the proposed strategy for its unincorporated area, that it be used over the next five years to guide associated resource allocation and decision-making, that the recommended Department of Unincorporated Area Services be created effective January 1, 2017, and that staff proceed with implementing the strategy's remaining recommendations by July 1, 2017.

Done in open court November 15, 2016, by the following vote:

IN FAVOR: Honorable Clay Lewis Jenkins, County Judge
Commissioner Dr. Theresa M. Daniel, District 1
Commissioner John Wiley Price, District 3
Commissioner Dr. Elba Garcia, District 4
OPPOSED: None
ABSTAINED: None
ABSENT: Commissioner Mike Cantrell, District 2

Recommended by: Darryl Martin
Originating Department: Commissioners Court Administration

COMMISSIONERS COURT BRIEFING



DATE: 11/15/2016

SUBMITTING DEPARTMENT: Commissioners Court Administration

THROUGH:

SUBJECT: Proposed Strategy for County's Unincorporated Area

BACKGROUND:

On November 1, the Commissioners Court was briefed on a proposed comprehensive strategy for the County's unincorporated area (a copy of this initial briefing and the proposed strategy are attached). During this discussion, questions arose regarding the County's various floodplain management roles and whether it might be more advantageous to structure the recommended Department of Unincorporated Area Services (DUAS) as a section within Public Works rather than as a stand-alone department. Pursuant to this discussion, staff from Public Works, the Budget Office, the Civil Section, Planning & Development, and the Fire Marshal has since met and has better defined the various floodplain management roles that would be affected by the proposed strategy. In addition, staff has also re-examined the question of the location of the proposed department and has reconfirmed that having it be a stand-alone office provides it with the greatest opportunity of being effective.

OPERATIONAL IMPACT:

The additional discussions that staff has had on these issues since November 1 have been very helpful. All staff recognize that the new department will not operate in a vacuum and that it will utilize the information-sharing/regular meeting process with HHS, the Fire Marshal, and Public Works that was established about one year ago. It is also understood that the new department will not have any supervisory authority over any of the other departments that have unincorporated area duties.

It is understood that there will need to be a series of meetings to discuss how existing activities and functions can be transferred to the new department and that it is not the intention of staff to have any interruption in services. As a result, some functions or specific projects may continue under the auspices of the current department until either the projects are completed or the new department is fully staffed. All also agree that the department's first major assignment should be to develop new extra-territorial jurisdiction agreements with relevant cities.

It has been clarified that the new department will administer the County's floodplain management and permitting duties as authorized under Chapter 42 of the County Code and Court Orders 2003-2054 and 2004-2296. To ensure that the department has sufficient capacity to perform this role, it is being recommended that the engineering position that would be created for this department be a PE10 rather than a PE8 as was first proposed. Public Works will continue to have the responsibility of the management and coordination of hydrology and floodplain matters associated with County-funded transportation projects and of helping ensure

| | | | |
|------------------------|------------------------------------|-------------------------------|---------------|
| RECOMMENDED BY: | Commissioners Court Administration | PREPARED BY: | Angie Smith |
| | | APPROVED BY DEPT HEAD: | Darryl Martin |

that an appropriate county-wide perspective in regional floodplain matters exists.

In regard to the placement of the proposed department, staff believes that having it be a stand-alone office reporting directly to the County Administrator, rather than being a part of another larger department with other duties and whose primary focus is not the unincorporated area, will help ensure that its work will be of a priority nature. While there may be an additional budgetary cost to this arrangement, staff believes that the department's effectiveness should more than offset this expenditure.

FINANCIAL IMPACT:

Changing the grade of the proposed department's engineer from a PE8 to a PE10 increases the annual additional cost of creating the department by about \$20,000 to \$269,947 (please note that because of a mathematical error, the \$244,753 total figure cited in the November 1 briefing was understated by \$5200 although all individual line-items were presented correctly at that time). This \$269,947 is shown below in more detail:

| | | |
|-------------------------|------------|--|
| Salaries | \$187,288 | (for projected Grade K director and PE10 engineer) |
| Fringe Benefits | \$ 55,459 | |
| Furniture | \$ 1,800 | (for director and engineer) |
| Computers | \$ 2,400 | (for director and engineer) |
| Office Supplies/Misc | \$ 1,000 | |
| Inspector Reimbursement | \$ 22,000* | |
| Total | \$269,947 | |

**Reimbursement is needed because this position is presently federally-funded and conducting residential inspections will fall outside of the jurisdiction of this funding. Actual reimbursement will only occur if other staff does not possess the qualifications necessary for conducting the department's inspections and if the demand for inspections occurs.*

M/WBE PARTICIPATION:

N/A

ADMINISTRATIVE PLAN COMPLIANCE:

The proposed strategy is consistent with the Administrative Plan as such a document was specifically recommended by that Plan. It is also consistent with the Plan's goal that County services be delivered as efficiently and effectively as possible as the strategy contains recommendations that will make the permitting process more convenient and understandable for the public, that will help ensure that various unincorporated area activities are coordinated, and that issues in the unincorporated area are quickly identified and assigned for action.

RECOMMENDATION:

It is recommended that the County adopt the proposed strategy for its unincorporated area, that it be used over the next five years to guide associated resource allocation and decision-making, that the recommended Department of Unincorporated Area Services be created effective January 1, 2017, and that staff proceed with implementing the strategy's remaining recommendations by July 1, 2017.

COMMISSIONERS COURT BRIEFING



DATE: 11/1/2016

SUBMITTING DEPARTMENT: Commissioners Court Administration

THROUGH:

SUBJECT: Proposed Strategy for County's Unincorporated Area

BACKGROUND:

The County's recently-adopted Administrative Plan contains a provision under which the County is to develop a comprehensive strategy for its unincorporated area. In accordance with this provision, the attached strategy has been jointly developed with the assistance of staff from key departments, including those who are presently involved with the provision of services to the unincorporated area, and is now presented to the Commissioners Court for its formal consideration.

OPERATIONAL IMPACT:

Adopting the proposed plan and implementing its recommendations will provide the County with a framework by which it can consistently allocate resources, it will improve the coordination of unincorporated area activities, streamline and make the permitting process more convenient for the public, strengthen existing policies, elevate enforcement, and help ensure that new development is done in accordance with County rules. In so doing, it can realistically improve the living conditions of the unincorporated area in a cost-effective manner.

FINANCIAL IMPACT:

The only cost to implement the proposed strategy is associated with creating the proposed Department of Unincorporated Area Services. Since most of the staffing associated with the proposed department already exists and would be transferred, along with their associated equipment and vehicles, to the new department, the additional twelve-month cost of creating this department would be \$222,753 for an engineer and the department's director position. However, it should be noted that depending upon the qualifications/experience of the transferred staff and/or new staff, the cost could increase by up to another \$22,000 to temporarily cover the expense of having an inspector from the County's replacement housing program perform this task on an as needed basis (this reimbursement is needed since the position is currently federally-funded and since conducting the anticipated residential inspections would fall outside the scope of these funds; it should also be noted that the estimated \$22,000 reimbursement figure represents what is thought to be the maximum amount needed and that actual charges may be less depending upon the demand for inspections).

| | | |
|-----------------|-----------|---|
| Salaries | \$170,582 | (for projected Grade K director and PE8 engineer) |
| Fringe Benefits | \$ 52,171 | |
| Furniture | \$ 1,800 | |
| Computers | \$ 2,400 | |

| | | | | |
|------------------------|------------------------------------|-------|-------------------------------|---------------|
| RECOMMENDED BY: | Commissioners Court Administration | Court | PREPARED BY: | Angie Smith |
| | | | APPROVED BY DEPT HEAD: | Darryl Martin |

| | |
|-------------------------|------------------|
| Office Supplies/Misc. | \$ 1,000 |
| Inspector Reimbursement | \$ <u>22,000</u> |
| Total | \$244,753 |

PURPOSE OF STRATEGY:

The proposed strategy was developed so that the County would have a consistent framework for making decisions affecting the unincorporated area, including how resources should be allocated and what services should be provided. In developing this strategy, the conditions and characteristics of the County's unincorporated area were examined, the prospects for annexation were assessed, the County's existing unincorporated area regulations and activities were reviewed, and a comparison of the services that the County and other local counties provide their unincorporated areas was made.

SUMMARY OF STRATEGY:

This strategy has confirmed that the County's unincorporated area, which presently contains 69 square miles, has substantially gotten smaller since 1940 and that its population (at 7430) represents less than 0.3% of the County's total population. Of this 7430 people, about two-thirds of it is located in fourteen areas that could be considered neighborhoods (these neighborhoods geographically comprise 3% of the County's total unincorporated area). The remaining unincorporated population is scattered throughout the unincorporated area's other 66 square miles and is frequently separated from one another by distances of at least one-third-mile.

The 69 square miles, which are largely rural and undeveloped, remain unincorporated because they possess relatively limited economic value (about 55% of it is located in the floodplain and so cannot be readily developed), because the cost of providing city services or upgrading existing infrastructure is prohibitive, and/or the existence of another water provider complicates city annexation. Reflecting this limited economic value, the area accounts for less than 0.2% of the County's total tax base and contains little commercial activity other than a convenience store, a few junkyards and auto repair shops, and some gravel mining operations.

Adequate infrastructure is often lacking throughout the unincorporated area. The most common infrastructure-related issues are inadequately-sized water lines, deteriorated private roads, lots that are too small for current septic tank regulations, or a lack of formal water service altogether. It is typically the responsibility of a developer (and not a city or county) to initially install infrastructure within any subdivision, and it has historically been the responsibility of a city or special purpose district to provide water/sewer service.

There are generally two distinct population groups living within the fourteen neighborhoods: those earning substantially more than the County median income and those earning much less than the median; there appear to be relatively few households earning close to the median.

There are some neighborhoods with significant nuisance and housing issues. About one-half of the unincorporated neighborhood population lives in a mobile home of varying condition, and about one-third lives in large, nicely-maintained brick homes. The remaining population lives in small brick or frame homes that frequently have code problems.

The County has traditionally provided its unincorporated area with roads (which are generally in better condition than those of other counties) and police and fire protection. It has also been active enforcing State laws as they relate to illegal dumping and the improper location and maintenance of hog pens, and it has utilized the regulatory authority that the State has granted for septic tanks, floodplain development, subdivisions, junkyards/outdoor businesses,

fire/building codes, and communications towers. It is also in the process of drafting possible regulations that would govern the location and operation of slaughterhouses. A review of services provided by other counties in the Dallas area finds that this array of services and activities is quite common.

Regulatory/enforcement functions are currently spread among four departments with many other important priorities. Moving toward a single-point of contact has improved the permitting process for the public and has helped improve internal coordination. However, these regulatory/enforcement functions still represent a small component of each department's responsibilities and priorities. Also, there are still some regulatory functions that are not yet a part of this single-point of contact, and the County's website does yet readily make clear that this single-point of contact exists. In addition, there are also some subject areas where existing policies (such as for street-naming) can be improved and where new policies are being drafted (as is the case for the location and operation of slaughterhouses).

It is not likely that much of the remaining unincorporated area will ever be annexed. If annexation does occur, it will only be in non-floodplain areas adjacent to the inland port with presently little population or because of substantial investment and involvement by the County.

