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**Title:** Receive a report, hold a discussion, and give staff direction regarding the establishment of periphery development annexation criteria in the Denton Development Code.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit 1- Sections 34-35, 34-36, and 34-37, 2. Exhibit 2- 2009 Annexation Strategy

Date	Ver.	Action By	Action	Result
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**AGENDA INFORMATION SHEET**

**DEPARTMENT:** Department of Development Services

**ACM:** Jon Fortune

**DATE:** October 18, 2016

**SUBJECT**

Receive a report, hold a discussion, and give staff direction regarding the establishment of periphery development annexation criteria in the Denton Development Code.

**BACKGROUND**

The Planning Division has received several development applications that are located in the City’s Extra-territorial Jurisdiction (ETJ). The first application is for a commercial and multi-family development located on the northeast corner of US 377 and Brush Creek Road. The applicant has submitted a pre-application and a plat application is anticipated soon. The subject property is approximately 17.97 acres. Half of the subject property is in the City of Denton and the other half is in the county. There are four proposed pads, three of the pads are proposed for commercial use and the fourth pad is proposed for a multi-family development. The second application is for the expansion of an existing mobile home park located on the north side of Silver Dome Road, between Farris Road and Copper Creek Road. The applicant has submitted a Final Plat application (FP16 -0031 - Woodhaven Mobile Home Park - Phase 2) and is currently under review. The plat, if approved, would create an additional 157 lots to an existing Mobile Home Park.

It should be taken into consideration that the proposed development applications are not consistent with the character of the area which can impact adjacent properties in terms of land use and intensity. It will also impact infrastructure and public services such as water, sewer, and electricity and other services that these proposed developments would require to have. Because the City’s Certificate of Convenience and Necessity (CCN) service areas extend outside the city limits, the City is required to provide water, sewer and electric services to

these proposed developments even though the extension of those services is not supported by taxes.

Denton Plan 2030 states that “the City’s Annexation Plan, guided by the recommendation in the 1999 Denton Plan to adopt an aggressive annexation policy should be reconsidered. Additional annexations are not necessary to accommodate the growth of the city by 2030 and additional annexation may affect the city’s ability to provide infrastructure and public services.” The developable acreage within the city limits, along with the currently planned annexation areas, is considerably more than what will be needed to meet Denton’s projected growth.

While additional annexations are not needed to meet Denton’s projected growth, annexations may be needed in order to manage growth and strengthen the city’s oversight to control the land use pattern and character of development along the city’s periphery. In addition, annexations may be needed in order to fiscally provide infrastructure and public services in these areas of the ETJ.

Prior to the adoption of the Denton Development Code in 2002, the City had annexation guidelines and criteria outlined in Chapter 34 - Subdivision and Land Development and Chapter 35 - Zoning of the Denton Code of Ordinances. These chapters were combined to create the Denton Development Code (DDC). However, specific sections dealing with annexation were not included in the DDC, namely Section 34.35 - Annexation Policy, Section 34.36 - Annexation Procedures, and Section 34.37 Annexation Fees. Refer to Exhibit 1. Furthermore, Section 35.1.6 of the DDC repealed all regulations governing the use and development of land that were inconsistent with the new code adoption.

However, because there was no language in the ordinance adopting the creation of the DDC that repealed Sections 34-35, 34-36, and 34-37, it is uncertain as to whether these sections were repealed explicitly. To provide a greater level of certainty, staff is going to draft an ordinance that will include language that expressly repeals Sections 34-35, 34-36, and 34-37.

In 2009, the City prepared an Annexation Strategy report. Refer to Exhibit 2. The report discussed the actions that led to the 2010 Annexation. The 2010 Annexation set to achieve the following goals:

- Protect the north Interstate 35 corridor;
- Protect the future west Loop 288 corridor;
- Manage growth in the City’s CCN;
- Manage land-use in probable growth areas;
- Create a logical contiguous City of Denton boundary;
- Provide future growth areas as recommended by the Denton Plan; and,
- Reduce the pockets of unincorporated areas (donut holes) within the existing city limits.

The factors used to determine what areas to annex include but are not limited to the following:

- Physical features such as creeks, railroads, roadways and other physical or natural boundaries;
- Property configuration;
- Proximity to current City boundary;
- The City’s ability to provide adequate public services (Fire, Police, Water, Wastewater, etc.), and proximity to the City’s CCN);
- Areas within the City’s CIP;
- Extent of recent development activities;

- Number of occupied parcels;
- Recent voluntary annexation trends; and,
- Location and intensity of gas wells.

