

CHAPTER 10: ANNEXATION AND GROWTH
MANAGEMENT ASSESSMENT



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INTRODUCTION TO THE ANNEXATION AND GROWTH MANAGEMENT ASSESSMENT

The locations of future growth and development, through annexations and growth management strategies, can have a profound impact on Copperas Cove’s ability to provide water, wastewater, roadway, police, and fire services. Annexations and growth management strategies will play a critical role in shaping the future of the City. Specifically, the expansion of the City helps to ensure the safe and orderly development in growing areas that would otherwise be in the County, which has very limited power to properly manage develop. Therefore, developing a strategy for annexation and growth management is necessary to the future welfare of the community and outlying region.

First, annexation is the process by which cities extend municipal services, regulations, voting privileges, and taxing authority to new territory with the purpose of protecting the public's health, safety, and welfare. The Texas Local Government Code prescribes the process by which cities can annex land in Texas. Annexation is essential to the efficient and logical extension of urban services. As Copperas Cove is a home-rule city, it can annex land on a non-consensual basis. The State statute, however, sets forth service requirements to keep cities from misusing their annexation power. Annexation is important to the long-term well-being of cities and should be carried out in accordance with established policies, and not on an ad hoc basis. Ideally, annexation policies should be included in the Comprehensive Plan and linked to the capital improvement program. Therefore, the following summary of annexation procedures and recommendations are included within this Comprehensive Plan.

Cities can annex land only within their extraterritorial jurisdiction (ETJ). The City's ETJ is based upon its population and size. Copperas Cove's ETJ is two miles from its existing City limits and is based on a population over 25,000. When the City had a population of less than 25,000, its ETJ was one mile. The ETJ serves two purposes. First, it is a statutory prohibition against another municipality annexing into the ETJ of a city and second, cities can extend and enforce their subdivision regulations within their ETJ. Cities cannot, however, enforce zoning regulations within their ETJ.

Table 10-1 ETJ Distances from City Limits Municipalities in the State of Texas	
City Population	Respective Distance ETJ extends From City Limits
Fewer than 5,000	0.5 miles
5,000-24,999	1.0 mile
25,000-49,999	2.0 miles
50,000-99,999	3.5 miles
100,000 or more	5.0 miles

Texas Local Government Code: Chapter 42.021

Second, growth management strategies provide direction to achieve a livable and sustainable community. With recent changes to State laws regarding annexation and private property, the City should plan for the coordinated growth of the City. The growth management strategies allow for better communication about the future development of the City.

This chapter is organized into three sections. The first section discusses the challenges of regulation growth unique to Texas cities; Texas State law makes growth management particularly difficult. The second section examines previous annexations and annexation plans/studies. The third section outlines policies and recommendations to guide decision-making as the growth and development occurs.

TEXAS STATE LAW

The State of Texas is generally considered a strong property-rights State. In contrast with many of the growth management tools available to cities in Oregon, Washington, or California, Texas cities have few such tools due to the limitations imposed by State law. The following sections briefly describe these limitations and the resulting challenges faced by Texas cities in managing growth.

VESTED RIGHTS

The term vested right, in this context, refers to the right to develop property under a community's rules and regulations that are in place at the time a development application is submitted. In Texas, the vested rights provisions are contained in Chapter 245 of the Local Government Code. These provisions were originally applicable only to the rules and regulations governing the subdivision of land, and were not applicable to zoning in general. However, in the 2005 legislative session, vested rights provisions were expanded to include zoning-related rights. These enacted regulations prohibit Texas cities from¹:

- Enforcing new or updated zoning regulations that affect property classification against the holder of a vested permit;
- Enforcing landscaping, tree preservation, open space, or park dedication regulations against the holder of a vested permit;
- Setting an expiration date that is less than two years for a permit or five years for a project.

There is a fine line between upholding private property rights and planning for the public good. The vested right statutes in Texas make it difficult to implement growth management policies because they do not allow cities to impose the latest regulations to new development projects.

The assertion of a vested right by a local property owner could have an adverse affect on Copperas Cove's ability to manage and ensure quality growth. For example, a site plan that was approved by the City in 1995 would only be required to meet the regulations Copperas Cove had in place at the time the site plan was approved. Numerous ordinances adopted since 1995 simply would not apply, even though the actual development of the property is not occurring (i.e., is a dormant project).