The strategy identifies four possible service level options. Each option is premised on the County undertaking a specific role in the unincorporated area and an expectation of what can be accomplished by fulfilling this role. These four options are as follows:

- County continues providing traditional county services in the unincorporated area (i.e., it continues current services and the current method of delivering them and administering rules);
- County seeks to become more proactive and effective (i.e., it continues current services, but consolidates most operations and provides new emphasis);
- County seeks to significantly improve conditions within its unincorporated area (i.e., it consolidates most operations, provides new emphasis, and involves undertaking new activities like accepting/improving private roads or expanding the County's replacement housing program into the unincorporated area) ; and
- County undertakes activities with the objective of having cities annex some of the unincorporated neighborhoods (i.e., it consolidates most operations, provides new emphasis, and involves substantial infrastructure investment).

It is understood that these options are meant to serve as guidelines and that there will be instances when the County might want to pursue an activity that exceeds a previously chosen option. However, when such instances do arise, it is suggested that the County only consider undertaking an "enhanced" activity if a number of the following factors exist:

- There is a compelling reason that is not present elsewhere;
- A unique economic development or funding opportunity exists;
- A city has indicated that it will annex a specific activity if the proposed action occurs;
- It provides a long-term cost-effective solution to a major issue; and/or
- It represents a one-time-only effort.

Of the four aforementioned service level options, the strategy recommends that the County pursue Service Level Option 2 and seek to become more proactive and effective in the delivery and provision of unincorporated area services.

The strategy also identifies a number of specific actions that should be undertaken as the County performs this role:

- Increase the emphasis and priority assigned to the provision of unincorporated area services by centralizing and consolidating, per Exhibit C of the strategy, most of the

County's unincorporated area regulatory and enforcement operations in a new Department of Unincorporated Area Services and having this department serve as the initial point of contact for the public on all unincorporated permitting issues.

- Establish goals and workload measures for this new department as they relate to reducing the number of existing building code, outdoor business policy, and nuisance policy violations.
- Update and enhance the County's website to reflect the creation of the Department of Unincorporated Area Services and its role as serving as the major point of public contact for unincorporated area permitting and enforcement.
- Update its street-naming policy to also include a methodology for assigning addresses and street numbers.
- Develop and execute new ETJ agreements with relevant cities to clearly reflect who has the responsibility for reviewing proposed subdivisions, to identify which regulations will apply and, if necessary, to establish a single set of consolidated regulations that are at least equal to the requirements of the County's subdivision regulations.
- Complete development of the proposed regulations that would govern the location and operation of slaughterhouses in the unincorporated area.

M/WBE PARTICIPATION:

N/A

ADMINISTRATIVE PLAN COMPLIANCE:

The proposed strategy is consistent with the Administrative Plan as such a document was specifically recommended by that Plan. It is also consistent with the Plan's goal that County services be delivered as efficiently and effectively as possible as the strategy contains recommendations that will make the permitting process more convenient and understandable for the public, that will help ensure that various unincorporated area activities are coordinated, and that issues in the unincorporated area are quickly identified and assigned for action.

RECOMMENDATION:

It is recommended that the County adopt the proposed strategy for its unincorporated area, that it be used over the next five years to guide associated resource allocation and decision-making, that the recommended Department of Unincorporated Area Services be created effective January 1, 2017, and that staff proceed with implementing the strategy's remaining recommendations by July 1, 2017.



A Strategy for Unincorporated Dallas County

November 2016

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The contributions of all who participated in the development of this strategy is greatly appreciated.

Dallas County Unincorporated Area Strategy

Introduction

Compared to many other Texas urban counties, the size of Dallas County's unincorporated area is relatively small as is the number of people living within it. As an example, whereas neighboring Denton County and Collin County have 147 and 474 square miles of unincorporated area, Dallas County only has 69 square miles. Not surprisingly, there is also a significant difference in the size of these unincorporated area populations—while Denton County has 87,990 people living in its unincorporated area and Collin County has 49,510, only 7,430 people live within unincorporated Dallas County.

However, although Dallas County's unincorporated area comprises less than ten percent of the County's total geographic area and less than one percent of its total population, a number of situations involving this unincorporated area have arisen over the past several years. These situations have involved the operation of an unlicensed rodeo, widespread health violations and substandard living conditions in some unincorporated neighborhoods, determining whether a city's building code or the County's is in effect in one unincorporated neighborhood, and whether the County should either provide additional services to one floodplain community or instead once again offer to help its residents move to another location.

In its efforts to address these issues, various questions about the unincorporated area have arisen—why did these aforementioned situations occur? What are the population characteristics of the unincorporated area? What is the likelihood that much of this area will ever be annexed? What services is the County presently providing? What services do other counties provide? Should the County be doing something differently?



So that the County can be in the position of answering these questions and making long-term unincorporated area decisions, the following strategy, which is based on an analysis of census bureau and appraisal district data, a review of existing County policies and regulations, on-site inspections of the County's unincorporated area, a review of the services that the County and other major Texas urban counties presently provide, and the participation of the County Administrator, the Assistant County Administrator, the Fire Marshal, the Public Works Director, the Health & Human Services Director, the Director of Planning & Development, the Budget Officer, the Interim Human Resources Director, the Assistant County Administrator for Governmental Affairs, the Assistant County Administrator for Operations, and the Civil Section Chief, has been developed.

Historical Background and Trends

In Texas, unincorporated area is land that is not located within the formal limits of a city. In many

Texas counties, most of the land is unincorporated, and as recently as 1940, more than 90% of Dallas County was unincorporated. However, as the Dallas area began to grow following World War II, the amount of land that was unincorporated began to rapidly shrink as area cities began expanding their boundaries and annexing this property.

% of Dallas County Being Unincorporated

| | | | | |
|-------------|-------------|-------------|-------------|-------------|
| 1940 | 1965 | 1980 | 2006 | 2016 |
| 93% | 40% | 15% | 9% | 8% |

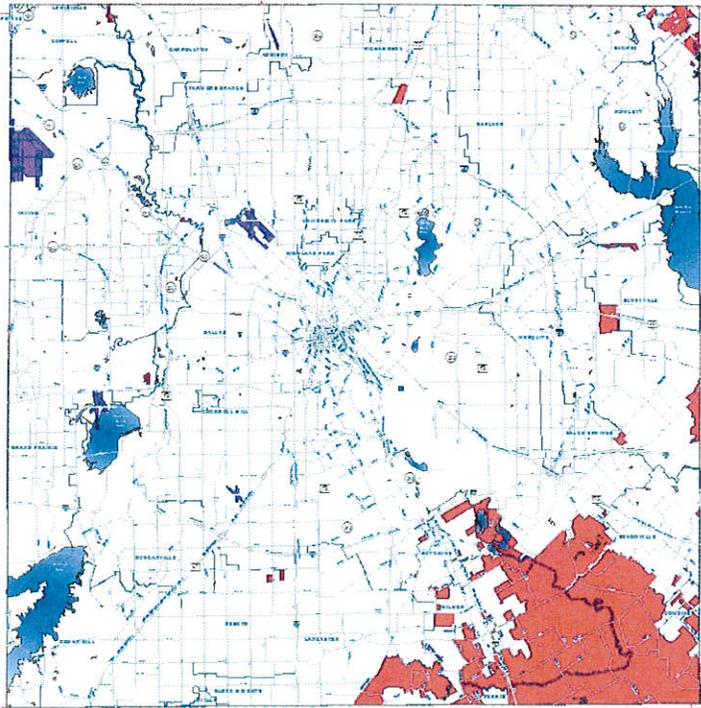
As would be expected, the number of people living within the County’s unincorporated area has also declined as this unincorporated area has gotten smaller.

Dallas County Unincorporated Area Population

| | | | | | | |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1960 | 1970 | 1980 | 1990 | 2000 | 2010 | 2016 |
| 26,375 | 18,940 | 9,152 | 6,185 | 8,259 | 7,175 | 7,430 |

Overall, the population density for the unincorporated area is 108 people per square mile which is substantially smaller than the 2667 people per square mile density of the entire County.

Presently, as shown in the red areas denoted below, most of the County’s unincorporated area is located in the County’s southeastern corner although there are two small “islands” near DeSoto, two parcels along US 80 which comprise a park (“Samuel Farm”), a cemetery tract in North Dallas, and some other fragments near the edge of the County’s far northeastern corner.



That these areas continue to remain unincorporated in a county as heavily urbanized as Dallas County is because they currently possess little relative economic value. In Texas, cities are

legally required to provide services to areas that they annex. As a result, cities usually only annex areas that can either soon pay for themselves or that represent a significant growth opportunity.

Unfortunately, much of the County's unincorporated area possesses neither characteristic; most of the County's southeastern corner is primarily located in the floodplain and so cannot be readily developed, and the other areas often either lack suitable infrastructure or require substantial infrastructure upgrades. Accordingly, the unincorporated area is heavily rural in nature, largely undeveloped, and possesses little business activity other than some farms and ranches; a handful of auto repair shops, wrecking yards, and gravel excavation operations in the southeastern corner; and a convenience store and some auto repair shops/wrecking yards in an area near DeSoto. Overall, the economic base of the County's unincorporated area is quite limited, accounting for no more than 0.2% of the County's total assessed valuation.



Why Infrastructure is Lacking

Developers are typically responsible for initially installing infrastructure within a subdivision, including even those subdivisions located within a city. Because of the costs of providing water and sewer in the unincorporated area (costs which can be exacerbated because of the distance to the nearest water or sewer utility) and the impracticability of passing these costs onto the property-buyer, unincorporated area subdivisions are usually created with only the most minimal of water/waste water facilities (i.e., septic tanks; individual wells; water provided by small, non-city water districts/water corporations; etc.). Similarly, in an effort to control their costs, developers sometimes build roads of very minimal quality. While building such roads initially keeps costs low for both the developer and buyer, they also prevent the roads from becoming public roads and thus eventually require the property-owners to jointly be responsible for maintenance, something that they are not always willing (or able) to do.

Survey of Existing Unincorporated Neighborhoods

Using a combination of aerial photography and on-the-ground reconnaissance, it has been possible to identify what are considered to be fourteen unincorporated area neighborhoods in Dallas County (for the purposes of this study, a neighborhood is considered to be a grouping of at least ten homes generally adjacent to one another on similarly-sized lots). Of these fourteen neighborhoods, nine are located in the southern half of the County, and five are located in the County's northeastern corner.

It is estimated that these fourteen neighborhoods contain less than three percent of the County's total unincorporated area, but about sixty-four percent of its total unincorporated population. Field visits, block group census data, and information from DCAD indicate that these neighborhoods primarily consist of one of two distinct income groups—those earning substantially more than the Dallas County median household income of \$49,925 or those earning significantly less than that.

Income Composition of Unincorporated Neighborhoods¹

| | Bear Creek/ Green Acres | Bonnie Haven/ Pecan Lake | Beltview Villa |
|----------------------|------------------------------------|-------------------------------------|-----------------------|
| Median Income | \$65,068 | \$39,167 | \$23,528 |
| % Poverty | 7.1% | 21.1% | 64.1% |

Further reflecting the existence of two distinct income groups is the type of housing that is present and the value of this housing. About one-half of the housing in these fourteen neighborhoods consists of mobile homes/manufactured housing which is a much higher figure than what exists in the overall County (1.5%). The values of these unincorporated area mobile homes are about \$10,000-\$30,000 (in comparison, the median value of a home in Dallas County is \$129,200). About one-third of the unincorporated neighborhood homes are large brick structures with values of \$100,000-\$300,000. The remaining homes are small brick or frame structures; their values range from \$7,000-\$50,000.

