



# Nacogdoches Comprehensive Plan Update

## Annexation

## CHAPTER 12

The purpose of the Annexation Assessment and Strategy element is to evaluate the City's annexation outlook in terms of statutory capabilities and limitations, general fiscal and public service capacity, and demonstrated need to better manage and guide growth and development beyond the existing incorporated area. In particular, this chapter is intended to supplement the Land Use element and Future Land Use Plan, as well as other physical planning elements. Future annexation activity should be consistent with the policies and identified priorities in the City's updated Comprehensive Plan.

In theory, and in keeping with sound planning practice, future annexations should target growth areas before anticipated development occurs, whenever feasible. This should be the case whether territory is annexed in response to property owner requests or is initiated directly by the City. In reality, municipal annexation authority in Texas underwent a sea change in 1999 with the passage of Senate Bill 89, which made it much more difficult for Texas cities to accomplish significant annexations. The new burdens placed on Texas cities before involuntary annexations can even be contemplated must be a key consideration when setting long-term annexation policy and strategy.

Even as this plan element was being prepared, bills were already under consideration in the 2003 session of the Texas Legislature to further restrict municipal annexation authority, in one case by requiring advance approval by voters in proposed annexation areas. Further erosion of annexation powers is of concern because cities expand their corporate limits periodically to manage land development in new growth areas, to ensure orderly extension of public infrastructure and adequate provision of public services, to expand

their tax base in line with increasing service demands, and to encompass critical areas and public facilities, such as airports and drinking water reservoirs that are purposely located at a distance from the urbanized city.

## Recognizing the Value of Annexation to Cities

Annexation is one of the most powerful tools available to cities for directing and influencing their future growth. Annexation is the process by which the city extends its municipal services, regulations, voting privileges, and taxing authority to new territory. The city annexes to provide municipal services to developed and developing areas and to exercise regulatory authority necessary to protect public health, safety and general welfare. Annexation is also a means of ensuring that residents and businesses outside the city's corporate limits who benefit from access to municipal facilities and services share the tax burden associated with constructing and maintaining these facilities and services.

Annexation and the imposition of land development regulations may also be used as a growth management tool to implement the Comprehensive Plan. Annexation extends the city's extraterritorial jurisdiction (ETJ), enabling the city to regulate the subdivision and development of land over an expanded area.

It is advisable for the City of Nacogdoches to take a proactive yet responsible approach to annexing lands adjacent to the corporate limits as a means to manage peripheral growth and to have regulatory control over the type, scale and density of development within the less urbanized portions of the City's planning area.

## Annexation Policies and Priorities

Based on review of the City's past annexation practices and current and longer-term development issues and trends, as well as the input of City leaders, staff and residents, the following Annexation Policies are recommended to guide future annexation activity by the City aimed at achieving orderly and contiguous growth. The policy statements appear in no particular priority order.

- Policy 1:** The City should continue to consider landowner-initiated annexation proposals, taking into account projected fiscal impact and less tangible "pros" and "cons" of each potential annexation, as well as conformity with Future Land Use, Thoroughfare and utilities plans.
- Policy 2:** The City should consider establishing guidelines within which it will consider annexation proposals each year, including potential limits on the number of acres or households (population), capital expenditures required to extend municipal facilities and services, distance from municipal infrastructure, or other locally established criteria. The City might also consider identifying certain population or development density thresholds that would trigger formal annexation planning to ensure that areas transitioning to urban uses and densities will meet urban development and service standards. As these potential activities imply, the City should continuously monitor development activity and emerging patterns in its ETJ.
- Policy 3:** The City should avoid annexations that would involve substantial utility extension obstacles and/or costs (particularly related to basic topographical or other physical constraints) or that would seriously

impact the safe and effective delivery of emergency services both within the existing city limits as well as any newly-incorporated areas.

**Policy 4:** The City should consider negotiation of formal agreements in lieu of annexation for areas where the provision of required municipal facilities and services cannot be adequately provided in a cost-effective or efficient manner. This may include instances where immediate or short-term annexation is not feasible, yet the City desires to ensure its future ability to annex or, at least, wishes to manage development in certain areas to ensure consistency with the City's long-range land use, transportation and utilities planning for its ETJ, especially near existing incorporated areas.