¹ Texas Municipal League (TML) website, www.tml.org

Consequently, in order to implement many of the policy statements that are contained within this Comprehensive Plan, it will be important for the City to adhere to them when zoning change requests are made.

PROPORTIONALITY

If the development community participates in the expansion of major infrastructure improvements, then the City will likely be required to participate in over-sizing of such facilities. State law specifies that a developer must pay only for the fair share of the infrastructure costs of the development that is being created. This means, for instance, that if a development requires a municipal water or wastewater line, the developer's cost of that line can only be related to how much service the development itself is creating. Any oversizing of the line that is needed for future development to connect to must be paid for by the municipality. One of the challenges related to this State law that cities often struggle with is determining what "fair share" means in the eyes of the law.

ANNEXATION

In recent years, the Texas State Legislature has made city-initiated annexation of ETJ land area increasingly difficult. In fact, several statutes were passed in the 2005 legislative session that affected cities and how annexation can occur. The following represent the major issues that may affect Copperas Cove:

- The timing of service agreements to annexed areas will need to be an important consideration. If annexation is developer-initiated, the City still must consider the cost and timing of public improvements.
- At the time this Comprehensive Plan was written, several annexation-related court decisions were still pending. The outcome of these court cases may affect the way in which cities in Texas plan for service provision to annexed areas.

Given these facts about annexation, Copperas Cove needs to remain aware of legislative changes related to annexation, and needs to have a strong stance related to service provision in ETJ areas.

ZONING ISSUES

Several bills introduced during recent legislative sessions proposed that Texas cities be required to compensate landowners if the City initiates a "downzoning" of their property. Downzoning refers to a decrease of the intensity of a zoning district. For instance, a downzoning in Copperas Cove

would occur if the City initiated a zoning change from the Business District (B-4) zoning district to the Professional Business District (B-1) zoning district or from the Multi-Family Residential District (R-3) to the Single-Family Residential District (R-1).

Although there are relatively few instances of City-initiated rezoning, as opposed to landowner-initiated rezoning, in Copperas Cove, this could be a concern for the City if this type of law is eventually adopted by the State legislature. In terms of managing growth in a positive manner given this possibility, it will be increasingly important for the City to consider the following as development proposals are submitted.

- Any requested “upzoning” of property needs to be carefully considered. It will be easy to increase the rights related to a property at a property owner’s request, but difficult for the City to affect any future changes related to the zoning of that property without the permission of the property owner. The City should be sure that the development that is being proposed on the property is of a type and quality that will be acceptable in perpetuity.
- Any speculative “upzoning” of property needs to be carefully considered. In this case, speculative means that a property owner does not have any immediate plans for development, but requests a less restrictive zoning classification because it broadens the options of what can be developed on a property. The reasons for this are the same as stated in the above bullet point. On speculative zoning cases, the City should require a Planned Development or a Developers Agreement. This would allow Copperas Cove to stipulate that future site plans or plats must conform to regulations in existence at the time the site plan or plat is submitted.
- The fiscal impact of the development needs to be considered. As the City grows older, the “retirement plan” provided by the land use pattern will need to be examined in relation to tax revenue, employment, and a positive balance of residential and non-residential development.
- The growth policies outlined in the recommendations section of this chapter will need to be considered. Specifically in terms of public facilities and services and in terms of the project evaluation system to evaluate new zoning requests.
- The way in which the development fits into the principles, actions and policies outlined in this 2007 Comprehensive Plan Update needs to be considered. As alluded to previously, the

City is always evolving, and is making and responding to incremental decisions over time. These decisions need to fit into the whole picture provided by this Comprehensive Plan to ensure that Copperas Cove's ultimate build-out achieves the ideal of a livable and sustainable City.