Interestingly, although homeownership is usually highly correlated to income, these fourteen areas (many of which have incomes much lower than the County median) collectively have a higher homeownership rate (at 75%) than the entire County (53%). Such a finding tends to confirm the explanation that people often give for living in the unincorporated area—they want to own land—and since land in the unincorporated area is generally less expensive than that located within a city, the County's unincorporated area gives them that opportunity. Census data also indicates that unincorporated area homeowners are somewhat younger than the typical County homeowner.

| | Unincorp Neighborhood Homeowner | Dallas County Homeowner |
|--|--|------------------------------------|
| % of Homeowners Under 35 Years of Age | 19.1% | 12.4% |
| % of Homeowners 65 Years and Older | 18.1% | 21.8% |

¹This table utilizes 2010 block group data. The five neighborhoods identified in this table were included because they comprise close to at least a majority of the population living within their block group (the other nine neighborhoods contain no more than 4%-12% of the population of their block group so there is a concern that this block group data may not accurately reflect the characteristics of these neighborhoods). Field observations and DCAD data indicate that the populations in the other nine neighborhoods appear to have similar income characteristics.

A more detailed description of each neighborhood follows below. Aerial photos of each community are also included in Exhibit A.

| | Community | Location | 2010 Pop | # of Homes | Water Source/ Provider | Sewage Disposal Method | Description/Comments |
|----------|----------------------------|---|----------|------------|------------------------|------------------------|--|
| 1 | Uhl Gardens | South of Daniieldale and west of Polk; completely surrounded by DeSoto. | 294 | 87 | Community Water Supply | Septic Tanks | Somewhat similar to Beckleyview, but not as densely developed and fewer brick homes; homes are more weathered and in need of repair or replacement; typical home value is \$40,000; lots are too small for today's septic tank regulations; water lines are too small for sufficient water pressure/fire protection. |
| 2 | Beckleyview/ Beckleycrest | Just south of Daniieldale Road and west of I-35; surrounded by DeSoto on three sides. | 448 | 100 | Community Water Supply | Septic Tanks | Densely-packed neighborhood with a mixture of old frame homes, mobile homes/manufactured housing, and newer brick homes; typical home value is \$40,000-\$50,000; several businesses (convenience store, auto repair shops, and junkyard); many properties covered with cars, side buildings and clutter; lots are too small for today's septic tank regulations; water lines are too small for sufficient water pressure/fire protection. |
| 3 | Bear Creek | East of South Dallas Avenue; immediately adjacent to Lancaster. | 864 | 390 | Lancaster MUD 1 | Lancaster MUD 1 | New subdivision with \$150,000-\$160,000 brick homes and community center/playground/pool. |
| 4 | Green Acres | East of South Dallas Avenue; just south of Bear Creek off of Reindeer Rd. | 49 | 17 | Rockett Water Supply | Septic Tanks | Large older brick homes on large lots. Values are \$100,000-\$150,000. |
| 5 | Sandbranch | Southeastern corner of County on Beltline Road; about 2000 feet east of Trinity River and immediately south of Southside Treatment Plant. | 88 | 32 | Bottled Water/Wells | Septic Tanks | Primarily frame homes from 1940s and 1950s with values of less than \$7000; most of housing is seriously dilapidated; wells are contaminated; floodplain location; lots are too small for current septic tank regulations; serious nuisance violations. Population has declined from about 460 to about 90 since 1970. |
| 6 | Pecan Lake MHP | About 1.8 miles north of Sandbranch on Beltline Road near Seagoville. | 635 | 244 | Dallas Water Utilities | Dallas Water Utilities | Mobile home park with older mobile homes; modest, but well-kept; few vacancies. |
| 7 | Bonnie Haven MHP | South of Kleberg Road/ Cloverhill Lane; about two miles east of Pecan Lake. | 116 | 60 | Dallas Water Utilities | Dallas Water Utilities | Terrible private road; older, declining mobile homes/manufactured housing; significantly less tidy than Pecan Lake. Home values are \$10,000-\$12,000. |
| 8 | Bilindsay Road | Far southeastern corner just inside County; located where Davis intersects with Bilindsay. | 126 | 25 | Private Wells | Septic Tanks | Rural setting; floodplain location; older mobile homes with values of \$20,000-\$30,000 and clutter scattered along road. |
| 9 | Beltview Villa Estates MHP | Just north of I-20 and off of Lasater Road near Balch Springs. | 1126 | 325 | Dallas Water Utilities | Dallas Water Utilities | Older mobile homes; values are \$10,000-\$20,000; some clutter and disheveledness. |

| | Community | Location | 2010 Pop | # of Homes | Water Source/ Provider | Sewage Disposal Method | Description/Comments |
|---------------|----------------------------|---|-------------|-------------|------------------------|------------------------|---|
| 10 | Plantation Place | On north side of Barnes Bridge Road just east of Collins; immediately adjacent to Sunnyvale. | -0- | 70 | Town of Sunnyvale | Town of Sunnyvale | RV park surrounded by large "estate" homes with values of \$300,000-\$500,000. |
| 11 | Foster Lane/ Kathlyn Lane | Far northeastern corner of County; south of Vinson and east of Elm Grove. | 132 | 42 | East Fork SUD | Septic Tanks | Terrible private road; primarily consists of older declining mobile homes; some manufactured housing and one brick home; home values are generally \$10,000-\$60,000; several abandoned homes should be demolished; lots are too small for today's septic tank regulations. |
| 12 | Rose/Stonewall Cove/ Bunny | Far northeastern corner just inside County; immediately adjacent to Rockwall County; north of Stonewall Road. | 85 | 50 | East Fork SUD | Septic Tank | Terrible private road; primarily consists of frame homes needing repair and older mobile homes; clutter; values of homes are \$25,000-\$35,000; lots are too small for today's septic tank regulations. |
| 13 | Dallas Road/ Cottonwood | Far northeastern corner of County east of Elm Grove and south of Vinson near both Rockwall and Collin County. | 286 | 100 | East Fork SUD | Septic Tanks | Older mobile homes with values of \$10,000-\$20,000; similar to Pecan Lake, but not as tidy or as densely populated; lots are too small for today's septic tank regulations. |
| 14 | Elm Grove/ Whitley | Far northeastern corner of County near Rowlett, Rockwall, and Sachse; generally bounded by Pleasant Valley, Elm Grove, Vinson, and Wells. | 363 | 90 | East Fork SUD | Septic Tanks | Newer and larger brick homes on large lots with values ranging from about \$150,000-\$300,000. |
| Totals | | | 4612 | 1632 | | | |

Overall, the County's unincorporated area neighborhoods tend to fall into one of five different categories:

- Neighborhoods (such as **Sandbranch**) with older, seriously dilapidated frame homes, floodplain location, and water/septic tank issues;
- Neighborhoods (such as **Beckleyview** and **Uhl Gardens**) with modest homes, clutter, and water/septic tank issues;
- Neighborhoods (such as **Bonnie Haven**, **Foster Lane**, and **Dallas Road**) with declining mobile homes/manufactured housing, poor private roads, and clutter;
- Neighborhoods (such as **Pecan Lake** and **Beltview**) with modest mobile homes; and
- Neighborhoods (such as **Bear Creek** and **Elm Grove**) with larger, well-maintained brick homes.

Of these five categories, about one-third of the unincorporated neighborhood population lives in an area similar to Sandbranch, Foster Lane, or Beckleyview. Another one-third lives in mobile home communities like Beltview Villa.



Sandbranch



Bonnie Haven



Beckleyview



Foster Lane



Uhl Gardens



Beltview Villa

The remaining one-third of the unincorporated neighborhood population lives in areas like Elm Grove and Bear Creek where there are not any noticeable types of infrastructure, nuisance, or housing problems. As might be expected, the homeownership rate for this population (93%) is significantly higher than that of the categories with problems.



Bear Creek



Elm Grove

Non-Residential Unincorporated Area Population

Approximately 2700 people—thirty-six percent of the County’s unincorporated population—do not live in a setting resembling a neighborhood. With this population scattered over 66 square miles, its population density—at 41 persons per square mile—is not even half of what the population density is for the entire unincorporated area, thus making the provision of “city” services even more expensive and further making annexation difficult.

The homes for this population vary widely from large expensive brick homes on “ranch-style” acreage to declining mobile homes surrounded by salvage items. Water and sewer service is typically provided through the use of individual wells and septic tanks with a few homes covered by non-city water entities.

Prospects for Annexation

Because of the characteristics of the County's unincorporated area, it is not likely that much of the area (or its population) will soon be annexed. The area that has the greatest possibility of being annexed is ironically that which has no residents—the non-floodplain “fringe” immediately adjacent to the east side of Wilmer and Hutchins. After decades of little or no growth in these two cities, both are now experiencing strong warehouse development. So strong is developer interest in these two cities that it is reasonable to expect that some developers may proceed with the installation of needed infrastructure at their expense, make arrangements with the associated city to provide water/sewer service, and begin building new distribution centers. With such activity ensuring that the fringe now possesses sufficient economic value, this area could then begin to be annexed.

As for the annexation prospects of the fourteen previously-identified unincorporated neighborhoods, they can be described as follows:

- **Sandbranch and Bilindsay:** These neighborhoods may never be annexed given their distance to any city, their floodplain locations, their small populations, and the costs of providing needed infrastructure (it has been roughly estimated, for instance, that it will cost approximately \$6.8 million to build a levee around Sandbranch and \$4 million to install water and sewer service). Because of these factors, it is also not likely that either area will have much of a future.
- **Plantation Place:** Being an RV park amidst large “estate-style” homes already makes this area an anomaly. Although the Town of Sunnyvale has been providing the area with water/sewer service, it is not clear whether annexing an RV park is consistent with the Town's image.
- **Elm Grove, Bear Creek, and Green Acres:** These neighborhoods would have probably been annexed some time ago if their water was not being provided by a separate water entity. However, since it is, annexation will only occur if it is possible for the city to assume whatever financial obligations the separate entity might have for providing water to this area or compensate the entity for its loss in revenue.
- **Pecan Lake, Beltview Villa, and Bonnie Haven:** Although these neighborhoods already receive city water/sewer service and two of them (Pecan Lake and Beltview Villa) have good streets and not many nuisance code issues, they each are mobile home parks, and such developments are usually not highly sought by cities. As a result, the County will probably need to engage in some type of negotiation with the city if annexation is to occur.



- **Beckleyview, Uhl Gardens, Foster Lane, Rose Drive, and Dallas Road:** Even though each of these neighborhoods is located immediately near a city, it will take significant investment and commitment from the County for any of them to be annexed given the deteriorated condition of the private roads, the significant nuisance code violations, the inadequately sized water lines that will need to be replaced, etc. In addition, these neighborhoods are also presently receiving water from a separate non-city utility so some type of arrangement with this entity will have to be developed.

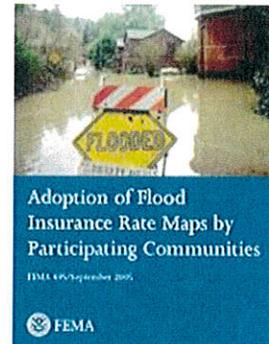


As an example of what some of this might cost, most of the private roads have lengths of between 600-1400 linear feet. With the current cost of reconstructing a road being about \$518 per linear feet, the cost of bringing these private roads to County standards would be approximately \$518,000-\$725,200. Similarly, a 2001 feasibility study estimated that it would cost about \$2.7 million to replace the existing water line in Beckleyview and tie that neighborhood into a sewer system.