**Policy 5:** The City should continue to monitor opportunities to annex "exempted" territory that is not covered by the three-year advance annexation plan requirements of the Texas Local Government Code, which outlines the following exemption criteria:

- areas containing fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract;
- areas to be annexed by petition of more than 50 percent of the real property owners in the area proposed for annexation or by vote or petition of the qualified voters or real property owners;
- areas which are or were the subject of an industrial district contract or a strategic partnership agreement;
- areas located in a colonia;
- areas less than 1,000 feet in width that are annexed pursuant to agreements with adjacent municipalities;
- areas located completely within the boundaries of a closed military installation; or,
- areas that the municipality determines are necessary to protect the area proposed for annexation or the City itself from imminent destruction of property or injury to persons, or from a condition or use that constitutes a public or private nuisance as defined by background principles of nuisance and property law in Texas.

**Policy 6:** The City should maintain a long-range, generalized annexation planning map for anticipated expansion of the corporate limits and orderly extension of municipal facilities and services, which could occur through both voluntary and involuntary annexations. Such a map should identify general candidate areas within the current Nacogdoches ETJ that might be considered for near-term, intermediate or longer-term annexation, as appropriate. The map is intended only to provide general guidance since annexation phasing priorities will shift somewhat over time depending on development activity and infrastructure and service conditions. Any specific annexation proposal should satisfy various other policies in this section regarding detailed service planning, fiscal impact analysis, and feasibility of utility extension.

This general, conceptual map could then guide the development of a more focused and detailed document that would meet the three-year advance notice and planning requirements of the Texas Local Government Code, at such time as the City decides to initiate the formal annexation planning process. Through this more official “annexation plan,” the City must be deliberate and specific in identifying particular parcels that it intends to annex in three years time. While the annexation plan may later be amended to remove an area proposed for annexation (for example, if initial service planning confirms that annexation is not workable or desirable for the City), there are consequences in terms of the amount of time that must pass before the property can again be added to the City’s three-year planning cycle.

- Policy 7:** The City should continue to apply fiscal impact analysis techniques to assess the estimated costs of providing municipal services and weigh these costs against the anticipated revenues of each proposed annexation. First-year costs may exceed revenues because of the lag time between annexation and collection of taxes and fees. Annexations may also require one-time expenditures for capital facilities. For these reasons, the fiscal impact of annexations should be assessed on a multi-year time frame.
- Policy 8:** The City should use annexation to extend its jurisdiction (as well as its two-mile ETJ) to encompass certain critical public facilities which require protection and management through the City’s development ordinances, infrastructure standards, and other regulatory powers that can be applied by the municipality within its incorporated area. Airport environs, important roadway and rail corridors, and community “gateway” locations are candidates for this approach.
- Policy 9:** The City should be prepared to consider annexation of areas with less-than-favorable fiscal impact implications if unique health, safety, environmental, general welfare, or other factors are significant enough to override financial considerations.
- Policy 10:** The City should continue to use development incentives and other policies to direct growth and development to developable and underutilized areas within the current corporate limits, thereby ensuring that existing transportation and utility infrastructure is used efficiently prior to annexing additional areas into the community.
- Policy 11:** The City should maintain its positive working relationships with Nacogdoches County and other public and private service providers within its ETJ, regardless of whether the City is in an active annexation planning mode. Successful response to the House Bill 1445 mandate, regarding City-County agreement on ETJ platting, is an example of positive interaction to achieve common objectives for managing development in less urbanized areas.
- Policy 12:** The City should review and revise its annexation plans, as needed, in conjunction with annual review and update procedures for this Comprehensive Plan and the Future Land Use, Thoroughfare and master utility plans.

**Policy 13:** Through the Texas Municipal League (TML) and other resources, the City should continue to monitor studies and actions by the Texas Legislature, including potential new or revised statutes that would impact municipal annexation authority and capabilities.

## **Annexation Authority**

As a Home Rule City, Nacogdoches has authority under the Texas Local Government Code (Chapter 43) to annex territory on an involuntary or non-consensual basis, as well as by accepting petitions for voluntary annexation from landowners. However, in annexing property there are stringent municipal service requirements that are required of the City. Annexation authority applies to the extraterritorial jurisdiction (ETJ) of the City, which is the area outside but within a certain distance of the existing corporate limits. The Nacogdoches ETJ extends two miles beyond the city limits.