ANNEXATIONS AND ANNEXATION PLANS/STUDIES

1995 COMPREHENSIVE PLAN ANNEXATION AREAS

The 1995 Comprehensive Plan recommended (on pages 207 through 211 and **Plate 23**) 13 areas the City should annex in advance of future development. Furthermore, the 1995 Plan recommended the City pursue a gradual, but sustained program of annexing land each year. The following objectives were established in the 1995 Plan:

1. A phasing and priority plan should be adopted identifying those areas that are suitable for annexation.
2. An emphasis should be placed on annexing highly visible areas such as along major thoroughfares or freeway corridors.
3. Areas that can more easily be served by extending public utilities or by the reasonable extension of utility lines, should be pursued first.
4. Areas outside the existing city limits but which are already developed or partially developed should be evaluated upon fiscal, as well as aesthetic, and social impacts.
5. Areas within special water districts should be evaluated based on proximity and visibility to circulation corridors and available land for future growth.

Based on the above policy objectives, the 1995 Plan recommended the following areas, which total 10,798 acres.

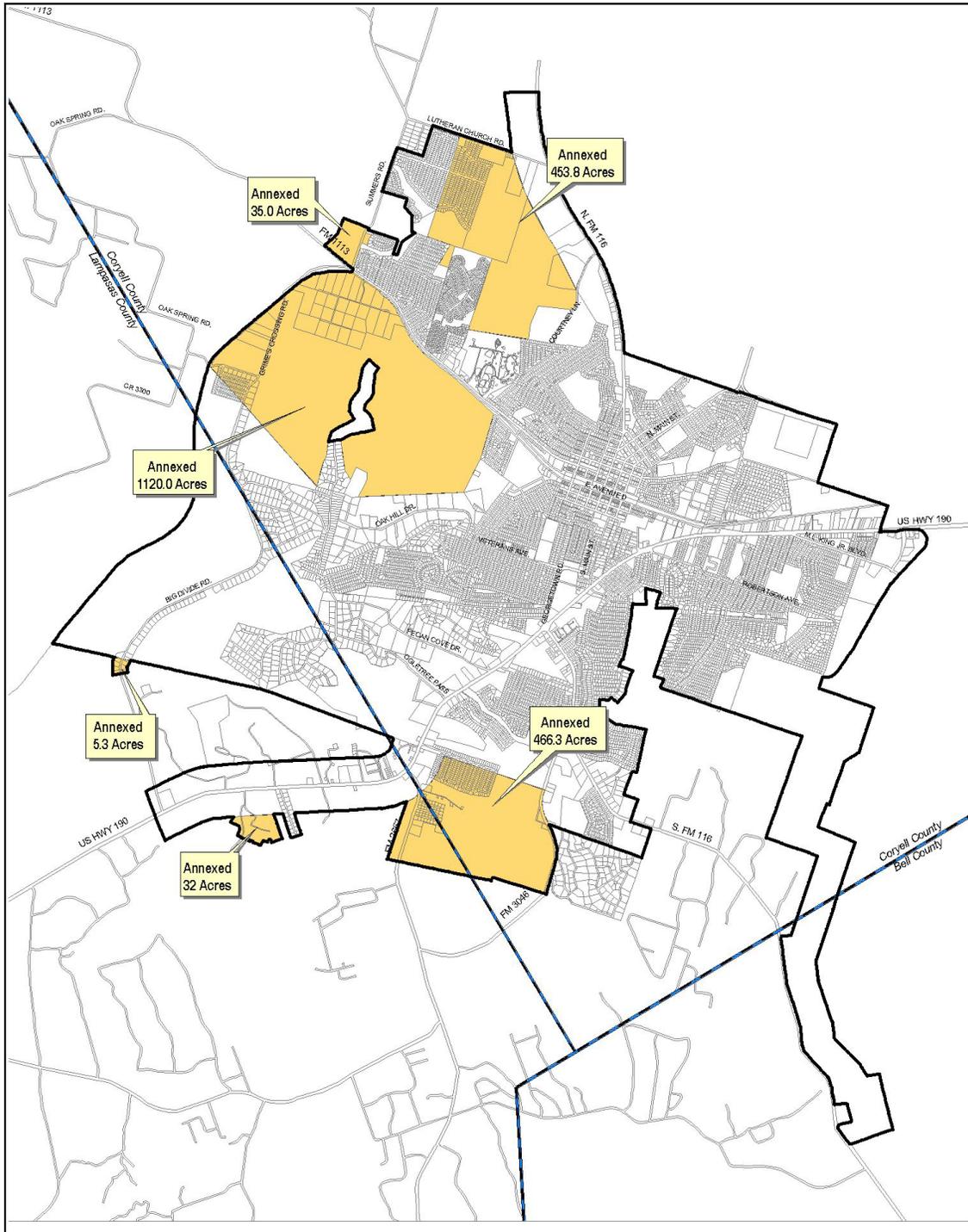
- **Area Numbers 1 and 2 (1,138 and 758 acres)**
 - Area: Northwest Copperas Cove
- **Area Number 3 (671 acres) –**
 - Area: South Copperas Cove
- **Area Number 4 (230 acres)**
 - Area: Vicinity of Pecan Grove Drive and Ogletree Pass
- **Area Numbers 5A, 5B and 6 (637, 740 and 843 acres)**
 - Area: Along U.S. Highway 190 and F.M. 2657.
- **Area Number 7 (232 acres)**
 - Area: Located along F.M. 1113 just south of the railroad track