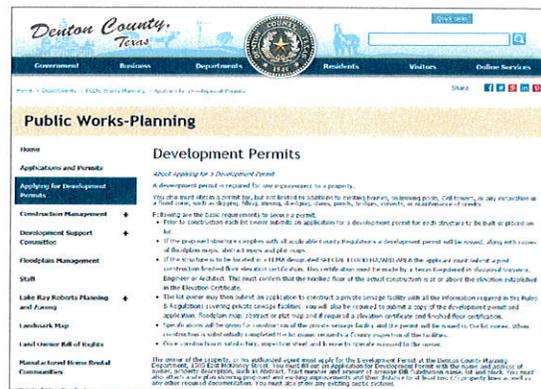
County Unincorporated Area Services

Since unincorporated areas are not located within the boundaries of a city, it is the county that is responsible in Texas for providing what are considered to be “local” services. Historically, a county’s ability to provide such services was quite limited and generally restricted to simply providing roads and police and fire protection. However, over the last thirty-to-fourty years Texas counties have increasingly been given more authority and can now provide trash collection service, parks/playgrounds, libraries, and water/sewer service and can adopt local rules governing floodplain development, junkyards, building codes, fire codes, subdivisions, cell towers, septic tanks, and nuisances.

Dallas County has traditionally provided its unincorporated area with roads and fire and police protection. It has also been active enforcing State laws as they relate to illegal dumping and the improper care and location of hog pens, and it has utilized the aforementioned regulations governing septic tanks, floodplain development, subdivisions, junkyards, fire/building codes, and communications towers (a discussion of some of this regulatory authority and associated implementation issues is included in Exhibit B). County staff is also presently in the process of drafting possible regulations that would govern the location and operation of slaughterhouses.



A review of services provided by other counties in the Dallas area finds that this array of services and activities is quite common.



Besides the services and activities outlined above, the County also experimented with providing trash service to one unincorporated area community (Sandbranch) in 1987, but this pilot program was discontinued when it did not produce any noticeable benefits. In 1999, the County created a playground within this community which, at the time, was one of the largest unincorporated area neighborhoods with almost 400 people. The County has also periodically explored the feasibility of providing water and sewer service to this neighborhood and has asked the City of Dallas to annex the community. However, this water/sewer/annexation effort has been hampered by the community's floodplain location, its declining population, and the relatively high costs of providing service. With the community now undergoing another effort to obtain water/sewer service, the County began temporarily providing bottled water to residents in 2016.

In response to instructions from FEMA and a determination that one-half of Sandbranch's structures were in violation of the County's floodplain regulations, the County also provided relocation assistance to the community during 2004-2008; this assistance enabled three-fourths of the community to move to a safer area.



There are three Dallas County nature preserves located within the County's unincorporated southeastern corner. These preserves, however, were established because of the unique environmental features that they possess rather than their proximity to unincorporated area residents. Nonetheless, they do represent a significant nearby amenity for this population.

Issues, Observations, and Needs

In the course of developing this strategy, a number of observations, issues, and needs have been made or have become apparent. These are as follows:

- It appears that the County may have frequently been in more of a passive rather than a proactive position; the substandard living conditions and nuisance violations that exist did not materialize overnight.



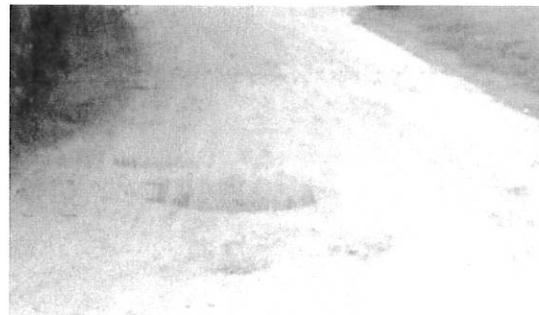
- While the County has staff assigned to handle floodplain, subdivision, health, junkyard, communication tower, and building code duties, these functions are spread over several departments and represent a small part of that staff's and department's overall responsibilities.



| | | | |
|--------------------------------------|--------------------------------------|-------------------------|------------------------------|
| Septic system regulations | Commercial fire code | Subdivision regulations | Communication tower location |
| Nuisance abatement | Residential building code | Floodplain regulations | Outdoor business regulations |
| Illegal dumping/health & safety code | Illegal dumping/health & safety code | Street-naming/numbering | Residential building code |
| | | MS4 | |

- There appears to be some overlapping and duplication of residential building code authority as both the Fire Marshal (which has generally handled these matters) and Planning & Development have been empowered to act in such matters. Yet, both offices have expertise that will jointly be needed if home repairs are made in a floodplain area, and Public Works will also need to be involved in such situations given that department's floodplain management responsibilities.

- A decision made last year to have the Fire Marshal serve as the initial point of contact for all septic tank, building code, subdivision, and floodplain permit requests has greatly increased public convenience, and the holding of monthly meetings with Fire Marshal, Public Works, and Health Department staff to discuss pending permit requests has improved coordination and the sharing of information. However, the County's website does yet not readily make clear that such requests should go to the Fire Marshal, and these permitting/regulatory functions still represent a very small component of each department's overall duties and priorities. In addition, there are also other permitting functions (for communication towers and junkyards) that are presently outside of this new single point of contact arrangement.
- Since State law allows cities to extend some of their land-use authority into an unincorporated area, cities and counties are required to enter into agreements which outline how subdivision matters are to be handled in such "extraterritorial" areas. In such instances, the County has traditionally preferred to have the city be exclusively responsible for exercising its regulatory authority rather than having the County do so or having some type of shared responsibility. However, the language that the County has inserted into its agreements for this purpose is not consistent with this stance and requires the adoption of "a single set of consolidated and consistent regulations" (which has not been done). Also, there have been some instances of subdivisions with public roads that have been built to city standards that are less than what the County requires.
- Unlike the unincorporated public roads in many other counties, those in unincorporated Dallas County are paved and generally in good condition.
- The lack of adequate infrastructure not only prevents some areas from being annexed, but it also diminishes the quality of life within these areas.
- Addressing infrastructure would require some combination of revising County policy, actively encouraging the dedication of public right of way, and increasing County funding/utilizing external funding.
- Most of the unincorporated neighborhoods suffer from not just one major problem, but several. This thus greatly complicates efforts to improve these areas as one can attempt to repair a home, but doing so will not affect the deteriorated road in front of it, make the lot large enough to support a septic tank that complies with current regulations, or remove its floodplain location.



Deteriorated private road

- The City of Lancaster has asked the County to assign new addresses/street numbers in one unincorporated subdivision because it believes the present addresses are not consistent with standard addressing practices. However, while the County has a street naming policy, this policy does not include a methodology for assigning addresses/street numbers.

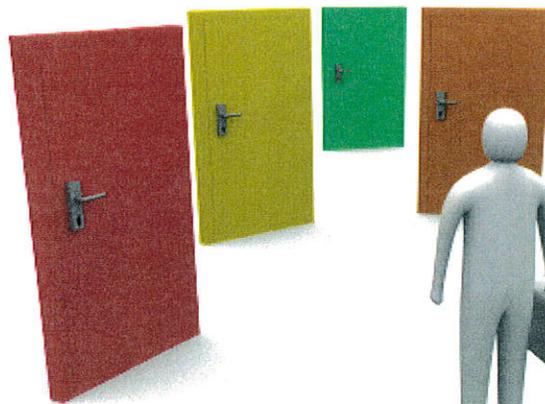


- If the County begins to provide a new or enhanced level of service for one part of its unincorporated area, it needs to be prepared to address whether it will provide this service in another unincorporated section.

Service Level Options and Objectives

What services the County provides in its unincorporated area (and at what levels) should generally be related to the end result that the County hopes to achieve or to the situation that the County believes will exist (i.e., does the County wish to have its unincorporated area resemble more of a city? Does the County hope to make the unincorporated area more attractive so that it might become annexed? Does the County believe that annexation is not likely to occur and so will indefinitely remain the area's "local" provider of services?). After having reviewed the area's current conditions, the various programs and services that the County presently provides or could additionally provide, and the potential that exists for having the County's unincorporated area become annexed, it appears that the County could pursue one of four possible service level options:

- ***The County continues providing traditional county services in the unincorporated area.*** This would represent the traditional role of the county in an unincorporated area and continue the current arrangement of providing services and administering health and safety laws. It assumes that significant annexation is not forthcoming.



- ***The County seeks to become more proactive and effective.*** New services are not necessarily added, but existing services are consolidated and given increased emphasis. This option is also premised on the expectation that substantial annexation is not going to occur.
- ***The County seeks to significantly improve conditions within its unincorporated area.*** This involves the County not only increasing the emphasis and changing the administration of its existing services, but also undertaking such new activities as converting/improving private roads or expanding the County's replacement housing

program into selected neighborhoods. This option is also based on the assumption that substantial annexation is not going to occur.

- ***The County undertakes activities with the objective of having some unincorporated neighborhoods become annexed.*** This represents an expanded version of the preceding option and includes installing sewer systems, upgrading existing water lines, and actively working with the cities and special purpose districts to facilitate the desired annexation. The neighborhoods that would likely be annexed under this option would be those that are presently adjacent to Rowlett, Sachse, and Wylie in the County's far northeastern corner and perhaps Beckleyview/Beckleycrest and Uhl Gardens near DeSoto.

In developing these four options, it is recognized that there are significant differences between many of the County's unincorporated neighborhoods and that situations may arise where it may be advantageous for the County to consider additional courses of action. Accordingly, these options should be used as "guidelines" for allocating resources, setting priorities, and making decisions rather than as rigid "absolutes," understanding that their long-term usefulness will nonetheless be largely dependent upon how consistently they are applied. It is also suggested that, should the County decide to pursue an action that is different than what is ordinarily done or above a previously chosen service level option, it only do so because a number of the following factors exist:

- There is a compelling reason that is not present elsewhere;
- A unique economic development or funding opportunity exists;
- A city has indicated that it will annex a specific area if the proposed action occurs;
- It provides a long-term cost-effective solution to a major issue; and/or
- It represents a one-time-only effort.

Recommendations

It is recommended that Dallas County, over the next ten years, pursue Service Level Option 2 and seek to become more proactive and effective in the delivery and provision of unincorporated area services. As part of this strategy, it is further recommended that the County specifically:

- Increase the emphasis and priority assigned to the provision of unincorporated area services by centralizing and consolidating, per the proposal outlined in Exhibit C, most of the County's unincorporated area regulatory and enforcement operations in a new *Department of Unincorporated Area Services*.
- Establish goals and workload measures for this new department as they relate to reducing the number of existing building code, outdoor business policy, and nuisance policy violations.
- Update and enhance the County's website to reflect the creation of the Department of Unincorporated Area Services and its role as serving as the major point of public contact for unincorporated area permitting and enforcement.
- Update its street-naming policy to also include a methodology for assigning addresses and street numbers.