## **Past Annexation Activity**

At least in recent years, the City of Nacogdoches has followed a policy of relying primarily on landowner requests for voluntary annexation of property into the city versus City-initiated annexation of additional territory. Such annexations have typically involved single property owners, with the exception of Mystic Lane, in which homeowners within the existing subdivision came to consensus on the need for annexation.

The City's annexation activity over the last five years (1998-2002) is displayed in **Table 12.1**. The Village Gate subdivision, east of the city on State Highway 7, was the largest recent annexation at 217 acres. Other annexed areas have ranged from less than one acre to 87 acres. The developments involved have included single-family residential subdivisions, mobile home parks, commercial and industrial development, and public/institutional uses. In all, the City has annexed just over 500 acres of additional territory through 11 separate approved annexations since 1998.

The City has typically annexed properties that were already developed or in the development process versus "raw land." Recent non-residential examples include the SFA Biotech Center and the ForeTravel development on west Loop 224. Industrial areas along south Loop 224 were annexed approximately 15 years ago. However, more recently, undeveloped land along Industrial Boulevard on the city's north side was annexed in anticipation of a NEDCO-initiated industrial park. In almost every case the City must extend water and/or sewer service to the annexed property.

## **Current Annexation Scenario**

The City remains open to working with landowners interested in annexation. For the City, there are certainly tax base benefits plus the opportunity to manage growth areas by extending the City's development regulations and other municipal codes. The City's Planning Department conducts a cost-benefit analysis of each proposed annexation, and an annexation service plan must also be prepared by City staff. According to staff, properties that have ultimately been accepted for annexation have typically involved relatively low costs to the City.

**TABLE 12.1:**  
**Recent Annexation Activity, 1998-2002**  
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Date Annexed	Name	Location	Development Plan	Acreage
September 15, 1998	Van Horn Trust	Industrial Drive	Industrial	30.30
November 17, 1998	Robert J. Millard	Oakview Drive	Austin House	0.86
February 9, 1999	Appleby Sand Investment Group	Appleby Sand Road	Belle Pointe Subdivision	39.28
June 15, 1999	George Millard	Woden Road	Mobile Home Park	87.25
September 21, 1999	George Millard	Woden Road	Mobile Home Park	1.25
April 1, 2000	George Middlebrook	State Highway 7	Village Gate Subdivision	217.32
May 16, 2000	Fore Investments	West Loop 224	ForeTravel	9.28
March 1, 2001	Austin Hollow Development Corp.	Post Oak Road	Colony Creek Subdivision	30.51
March 1, 2001	Stephen F. Austin State University	Loop 224 and County Road 809	SFA Biotech Center	15.68
May 1, 2001	Mystic Lane	Mystic Lane	Mystic Lane Subdivision	56.50
January 8, 2002	Nacogdoches ISD	SE Loop 224	Middle School	23.78
<b>TOTAL ACREAGE</b>				<b>512.01</b>

Source: City of Nacogdoches Planning Department

Based on discussions with key City staff (administration, planning, legal, finance, public works, public safety, parks and recreation) and other research into the City's annexation practices, the following points were noted regarding current thinking, issues, concerns and priorities related to future potential annexation activity:

Utilities and Infrastructure Considerations

- ◆ Certain developing areas outside the current city limits are already cause for concern from a service standpoint. Specific areas cited by City staff include development up Appleby Sand Road, up North Street toward the U.S. 59 interchange, and the south end of Old Lufkin Road. Potential alignments for Interstate 69 were also of concern because of development servicing issues the City might have faced relatively far removed from its established urbanizing area.
- ◆ Extension of water and/or sewer service would likely be necessary for any future annexations, including developed properties along Loop 224 that were never brought into the city limits. In the case of ForeTravel, annexation was necessary to justify the expense of extending water service across the U.S. 59 bypass. The City normally does not allow on-site septic systems in new development unless utilities cannot be extended.