- **Area Numbers 8, 9 and 10 (254, 356 and 315 acres)**
 - Area: 1,000-foot wide strips adjacent to F.M. 1113, U.S. Highway 190, F.M. 2657, or F.M.
- **Area Number 11 (2,985 acres)**
 - Area: Generally the area known as the Skyline Valley area
- **Area Number 12 (631 acres)**
 - Area: Western section of the City between Areas 5A and 5B
- **Area Number 13 (1,008 acres)**
 - Area: Big Valley Ranchette Subdivision

Notably, the City has annexed over 4,800 acres out of the 10,798 acres recommended.

2005 ANNEXATIONS AND 2005 ANNEXATION STUDY

On May 3, 2005, the City Council of Copperas Cove annexed 1,980.81 acres of land (**Plate 10-1**) with Ordinance #2005-03. This annexation was the culmination of an effort that started on June 28, 2004 with the first meeting of a committee, appointed by the Mayor, to discuss possible areas to be annexed into the City. This committee's purpose was to identify potential areas and recommend the most suitable areas for annexation. With eight meetings, (five were open to the public) the committee recommended six out of 12 areas for annexation. The recommendations were adopted by Ordinance #2005-03. Furthermore, the committee's findings are documented in the City's "Annexation Study and Committee Recommendation: February 1, 2005."





City of Copperas Cove

Recent Annexations

Plate 10-1



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Urban Planning Consultants, Dallas Texas
Date: May 2007



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RECOMMENDATIONS FOR FUTURE ANNEXATIONS

(Disclaimer: This chapter, section, and **Plate 10-2** do not qualify as an annexation plan under State law; however, this chapter should be used as guidance during future annexation studies.)

POLICY #1: CONTINUE PLANNING FOR ANNEXATIONS

- The City has planned for growth through efforts such as the Annexation Study and Committee Recommendation: February 1, 2005. This effort included a local committee and had five meetings with public input. As was done in this study, the City should continue to include and solicit public input.
- The City should consider annexing the remainder of the tracts within the Annexation Study and Committee Recommendation: February 1, 2005. The following tracts of land are outlined within the February 1, 2005 study (pages 5 through 29) and should be considered for possible annexation:
 - i. Tract 1 – Seven Mile Mountain,
 - ii. Tract 2 (partial) – Highway 190 West,
 - iii. Tract 3 – Bid Divide Road,
 - iv. Tract 7 (partial) – Summers Road West,
 - v. Tract 8 – Lutheran Church Road,
 - vi. Tract 10 – Lutheran Church Road South,
 - vii. Tract 11 – Land Swap, and
 - viii. Tract 12 – Woodland Park.
- As soon as possible, the City should annex the area surrounding the Highway 190 Bypass to assure quality development. Because the Highway 190 Bypass will be only the second roadway to completely traverse the City from east to west, its ability to transport vehicles (e.g., access, curb cuts, etc.) and its appearance (e.g., signs, buildings, landscaping, parking, etc.) will be critical to Copperas Cove’s development.
 - i. **Plate 10-2** depicts a yellow shaded area (Priority 1) with two possible tracts for annexations.
 1. The 397-acre tract fills a pressing need for the City to extend development control along a minimal portion of the future Highway 190 Bypass. This tract should be considered a high priority.
 2. The 510-acre tract would extend the City limits to encompass a wider corridor of development. This tract should be considered a high priority but lesser than the 397-acre tract.