- Develop and execute new ETJ agreements with relevant cities to clearly reflect who has the responsibility for reviewing proposed subdivisions, to identify which regulations will apply and, if necessary, to establish a single set of consolidated regulations that are at least equal to the requirements of the County's subdivision regulations.
- Complete development of the proposed regulations that would govern the location and operation of slaughterhouses in the unincorporated area.

Conclusion

Historically, the County's unincorporated area has been shrinking, but much of the area presently remaining will likely be permanent. The strategy presented within this document provides the County with a framework by which it can consistently allocate resources, effectively provide basic services, and realistically improve the living conditions within this area.

EXHIBIT A
Aerial Photos of Unincorporated Neighborhoods

Uhl Gardens



Beckleyview/Beckleycrest



Bear Creek



Green Acres



Sandbranch



Pecan Lake



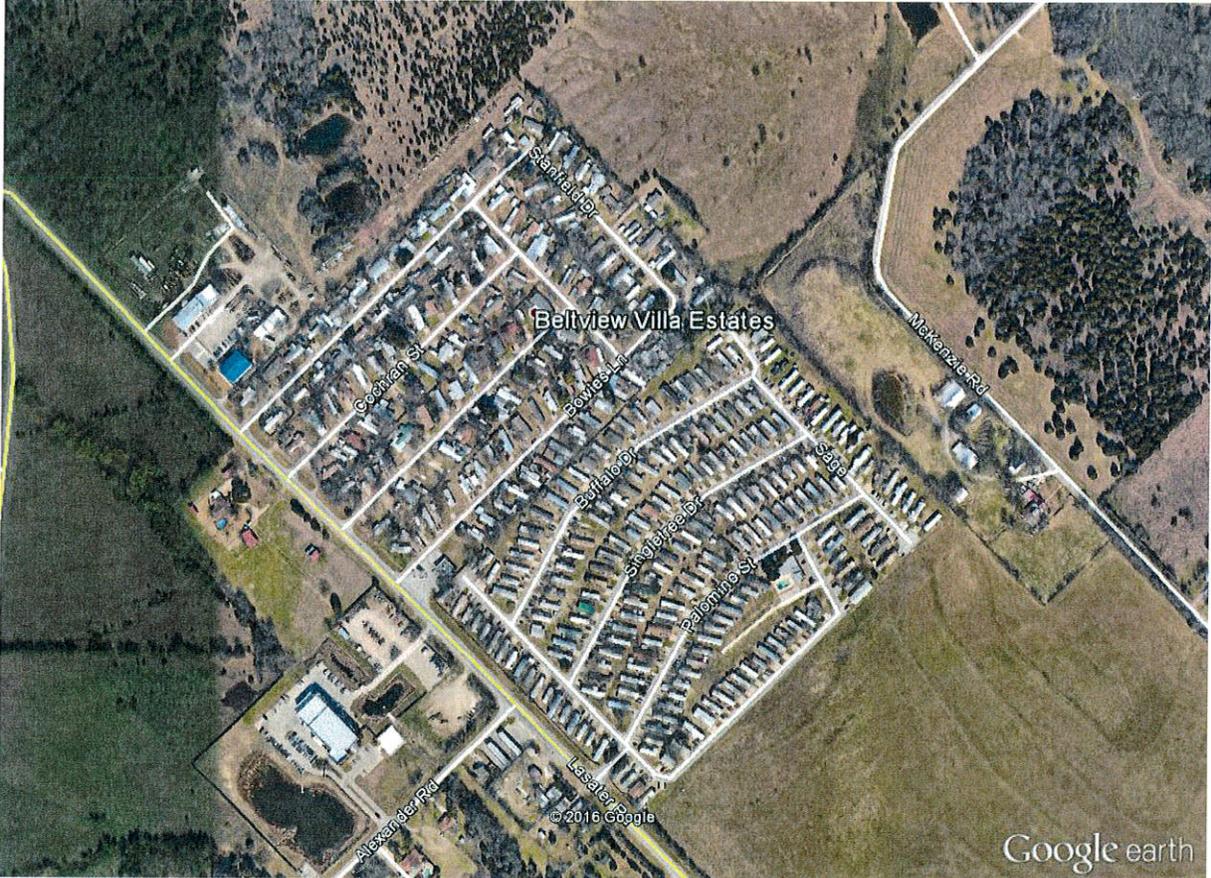
Bonnie Haven



Bilindsay Road



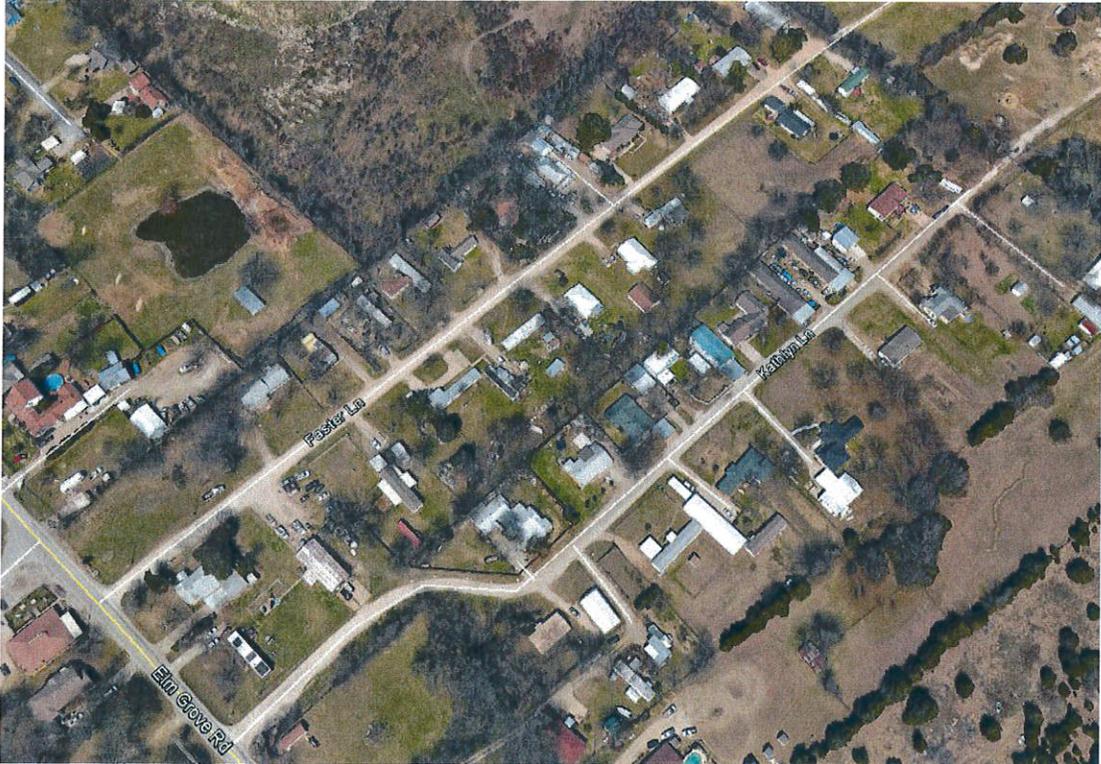
Beltview Villa



Plantation Place



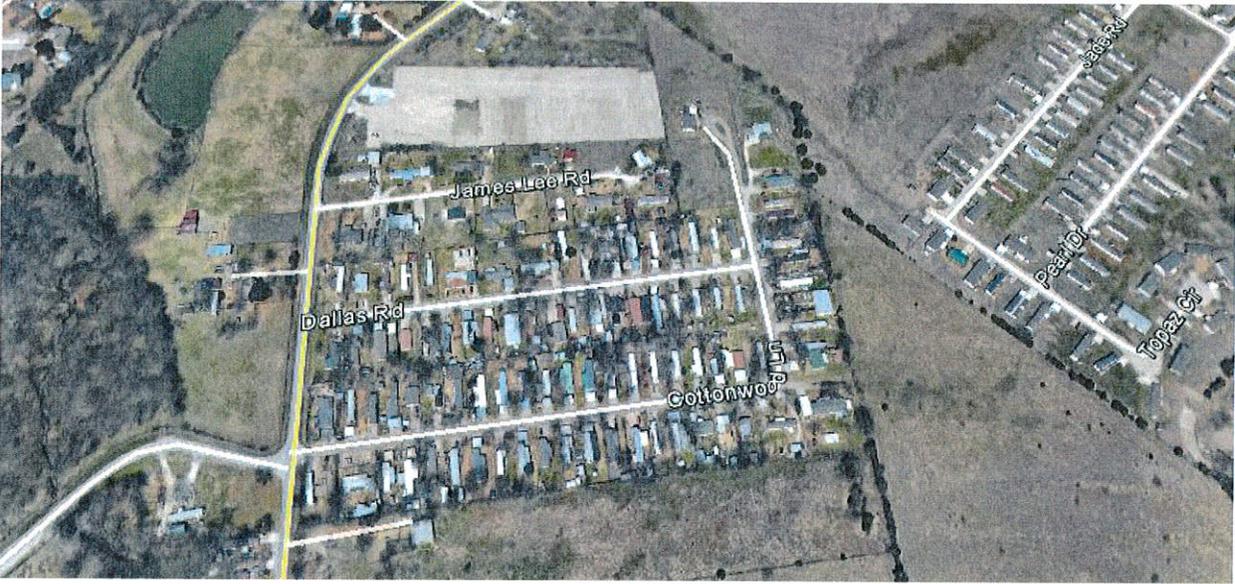
Foster/Kathlyn Lane



Rose Drive/Stonewall Cove/Bunny Lane



Dallas/Cottonwood



Elm Grove/Whitley



EXHIBIT B
Discussion of County Residential Authority and Related Issues

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

MEMORANDUM

TO: Darryl Martin, County Administrator

FROM: Russell H. Roden, Assistant DA, Civil Division Chief

DATE: July 28, 2016

RE: Regulatory Issues Related to Bear Creek Ranch and Unincorporated Areas

INTRODUCTION

The Bear Creek Ranch subdivision (the "Subdivision") is located in the unincorporated area of Dallas County within the extra-territorial jurisdiction ("ETJ") of the City of Lancaster (the "City"). Phase I of the Subdivision was created in late 2004. Over the years, there have been discussions between the County and the City regarding which entity, if either, has regulatory authority with respect to the Subdivision. Differing interpretations as to the authority and responsibility for development in the Subdivision have not been clearly resolved, creating ongoing concerns regarding regulation of the Subdivision. Moreover, statutes relating to the regulation of subdivisions in unincorporated areas of counties, including those within ETJs, have changed significantly since 2004. Thus, the roles of the County and City have changed at various times throughout the growth of the Subdivision, possibly adding to the confusion on the issue of County/City regulatory authority.

In order to fully understand the regulatory authority of the Subdivision, it is necessary to identify the different potential types of regulation in unincorporated areas, including within ETJs. Each type of regulation is controlled by its own statutory scheme. Thus, each type of regulation must be analyzed separately to determine which entity – the County or the City – controls that particular regulation and what that entity is authorized or required to do, if anything, to enforce that regulation.

This memorandum addresses each of the common types of regulation for unincorporated areas; the historical treatment of each regulatory area as gleaned from the various County departments; the statutory changes related to each regulatory area during the relevant time period; and the current role of the County, if any, with respect to each regulatory area. It should be noted that because the Subdivision is a residential development, this memorandum will focus on residential regulations as opposed to regulations for commercial construction. Additionally, this memorandum is not addressing other types of County regulatory and enforcement authority such as public health nuisance, public nuisance, solid waste, litter, water code, county Haz-Mat, etc.