To accomplish the above, the City contracted with Freese and Nichols, Inc. (FNI) to perform a growth management study. The initial study covered approximately 48,000 acres within the City's Extra Territorial Jurisdiction (ETJ), and was later narrowed down to 22 potential areas containing approximately 12,357.76 acres. Five (5) of the potential 22 areas are primarily located in the north western quadrant of the City, totaling approximately 7,855 acres. The other seventeen (17) are unincorporated ETJ pockets (donut holes) that are located within the body of the City's corporate limits containing approximately 4,502.68 acres. Further studies revealed that three (3) of the "donut holes" are encumbered with restrictive covenants and are not immediately eligible for annexation containing approximately 716 acres. As such, they were removed from further studies and consideration. The City Council then directed staff to develop an annexation priority ranking of the remaining 19 areas containing approximately 11,641.68 acres.

On September 1, 2009, staff presented the final results of the annexation priority ranking to the City Council via a work session. During the work session, staff recommended the annexation of 18 areas totaling approximately 9,035 acres of land. In 2010, annexation of large portions of the ETJ was initiated.

To ensure that there are specific annexation criteria and procedures to address proposed developments along the city's periphery, staff is proposing amending the DDC to add a section under Subsection 3 for annexation criteria and procedures. The Planning Division has drafted evaluating criteria for determining when annexation should be considered and has drafted annexation procedures that enable staff to bring forward cases to City Council in a timely manner. Staff is proposing to amend the DDC by adding the following periphery development annexation criteria section:

#### Section 35.3.13 Periphery Development Annexation Criteria

- A. City staff will assess on a case-by-case basis the annexation of areas in the extraterritorial jurisdiction (ETJ) when significant developments are proposed, occurring, or likely to occur in the near future.
- B. The following are criteria for determining when an annexation should be considered:
  1. Developments that require the need to connect to City public services (water, sewer, electric and other services; or
  2. Developments within the City's Certificate of Convenience and Necessity boundary for water, wastewater, and electric service; or
  3. Developments where the land area is partially in the City's ETJ and partially within the City limits; or
  4. Developments or areas that might have a significant impact upon the city, including but not limited to service costs, increased traffic, drainage impact, utility needs or utilization, safety or health hazards; or
  5. Location and intensity of Gas Well Drilling and Production, or
  6. Property that is contiguous to the City Limits and is necessary to the annexation of another

property qualifying under any of the criteria in B.1-B.5 above.

C. When any or all of the above conditions exist, city staff shall review the proposed development for the purpose of considering annexation. The following shall be considered at a minimum:

1. The ability of the city to provide infrastructure and public services equal to other comparable areas inside the city limits.
2. The reliability, capacity, and future public cost, if any, of current and planned provisions for community facilities such as roads, drainage, utilities, etc.
3. The need and quality of land use and building controls.
4. Conformance with the Land Use Element of the city's comprehensive plan.
5. Impact on the city, both current and long range, including at a minimum:
  - a. Public Services fiscal cost and benefits;
  - b. Traffic;
  - c. Infrastructure of roads, utilities and other community facilities;
  - d. Safety or health;
  - e. Building or development quality;
  - f. Aesthetic quality; and
  - g. Community character.
6. The property meets the minimum requirements for annexation in accordance with state law.

D. Procedure.

1. Following staff determination that annexation should be considered, the property owner will be notified of the City's intent to annex. The City will request that the property owner voluntarily petition the City for annexation and initial zoning.
2. If an application from the property owner for annexation and initial zoning is not submitted within 10 calendar days of notification, the city will initiate an involuntary annexation proceeding in accordance with state law.
3. After the involuntary annexation, the city will hold a public hearing for an initial zoning of the property under Section 35.3.4 of the Denton Development Code. The proposed zoning will be in conformance with the Land Use Element of the city's comprehensive plan.
4. All public hearing notification procedures will be in accordance with state law.
5. All procedures will be in accordance with continued use provision state laws.

## **OPTIONS**

1. Direct staff to use the proposed annexation criteria and procedure.

2. Direct staff to use the proposed annexation criteria and procedure with conditions.
3. Direct staff to take a different approach.

### **RECOMMENDATION**

Staff recommends amending the DDC by adding periphery development annexation criteria which provides specific thresholds for determining when annexation should be considered and procedures that enable staff to bring forward cases to City Council in a timely manner.

### **STRATEGIC PLAN RELATIONSHIP**

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

**Related Key Focus Area: Economic Development**  
**Related Goal: 3.1 Develop targeted policies and incentives to achieve desired economic growth**

### **EXHIBITS**

1. Sections 34-35, 34-36, and 34-37
2. 2009 Annexation Strategy

Respectfully submitted:  
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