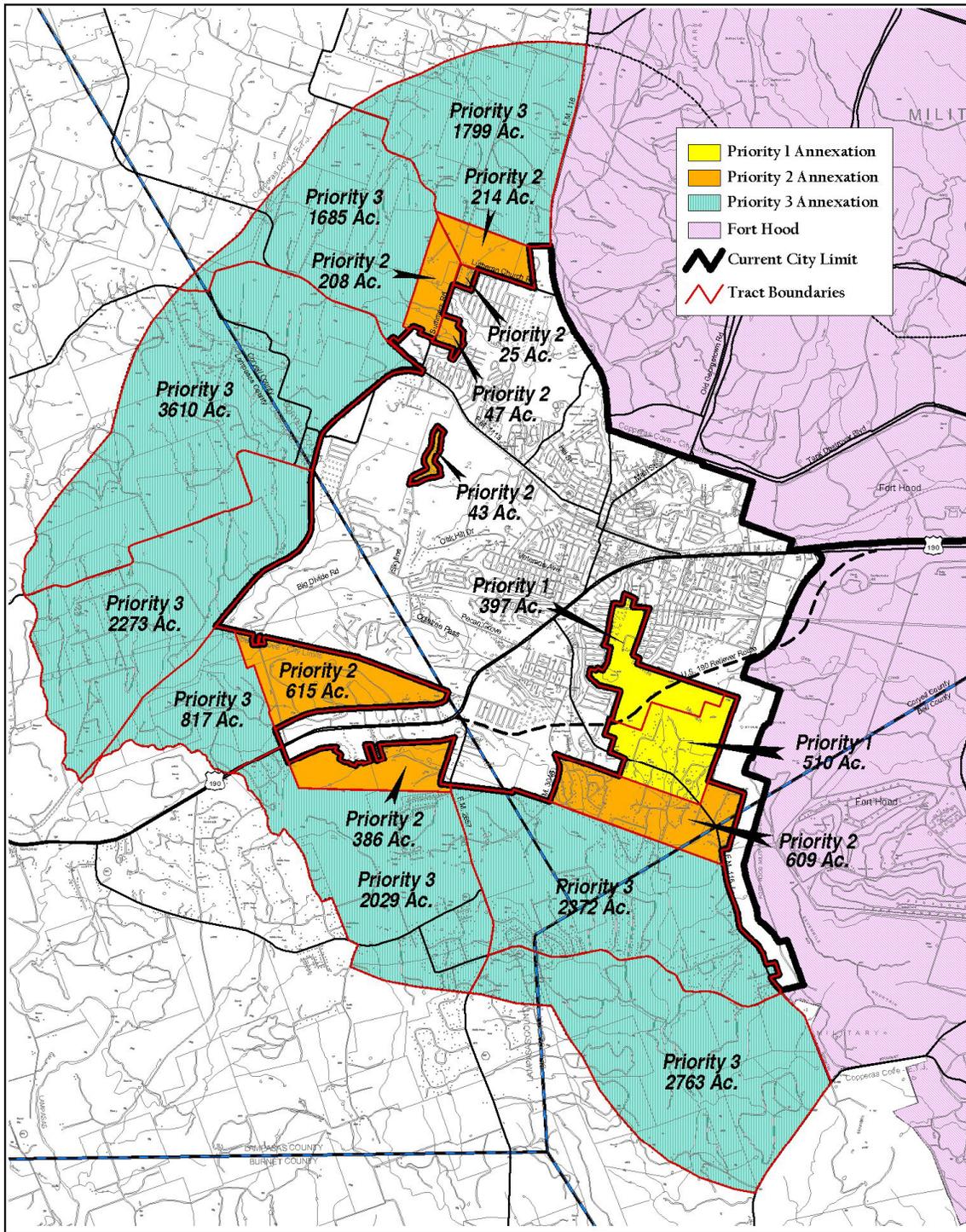
- **Plate 10-2** applies a prioritization scale to each annexation area. Based on fundamental urban planning principles, this prioritization scale or rank serves as a guide to explain the general order in which areas should be annexed into the City.
 - i. The following scale depicts the general order in which tracts should be annexed into the City:
 1. Priority 1 – The land surrounding the Highway 190 Bypass is the foremost property to annex. As discussed earlier, annexation will ensure development oversight of this critical thoroughfare.
 2. Priority 2 – The tracts of land designated as priority 2 are either the remaining tracts of land from the 2005 Annexation Study or additional land in proximity to the Highway 190 Bypass.
 3. Priority 3 – The tracts of land designated as priority 3 consist of the urban fringe and are within the City’s extraterritorial jurisdiction (ETJ). As development continues to grow, the fringes of Copperas Cove will become more attractive for new development. While subdivision and other ordinances can be enforced in the ETJ (e.g., sign ordinance), zoning regulation, which ensure quality development, cannot be enforced in the ETJ. Therefore, the City should monitor development in the ETJ and annex tracts at the appropriate time to ensure quality development.
- The City should evaluate each tract for the benefits of annexation and use the different type of annexation procedures established in Chapter 43 of the Texas Local Government Code.