THE APPLICABLE REGULATORY AREAS

The main regulatory categories to be discussed in relation to the Subdivision are subdivision regulations; development permits; residential building codes; on-site sewerage facility (septic tank) permits; and street-naming/addressing.¹ It is important to understand the different function of each of these areas of regulation.

Subdivision Regulations: These are regulations that apply when someone is wanting to sub-divide or plat property outside of a city or construct a subdivision with the County's unincorporated area. Subdivision regulations control the platting of land and set forth requirements for adequate roads, streets, drainage, easements, building setbacks, right of ways, and related matters. The statutes providing for subdivision regulations do *not* include authority to regulate the actual construction of particular buildings such as single-family homes. The regulation of residential construction is controlled by building codes.

Development Permits: The County uses development permits to insure that any new construction is not taking place in the designated floodplains or that any such construction is in compliance with the floodplain regulations. While the term "development permit" can be used as an alternative method to require plats for "development" as opposed to a "subdivision," the County has used the term in the residential arena to identify the process for assuring floodplain compliance.²

Residential Building Codes: The County is authorized to adopt, and has adopted, building codes to regulate residential construction. Building codes regulate the type, quality, and method of items such as electrical, plumbing, and foundation to insure residences are constructed to an adequate and safe standard.

Septic Tank Permits: These permits insure the quality and safety of septic tank systems on residential properties.

Street-Naming/Addressing: The naming of streets and the establishment of addresses in the unincorporated area insures that the naming of roads and streets and addressing of buildings/homes is done in an organized fashion and aids "911"-responders in finding locations.

This memorandum will now address each of the regulatory areas specific to the Subdivision.

¹ The County also has regulation authority related to outdoor businesses, communication facility structures, and the fire code. It should be noted that the fire code is only applicable to commercial structures, not to single-family structures. Because these regulations are not applicable to the Subdivision, they will not be addressed in this memorandum.

² "Development Permits" are also used by the County in the regulation of business operations in the unincorporated areas. In this context, the owner of a business must submit plans for the location of business structures on the land, ingress/egress to the business operations, etc.

SUBDIVISION REGULATIONS

When a subdivision is being constructed in an unincorporated area that is *not* within an ETJ, the County has the authority to establish and enforce its subdivision regulations. TEX. LOC. GOV'T CODE § 232.001, *et seq.* The County has had established subdivision regulations for many years, with its most current version being adopted on August 17, 2010 (Court Order No. 2010-1361). These regulations give the County control over the development of residential subdivisions in the unincorporated areas that are not within a city's ETJ.

When a subdivision is being constructed in an unincorporated area that is *within* an ETJ, the County's regulatory authority of the subdivision may be limited. This is because Chapter 242 of the Local Government Code provides that a county and a city *shall* enter into an agreement on how the subdivisions in the ETJ will be regulated. TEX. LOC. GOV'T CODE § 242.001(c). Pursuant to the statute, the County and City were required, by September 1, 2001, to enter into a written agreement that identified which entity was authorized to regulate subdivision plats and approve related permits in the extraterritorial area. *Id.* The County and City were also required to certify that the agreement complied with Chapter 242 and were to have adopted the agreement by order, ordinance, or resolution. *Id.* Research has not located a subdivision regulation agreement between the County and City that was adopted before September 1, 2001. The statute also provides that if a certified agreement was *not* reached by September 1, 2001, a county and city "must enter into arbitration" and have an arbitrator issue a decision relating to the disputed issues between the county and the city regarding the authority of the county or municipality to regulate plats and subdivisions. TEX. LOC. GOV'T CODE § 242.001(f). Research has not located any evidence of an arbitration proceeding or decision between the County and City.

Had the County and City entered into a subdivision regulation agreement, it could have provided for one of four methods to regulate subdivisions in the ETJ:

- 1) the City could have been granted *exclusive* jurisdiction to regulate subdivision plats and approve related permits in the ETJ and to regulate subdivisions; or,
- 2) the County could have been granted *exclusive* jurisdiction to regulate subdivision plats and approve related permits in the ETJ and to regulate subdivisions; or,
- 3) the County and City could have apportioned the area within the ETJ, with the City regulating subdivision plats and approving related permits in the area assigned to the City and the County regulating subdivision plats and approving related permits in the area assigned to the County; or,
- 4) the County and City could have entered into an interlocal agreement that:
 - a. established one office that is authorized to:
 - i. accept plat applications for tracts of land located in the ETJ;
 - ii. collect City and County plat application fees in a lump-sum amount; and
 - iii. provide applicants one response indicating approval or denial of the plat application; and
 - b. establish a *single set of consolidated and consistent* regulations related to plats, subdivision construction plans, and subdivisions of land.

TEX. LOC. GOV'T CODE §§ 242.001(d)(1)-(4).

It is important to note for later discussion that the first two options give *exclusive* regulatory authority to one entity or the other, but not to both. The final two options give some regulatory control to *both* entities. Option three gives regulatory authority of the ETJ to both, but splits the ETJ into parcels such that each entity has exclusive authority of its assigned parcels. Option four gives both entities an “undivided” or “joint” regulatory authority throughout the whole ETJ, while allowing one entity to be designated as the “point person” to accept applications, collect fees, and deliver the notice of approval or disapproval to the applicant. This designation serves to avoid requiring an applicant to have to deal with multiple “contacts” or entities during the permitting process. However, the subdivision regulations must still be approved by the City and County utilizing a single set of consolidated plans as developed and approved through agreement of the two entities.

As can be seen, the purpose of the statutory requirement of a subdivision regulation agreement was to clearly delineate the regulatory authority in ETJs. The lack of such an agreement between the County and City has likely been a major contributing factor to the issues that have arisen over the years with respect to the Subdivision.

While no subdivision regulation agreement was entered in 2001, it appears the platting of the Subdivision was approved by the County and the City. The Final Plat of Bear Creek Ranch Addition, Phase I was approved by the County on December 21, 2004 (Order No. 2004-2322) and the Final Plat of Bear Creek Ranch Addition, Phase II was approved by the County on May 2, 2006 (Order No. 2006-824). The documentation reveals the Final Plats of Phases I and II were also approved by the City.

It is our understanding from County Public Works that in or around 2010, a new provision began to be inserted into the County’s master agreements governing major capital improvement programs (“MCIPs”) with many of the cities within the County. This provision in the MCIP agreements appears to have been intended to satisfy the county/city “written agreement” relating to subdivision regulations in ETJs as required by Chapter 242 of the Local Government Code. The provision tracks almost verbatim the fourth option discussed previously. The provision provides:

ARTICLE XVII. SUBDIVISION REGULATIONS IN THE EXTRA TERRITORIAL JURISDICTION
County and City/Town agree that City is the office that is authorized to: (1) accept plat applications for tracts of land located in the extraterritorial jurisdiction; (2) collect all applicable plat application fees; (3) provide applicants one response indicating approval or denial of the plat application; and (4) establishes a single set of consolidated and consistent regulations related to plats, subdivision construction plans, and subdivisions of land. The provisions of this Article XVII shall survive the termination of this Master Agreement.

The foregoing Article XVII provision, along with the entire MCIP agreement, was approved by both the County and the City. It is our understanding that since the incorporation of Article XVII in MCIP agreements, County departments have relied on that provision to mean that the City has been given *exclusive* control with respect to subdivision regulations. Staff has also pointed to the County’s subdivision regulations which state, in part, “these Regulations shall only apply to the Unincorporated Areas of Dallas County, Texas, which do not lie within the Extra Territorial Jurisdiction of a respective City or Town.” *Dallas County Subdivision*

Regulations and County Road Construction Standards, § A(2), at p. 1 (Court Order No. 2010-1361).

Unfortunately, the foregoing does not appear to be the correct interpretation with respect to zoning regulation in ETJs for several reasons. First, the Article XVII provision tracks the fourth option of ETJ regulation methods. As previously discussed, only options one and two provide *exclusive* jurisdiction to regulate. Options three and four provide methods for *both* the county and city to regulate. This is confirmed by the applicable statute which provides: “*Except as provided by Subsections (d)(3) and (d)(4)*, a municipality and a county may not both regulate subdivisions and approve related permits in the extraterritorial jurisdiction of a municipality after an agreement under Subsection (d) is executed.” TEX. LOC. GOV’T CODE § 242.001(c) (emphasis added). Thus, the statute acknowledges that the third and fourth options *do* provide regulation by both entities. In sum, the Article XVII provision tracks the statutory language which provides the County and City with joint regulation based on an agreed upon single and consolidated set of subdivision regulations for that ETJ, but it has apparently been treated as option one – an *exclusive* grant to the City of subdivision regulatory authority.

Moreover, the County’s subdivision regulations do *not* support a grant of exclusive jurisdiction to the cities. The full statement of the applicability provision in the County’s subdivision regulations provides: “Unless otherwise stated herein *or by agreement between Dallas County and a city or town*, these Regulations shall only apply to the Unincorporated Areas of Dallas County, Texas, which do not lie within the Extra Territorial Jurisdiction of a respective City or Town.” *Dallas County Subdivision Regulations and County Road Construction Standards*, § A(2), at p. 1 (Court Order No. 2010-1361). It is consistent with the statutory scheme that the Dallas County subdivision regulations would generally not apply to ETJs in the County because, as previously discussed, the statutory scheme required the County to enter into specific subdivision regulation agreements with all the cities who had ETJs in unincorporated areas of the County. Thus, the agreements between the County and each city would determine if the County, the city, or a consolidated subdivision regulation would apply.

A review of the City’s Ordinance No. 2006-04-13 adopted on April 24, 2006, reveals that the City purports to apply portions of its Development Code pertaining to subdivision of land, and those regulations adopted for the primary purpose of protecting water quality or to afford flood protection, to all property within the City’s corporate borders *and to all property within its ETJ*. *City of Lancaster Development Code* § 14.103. The City’s Development Code also provides that development of all land in its ETJ shall conform to the requirements of the Development Code and within the City’s ETJ “no person may sell or develop land, or authorize or permit the sale or development of land except in accordance with all applicable provisions of this [Development] Code.” *City of Lancaster Development Code* § 14.108. However, the statute relating to municipal regulation of subdivisions and property development provides that “the authority of a municipality under this chapter relating to the regulation of plats and subdivisions in the municipality’s extraterritorial jurisdiction is subject to any applicable limitation prescribed by an [county subdivision regulation] agreement under Section 242.001.” TEX. LOC. GOV’T. CODE § 212.0025.

With respect to the Subdivision, it does not appear any further development requires the application of subdivision regulations. As stated, both phases of the Subdivision were platted and approved by both the County and the City. Going forward, however, the County should be aware of its regulatory authority in the City's ETJ. To the extent Article XVII of the MCIP could be deemed to meet the written subdivision regulation requirement of Chapter 242, it should be applied as giving the County joint regulatory authority – with the City acting as the “point” agency. Additionally, a single set of consolidated and consistent subdivision regulations should be established with the City.

Based on the foregoing issues, this office recommends that written agreements in compliance with Chapter 242 be drafted and presented to all cities in the County which have ETJs in order to clearly establish the type of jurisdiction (exclusive/joint) and the actual regulations that apply to each ETJ. These agreements must be approved by the cities and the County to resolve on-going issues and provide uniformity with respect to subdivision regulations throughout the County.

DEVELOPMENT PERMITS

Most of the County's unincorporated area is considered to be in the floodplain. As a result, no development is allowed within the unincorporated area without a permit which either verifies that the development is not located within the floodplain or that it will be sufficiently elevated or protected from flooding. It does not appear there is any dispute as to regulation of the floodplain by the County in any of the unincorporated areas. Floodplain regulation is mandated by FEMA and the County is authorized and required to insure compliance. The County requires a Development Permit for any construction or improvements in unincorporated areas to insure compliance with floodplain regulations. The County can, and does, require a Development Permit before construction can commence and can enjoin non-compliant construction.

With respect to existing structures within the floodplain, pursuant to the County Code and FEMA requirements, no improvements or additions can be performed without first obtaining a development permit.

If the structure existed prior to the enactment of the floodplain regulations, the structure is “grandfathered” and thus is not subject to current floodplain regulations. However, if “substantial improvements” are made to the structure, the structure loses its “grandfathered” status and the entire structure must be brought into full compliance with all existing flood plain regulations. “Substantial improvement” means improvements of a value that meet or exceed 50 percent of the value of the structure.³

Diligence in detecting construction or improvement of structures that have failed to obtain Development Permits is advisable to achieve a goal of uniform and comprehensive

³ While the valuation of improvements to cure certain code violations is excluded from the “substantial improvement” calculation, not all code violations are excluded. Per the FEMA guidelines, only those improvements that are minimally necessary to cure a life safety condition and that have been cited by authorities such that a failure to repair will result in enforcement action are the type of code violations eligible for exclusion from the “substantial improvement” calculation.

development in the unincorporated areas. Likewise, uniform enforcement of floodplain regulations is advisable for safety and development of the unincorporated areas.

RESIDENTIAL BUILDING CODES

When the Subdivision began in about 2004, there were no residential building codes applicable to unincorporated areas, whether within ETJs or not. Statutory authorization for the implementation of residential building codes in unincorporated areas became effective on September 1, 2009, pursuant to Subchapter F of Chapter 233 of the Texas Local Government Code. Subchapter F provides that new residential construction that begins after September 1, 2009, shall conform to the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county. TEX. LOC. GOV'T CODE § 233.153(a), (b). Subchapter F also sets forth inspection and notice requirements for residential construction in unincorporated areas. TEX. LOC. GOV'T CODE § 233.154.

While Subchapter F sets forth the foregoing requirements, it clearly states that it is only applicable in a county that has adopted a resolution or order requiring the application of the provisions of Subchapter F. Pursuant to Subchapter F, the County adopted a Residential Building Code on May 25, 2010 (Court Order No. 2010-0911). Thus, any residential construction in the Subdivision commenced prior to May 25, 2010, was not required to comply with any County building code or inspection requirements.

For all residential construction in the Subdivision commenced after May 25, 2010, it would appear at first blush that compliance with the County building code and inspection requirements would be required. However, section 233.153(c) of Subchapter F provides as follows:

If a municipality located within a county to which this subchapter applies has *adopted* a building code *in the municipality's extraterritorial jurisdiction*, the building code adopted by the municipality controls and building code standards under this subchapter have no effect in the municipality's extraterritorial jurisdiction.

TEX. LOC. GOV'T CODE § 233.153 (emphasis added).

Similarly, the applicability provision of the County's residential building code provides that "[t]his building code . . . applies only to new residential construction conducted within Dallas County's unincorporated area that is not located within a city's extraterritorial jurisdiction and not subject to that city's building code." *Dallas County Residential Building Code* § 2.1 (Court Order No. 2010-0911) (underline emphasis in original).

Read together, Subchapter F and the County's residential building code contemplate that the County's building code will apply within the ETJ if the city has not adopted the city's building code for application within its ETJ.

It is unclear if the City has specifically adopted an ordinance or resolution applying its building codes to the ETJ. While it was noted earlier that the City passed an ordinance applying its Development Code to the ETJ, that does not have the effect of extending its building codes into the ETJ. In fact, adoption of a development regulations pursuant to Chapter 212 of the Local Government Code “does not authorize the municipality to require municipal building permits or otherwise enforce the municipality’s building code in its extraterritorial jurisdiction.” TEX. LOCAL GOV’T CODE § 212.049. *See Town of Lakewood Village v. Bizios*, No. 15-0106, slip op. at 9 (Tex. May 27, 2016) (subchapter B of Chapter 212 requiring plats for the “development” of tracts expressly prohibits a city from using that provision to enforce its building codes and building-permit requirements in its ETJ).

Even if the City specifically adopted its building codes in its ETJ, it is still possible such an action would be invalid. Recently, the Supreme Court of Texas held that a general-law municipality has no authority to extend its building codes into its ETJ. *Town of Lakewood Village v. Bizios*, No. 15-0106, slip op. at 9 (Tex. May 27, 2016). The Court opined that the Town of Lakewood Village, as a general-law municipality, was limited to only those powers specifically granted to the town by the Texas legislature. Reviewing the applicable subdivision regulation and residential building code statutes, the Court found no grant of authority to a general-law municipality to impose its building codes into its ETJ. The Court left open the question of whether a home-rule city such as Lancaster – vested with all authority except that which is specifically limited by the legislature – has the power to extend its building codes into its ETJ.

Assuming the City has not specifically adopted an ordinance or resolution extending its building code to its ETJ, the County’s residential building code applies. TEX. LOC. GOV’T CODE § 233.153. Even though the County’s residential building code applies, the statutory scheme does not authorize the County to *conduct* inspections. Nor can the County require prior approval before the beginning of new residential construction. TEX. LOC. GOV’T CODE § 233.153(d)(1).⁴ Further, a county *may not* charge a fee to a person subject to the residential building code standards to defray the cost of enforcing the standards. TEX. LOC. GOV’T CODE § 233.153(f). Instead, the statute places the burden of insuring building code compliance on the home builder/owner. More particularly, the builder must comply with the most recent version of the International Residential Code adopted by the County. TEX. LOC. GOV’T CODE § 233.153(a). The builder must have a certain number of inspections at designated stages of construction to confirm compliance with the Code. TEX. LOC. GOV’T CODE § 233.154(a)(1). The builder is also responsible for contracting with licensed or registered inspectors to conduct the inspections. TEX. LOC. GOV’T CODE § 233.154(a)(3).

Additionally, if required by the County, the builder is required to provide notice to the County prior to commencing new residential construction of the location and the version of the International Residential Code that will be used to construct the new residential construction. TEX. LOC. GOV’T CODE § 233.154(b). Further, the County can require the builder to submit

⁴ This means the County cannot require prior approval based on the residential building code. As discussed previously in the section on “Development Permits”, the County can, and does, require the issuance of a development permit before construction can begin on the basis of compliance with floodplain review/approval.

inspection reports confirming compliance with the residential building code standards. TEX. LOC. GOV'T CODE § 233.154(c).

If a builder fails to comply with the aforementioned notice requirements, the County can obtain injunctive relief to prevent a violation or threatened violation of a standard or notice required under the statute and refer the builder for prosecution as a Class C misdemeanor for failing to provide the proper notices. TEX. LOC. GOV'T CODE §§ 233.155, 233.157.

As can be discerned from the foregoing, the County cannot force a builder to use the County's personnel to conduct residential building inspections. Nor can the County require a fee for inspections. As a result, the County is not required nor able to issue a certificate of occupancy for residential construction which the County did not inspect. In some instances, however, a builder may desire to have a certificate of occupancy for financing requirements and, thus, desire to have County personnel do the inspections. In such instances, where the builder voluntarily requests County personnel to conduct the inspections, the County personnel can do so and charge a fee.

Going forward, when the County learns of residential construction occurring in an ETJ – either through the required notice of construction from the home builder or other means – the County should require the applicable city to cite the County to an ordinance or resolution of the city that extends the city's building codes to its ETJ. If there is such an ordinance, the building codes of the city should be applied and the city is responsible for insuring inspection/compliance.⁵

In the absence of a city ordinance extending the city's building code to its ETJ, the County should apply and enforce its residential building code in the methods discussed previously in this section. It is recommended that upon receipt of a notice of residential construction, the Fire Marshall provide a handout to the builder indicating that the Fire Marshall will not be able to issue a certificate of occupancy on residential construction that he did not inspect at the various stages of construction. This will allow the builder to make an informed decision on the issue of whether he/she wants to hire independent inspectors as allowed by the statute or choose to voluntarily request inspections by the Fire Marshall.

Further, if any residential construction is detected that is subject to the County's residential building code and the home builder has not complied with the notice requirements, the County should seek assistance from the Civil Division of the DA's Office to obtain injunctive relief to prevent a violation or threatened violation of the County's residential building code and to consider prosecution.

SEPTIC TANK PERMITS

A person may not construct, alter, repair, or extend, or cause to be constructed, altered, repaired, or extended, an on-site sewage disposal system that does not comply with applicable

⁵ Although the city would be responsible for insuring inspection/compliance with the city's residential building code, the City may choose to enter an ILA with the County Fire Marshall to perform the inspections on behalf of the City for a fee.

statutes and rules governing this activity. TEX. HEALTH & SAFETY CODE § 366.004. The regulation of septic systems under the purview of the Texas Commission on Environmental Quality (“TCEQ”) f/k/a Texas Natural Resource Conservation Commission.⁶ However, the TCEQ is authorized to designate a local governmental entity as an authorized agent of the TCEQ. The County has been designated as an authorized agent by the TCEQ. As an authorized agent, Dallas County: 1) has general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems; and 2) shall administer Chapter 366 of the Texas Health & Safety Code and the rules adopted under that chapter. TEX. HEALTH & SAFETY CODE § 366.011. Pursuant to this authority, Dallas County requires “an application and permit for all private disposal septic systems, including new construction, repair, or alteration of an existing system, for both residential and commercial use regardless of acreage involved.” (Court Order No. 2007-930 (“Exhibit “B”)).⁷ Dallas County is authorized to charge fees for the issuance of permits. TEX. HEALTH & SAFETY CODE § 366.058, 366.059.

In addition to requiring permitting for all septic system operations as noted above, Dallas County also has authority to inspect and to require a property owner to repair a malfunctioning on-site sewage disposal system on the owner’s property. TEX. HEALTH & SAFETY CODE § 366.017. A property owner may be assessed an administrative penalty that may not exceed \$5,000 a day for each violation or assessed a civil penalty not less than \$50 nor greater than \$5,000 for each day of each violation as the court or jury considers proper. TEX. WATER CODE § 7.052(a), 7.102.

If it appears a person has violated or is violating, or is threatening to violate any provision of Chapter 366 or any regulation of the County adopted as an authorized agent, the County may bring a civil suit for injunctive relief or civil penalties, or both. TEX. HEALTH & SAFETY CODE § 366.092. If the County prevails in the suit, it may also recover its attorney’s fees, court costs, and reasonable investigative costs incurred in relation to the proceeding. TEX. HEALTH & SAFETY CODE § 366.0923.

It is our understanding that permitting and enforcement of septic systems is currently handled through coordination of the Dallas County Fire Marshall and the County’s Health and Human Services Department/Environmental Health Division. In the future, the County may want to consider the utilization of civil and administrative penalty enforcement actions.