POLICY #2: REVIEW NEW STATE LAWS

- Annexations can be very political issues. The legislature periodically reviews and changes the Local Government Code regarding annexation procedures. Therefore, the City should be aware of changes to the legality of annexation. The City should use organizations to help monitor changes to State law (i.e., Texas Municipal League). **Plate 10-2** does not qualify as an annexation plan under State law; however, it should be used as guidance during future annexation studies.

POLICY #3: ENSURE ADEQUATE CITY SERVICES TO MEET GROWING POPULATION NEEDS

- Continue to monitor and increase water service availability.
- Continue to monitor and increase wastewater service availability.
- Maintain and expand police and fire services to meet the needs of Copperas Cove’s current and future population, and improve upon such services as funding allows.



Future Annexations

Plate 10-2

Disclaimer: This map does not qualify as an annexation plan under State law.



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Urban Planning Consultants, Dallas Texas
Date: May 2007

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POLICY #4: PROVIDE SERVICES TO AREAS IN THE ETJ ONLY UNDER LIMITED, SPECIFIC CIRCUMSTANCES

- Ensure that services are provided in the ETJ (outside the City limits) only under the following circumstances:
 - As part of an agreement that provides for development consistent with the Comprehensive Plan;
 - The City's ability to annex the property in the future;
 - The quality of the development occurring is consistent in every way to City standards that would otherwise be imposed if development was occurring within the City limits; and
 - For a use or development that offers significant public benefits to the entire Copperas Cove community.
- Do not support the establishment of special or municipal utility districts.

POLICY #5: ENCOURAGE CONTIGUOUS DEVELOPMENT PATTERNS

- Encourage development of tracts that are in proximity to existing water and wastewater lines.
- Encourage development of tracts that are in proximity to existing development in order to ensure adequate response times by emergency services. There are challenges providing such services to developments that are located in outer areas of the City. For example, there is a time and resource cost for emergency response services. In addition, there are added physical challenges for emergency response teams to respond when developments are farther out with limited street access points.

POLICY #6: INTEGRATE GROWTH CONCEPTS INTO THE ZONING DECISION-MAKING PROCESS

- Consider the following issues as zoning decisions are made:
 - Is the development adjacent to existing development?
 - How far is the development from existing roads and infrastructure?
 - Will emergency service be able to provide effective response times?
 - How does the development proposal impact the City fiscally – tax revenue, employment, public considerations (such as parks, schools, etc.)?
 - How does the development proposal affect the appropriate school district in terms of school planning and school attendance zoning?
- Carefully consider any requested “upzoning” of property.

- The 2007 Comprehensive Plan Update should be used as a guide to determine whether the requested rezoning is consistent with Copperas Cove's principles, actions, and policies.
- If immediate development of the property is intended to occur upon the rezoning, the City should be sure that the proposed development is of a type and quality that will be acceptable for the long-term.
- If the rezoning is requested on a speculative basis, the City should require a Planned Development or a Developers Agreement. This would allow Copperas Cove to stipulate that future site plans or plats must conform to regulations in existence at the time the site plan or plat is submitted.
- Consider developing and maintaining a fiscal impact model, which would help the City evaluate zoning and development decisions based on their fiscal merits.
- Consider the way in which the development fits into the principles, actions and policies outlined in this Comprehensive Plan. Zoning decisions need to fit into the whole picture provided by this 2007 Comprehensive Plan Update to ensure that Copperas Cove's ultimate build-out achieves the ideal of a livable and sustainable City.