⁶ The current version of Chapter 366 of the Texas Health & Safety Code still defines the “Commission” as the “Texas Natural Resource Conservation Commission.” TEX. HEALTH & SAFETY CODE § 366.002(2). However, on September 1, 2002, the TNRCC formally changed its name and began doing business as the Texas Commission on Environmental Quality, or the TCEQ.

⁷ Section 366.052 of the Texas Health & Safety Code exempts certain properties from the septic permitting process. The permitting requirements do not apply to an on-site sewage disposal system of a single residence that is located on a land tract that is 10 acres or larger in which the field line or sewage disposal is not closer than 100 feet of the property line. TEX. HEALTH & SAFETY CODE § 366.052. However, the statute further allows an authorized agent (i.e., the County) to adopt more stringent standards for on-site sewage disposal systems than provided for by Chapter 366. TEX. HEALTH & SAFETY CODE § 366.032(b). Pursuant to this authority, Dallas County requires permitting for all septic systems “regardless of acreage involved.” (Court Order No. 2007-930 (“Exhibit “B”)).

STREET-NAMING/ADDRESSING

Historically, it was generally agreed that the legal authority of a county commissioners court for road numbering, street naming, and addressing was implied within the broad express authority for laying out, constructing, and maintaining public roads pursuant to the County Road and Bridge Act. Tex. Rev. Civ. Stat. Ann. Art 6702-1. The authority of the county commissioners court was later clarified when, in 1989, the Texas Legislature passed S.B. 1091 which explicitly granted a commissioners court authority to establish standards for rural addressing and to assign street names and numbers. Tex. Rev. Civ. Stat. Ann. Art. 6702-1 § 2.011 (1989). The current version of this legislation is codified in the Texas Transportation Code. TEX. TRANSP. CODE § 251.013. Pursuant to the Transportation Code, the commissioners court of a county may:

- 1) adopt *uniform standards* for naming public roads located wholly or partly in unincorporated areas and for assigning address numbers;
- 2) adopt a name for a public road located wholly or partly in an unincorporated area and may assign address numbers in an unincorporated area of the county *for which there is no established address system*; and,
- 3) adopt standards and specifications for the *design, installation, and display* of address numbers on properties.

TEX. TRANSP. CODE § 251.013 (emphasis added).

As can be seen, the commissioners court may name roads and assign addresses using one of two methods: by adopting uniform standards and then applying those standards to the individual roads or by naming and addressing individual roads as the occasion arises. *See* Tex. Att' Gen. Op. No. JC-0301 (2000). In either case, the commissioners court may act only by adopting an order and only after conducting a public hearing on the proposed order. TEX. TRANSP. CODE § 251.013(d). The court shall give public notice of the hearing at least two weeks before the date of the hearing.⁸ *Id.*

With the foregoing backdrop of the applicable legislation relating to the County's authority to name roads and assign addresses, we will turn to the historical development of the County's ordinances and practices related to these issues.

In 1987, the Court entered an order "to provide 9-1-1 Emergency Service to all residents in the unincorporated areas." Court Order No. 87-1456. Therein, the Court, in order to facilitate and implement Emergency 9-1-1 Service, assigned Public Works with the task to "assign new street addresses to each parcel of property an [sic] 'improvement' or structure using maps, plats, tax roll." Court Order No. 87-1456.

⁸ A public hearing would also be required if the Court wanted to establish regulations requiring the display of addresses on/at the property and regulating the size, location, signage, etc., of the addresses. It does not appear the County has adopted regulations regarding the *display* of addresses, which is a different issue from the naming of roads and assigning address numbers to properties.

After the Texas Legislature passed S.B. 1091 in 1989, the County's Public Works Department proposed a road naming policy. The Public Works department provided a briefing to the Court in 1989 that included a brief history of road naming and addressing in the unincorporated areas, stating, "Dallas County residents in unincorporated areas were historically assigned route and box numbers by the Postal Service. However, because of the 9-1-1 Emergency System, the Dallas County Public Works Department now assigns street addresses to residents so that they may receive mail and also be located in an emergency." David I. Davis (Traffic Engineer), *Briefing Memorandum: Street Name Policy* (August 19, 1989). The briefing went on to state that the proposed Street Name Policy would provide "a consistent procedure for assigning street names and addresses in unincorporated areas. It can also be helpful to developers and residents regarding their interests in both new and existing street names." *Id.* While the briefing referenced a procedure for assigning street names *and* addresses, the policy attached to the briefing provided procedures only for street naming but not an addressing methodology. *Id.*

Following the recommendation of Public Works, the Court eventually adopted a "Street Name Policy." (Court Order No. 90-517). The current version of the County's Street Name Policy is located at Section 102-71, *et seq.*, of the County Code and appears to be substantially similar to the Street Name Policy adopted in 1990.⁹ The current Street Name Policy does not provide for any address numbering methodology.

Our research revealed that Public Works has continually assigned addresses to properties over the years, apparently pursuant to the direction of the Court's direction dating back to the assigned task in Court Order No. 87-1456. It is our understanding that the Public Works staff utilized the 1989 and 1991 versions of the Addressing Handbook for Local Governments issued by the State of Texas Advisory Commission on State Emergency Communications ("CSEC"). During our background research, a representative of the CSEC informed us that the aforementioned handbooks were outdated and had not been published since 1991.

Issues have now arisen regarding the assignment of addresses within the extra-territorial jurisdiction (ETJ) of the City of Lancaster and, more specifically, in connection with the Subdivision. In November, 2014, the City contacted Public Works and asserted that because the Subdivision is within the City's ETJ, it "allows implementation of Lancaster Subdivision Regulations and response to E-911 calls for public safety." Opal Mauldin-Robertson (City Manager), *Letter to Alberta Blair* (Nov. 4, 2014). Ms. Mauldin-Robertson asserted that there are "discrepancies of addresses" within the Subdivision that were "inconsistent with standard and customary E-911 addressing procedures for subdivisions." *Id.* She further made a recommendation "to correct the addresses for the entire subdivision." *Id.* The City requested that "the County perform the necessary steps to correct the addressing." *Id.* This issue with the City has also hampered the ability of Public Works to proceed with current and on-going address requests within the Subdivision.

At the time Phases I and II of the Subdivision were platted, there was no agreement between the County and the City regarding plat approval in the ETJ. Had such an agreement existed, it could have set forth which entity would implement road-naming and addressing or set

⁹ In 2010, the Street Name Policy was also incorporated into the County's updated Subdivision Regulations for unincorporated areas. (Court Order No. 2010-1361).

a single, consolidated methodology for doing so. Instead, both the County and the City each independently approved the Subdivision platting.¹⁰ Neither the County nor City approved final plats that included addressing methodology for the Subdivision. The City did not participate in the addressing process. Rather, the City was aware that the County was providing addresses for the Subdivision over many years. Thus, the County should be able to decline the City's recommendation to re-address the Subdivision.

The foregoing recommendation is not changed by the City's assertion that it has authority to regulate addressing because of its purported extension of its subdivision regulations to the ETJ. As previously noted, the only method by which the City could have extended its exclusive jurisdiction to apply its subdivision regulations to the ETJ would be through a written agreement with the County whereby the County agreed to the City's exclusive jurisdiction. No such agreement has been entered and approved by the City and the County. Thus, the basis for the City's assertion that its addressing methodology controls because its subdivision regulations control is not accurate.

Going forward, the County can continue to provide addressing for the Subdivision. However, out of an abundance of caution and to insure compliance with section 251.013 of the Texas Transportation Code, it is recommended the County codify its existing addressing methodology through a court order. A public hearing on the addressing policy will need to be held before approval of the order. At least two weeks' notice is required before the hearing is held.

Alternatively, the County can enter into a new subdivision regulation agreement with the City and provide therein that the City's subdivision regulations apply, including the City's road-naming and addressing policy. In that event, the City would be required to administer its addressing going forward. If the City still desired to re-address the Subdivision, it could do so through its own administration.

In connection with the previous recommendation that new subdivision regulation agreements for the ETJs be entered with all applicable cities, it is recommended that the agreement clearly delineate which entity will be responsible for road-naming and addressing in ETJ subdivisions and the methodology to be followed.

¹⁰ While the County and City each independently approved the Subdivision's plats, it does appear there was some coordination as evidenced by briefing that stated the County was agreeing to approve the plats with streets that were one-foot narrower than the County's usual requirement.

EXHIBIT C

Proposal for the Consolidation and Centralization of Unincorporated Area Regulatory and Enforcement Operations

It is proposed that a *Department of Unincorporated Area Services* (DUAS) be created and that it report to the County Administrator (or his designee). DUAS would oversee the implementation of the County's unincorporated area strategy and be responsible for performing many of the County's existing unincorporated area regulatory functions and for acting as the single-point of contact for the public for these and for all other unincorporated area regulatory matters.

The department would be staffed as follows:

- Director (new position)
- Professional Engineer (new position)
- Residential Building Code Inspector (as needed on a loan basis from Planning & Development)
- Two (2) Nuisance Abatement Officers (existing positions transferred from Health & Human Services)

The department would be created by transferring the following existing activities and functions to it:

- Communication tower permitting (from Planning & Development)
- Outdoor business regulation (from Planning & Development)
- Residential building code (from Planning & Development and Fire Marshal)
- Subdivision regulation (from Public Works)
- ETJ governance/development of ETJ agreements (from Public Works)
- Street-naming and numbering (from Public Works)
- Unincorporated area floodplain management and permitting (from Public Works)²
- Nuisance abatement (from Health & Human Services)

Department would work closely with other departments that have an unincorporated area presence (i.e., Fire Marshal, Public Works, HHS, Road & Bridge offices, Planning & Development, etc.) and would continue the current practice of meeting jointly with these departments to coordinate activities, discuss pending permit/subdivision applications, share information, refer other permit requests, and discuss possible issues and policy changes. It would also have the responsibility of tracking and analyzing the location and frequency of permit

² Department of Unincorporated Area Services would have the responsibility of administering the floodplain management regulations that are presently contained in Chapter 42 of the County Code and Court Orders 2003-2054 and 2004-2296. Public Works would continue to have the responsibility of the management and coordination of hydrology and floodplain matters associated with County-funded transportation projects and of helping ensure an appropriate county-wide perspective in the management of the region's floodplain.

requests and violations, monitoring conditions within the unincorporated area, and when necessary, proposing new initiatives or changes in policy.

Because of the impact that a future subdivision may have on the unincorporated area's transportation system, the department will also forward all received subdivision requests to Public Works for review and comment; said review shall be completed by Public Works within ten (10) days of when that request is forwarded to Public Works. If no comments are provided within that ten-day period, then it will be assumed that none will be forthcoming.

It is anticipated that the funding, equipment, and vehicles presently associated with the existing staff that would become part of the department would accompany these individuals.

The additional twelve-month costs to create and staff this new department would be as follows:

| | |
|-------------------------|--|
| Salaries | \$187,288 (for projected Grade K director and PE10 engineer) |
| Fringe Benefits | \$ 55,459 |
| Furniture | \$ 1,800 (for director and engineer) |
| Computers | \$ 2,400 (for director and engineer) |
| Office Supplies/Misc | \$ 1,000 |
| Inspector Reimbursement | <u>\$ 22,000³</u> |
| Total | \$269,947 |

³ Reimbursement is needed because this position is federally-funded and conducting residential inspections will fall outside of the jurisdiction of this funding. Actual reimbursement will only occur if other staff does not possess the qualifications necessary for conducting the department's inspections and if the demand for inspections occurs.