- ◆ The City's extraterritorial jurisdiction includes areas that can feasibly be served (as previously identified by City staff) and might be attractive for future annexation. However, many more areas in the ETJ – in just about every direction around the City – would be problematic for annexation due to the difficulty of extending wastewater service. This is because hilly topography would make multiple lift stations necessary, and expanded wastewater treatment capacity through the construction of additional plants would probably be required – another costly proposition for the City. The City is currently extending a new gravity sewer line up Appleby Sand Road in light of the development in this vicinity. Such projects are helping the City to reduce its inventory of lift stations from 16 to 13. However, the cost for just this small area along Appleby Sand is \$1.3 million. As a result, wastewater service feasibility is a key factor in the City's annexation policy and planning.
- ◆ Annexation is often a smooth process if no off-site utility extensions are needed. However, many preliminary discussions about potential development projects outside the city never result in actual development or annexation once the developer realizes the cost of necessary utility extensions. In some cases, the City's development incentives help to offset such costs to the point that development becomes feasible.
- ◆ The City currently coordinates with other service providers in its ETJ, including Municipal Utility District No. 1 (for Woodland Hills), various rural water supply corporations, and private refuse haulers (as the City provides no trash pickup in its ETJ).

#### Public Safety Considerations

- ◆ Response time for public safety services is a key concern in assessing the impact of potential annexation activity by the City. The Police Department remains confident that all existing areas of the community are readily accessible to its officers. The Fire Department has a goal of three minutes or less for the first engine to arrive at a fire scene. The northeast sector of the community is the easiest for NFD to serve because of existing water service and hydrants and the presence of a fire station in the area. The southwest and northwest sectors, and the west side of the city in general, are more problematic due to limited access and sheer response distance since there are no fire stations in the area. For these same reasons, some areas that are currently developing outside the city limits, particularly to the northeast along Appleby Sand Road, are cause for concern when thinking about possibly having to serve them in the future. The northwest and northeast edges of the city are more difficult to access when multiple units are needed. Further development within the existing city limits would impact fire service less than annexation of new areas.
- ◆ Both the Police and Fire departments report that none of the recently annexed areas has had a significant impact on their operations. One reason, in the case of the Fire Department, is that mostly new homes have been annexed, and these homes are built to better code requirements. Future homes in these areas will also meet the latest codes. However, water availability on Mystic Lane has been an issue as the existing hydrants were not up to standard for the size of homes. The City is currently correcting this problem. In general, water is a concern when non-City water systems are involved, where hydrants are limited, and where City personnel have limited knowledge of water quantity or

pressure to an area. Regarding police services, the Police Department has increased its staffing in recent years through grant opportunities, enabling NPD to keep pace with City growth and the associated increase in call volume, which has not been significant.

- ◆ The Fire Department considers response time, staffing and location of water as the critical factors in evaluating potential annexations, with manpower being the most important item. Serving the existing incorporated city is already made difficult by the physical realities of the city's spread-out pattern, between two hills and creeks. The City barely achieved its current ISO rating of 4. The City is currently working to address water availability concerns, which are complicated by the existence of four pressure planes within the city. Looking back over the longer term, annexations since the late 1960s have significantly impacted response-time capabilities. Adequate manpower on-site is more important than the number of fire engines dispatched. Protocol requires that all units be on the scene before a fire attack within a building interior can commence. The first-in unit may be on-scene and waiting two to eight minutes before remaining units arrive.
- ◆ The Police Department expressed concern about several potential annexation areas that would significantly increase NPD's call volume and patrol responsibilities. Two residential areas to the south were cited where a great deal of gang activity occurs (which would also adversely affect the City's crime statistics). To the west, a large nightclub would likely cause some difficulties for NPD. A western annexation might also encompass the Nacogdoches County Exposition Center, which would create a staffing burden for NPD during certain large activities at the Expo Center. From a traffic safety and enforcement standpoint, growth in traffic on the west side would also have implications for NPD. Department administrators noted that NPD's patrol districts are already larger than desired due to staffing limitations, so having to cover any additional incorporated territory would likely increase police response times.
- ◆ The primary response area for the City's Fire Department covers the entire ETJ based on the County's address-based 911 dispatch system. The City is supposed to be notified immediately if assistance is needed anywhere within this two-mile area beyond the city limits. However, this sometimes does not happen, probably because of shortcomings in dispatcher training.
- ◆ The City currently coordinates with 18 volunteer fire departments in Nacogdoches County. Many of the VFD personnel are well trained. However, one difficulty is that volunteer response can be unpredictable in terms of the number and promptness of arrival to a fire scene. Douglass has a voter-approved, taxing entity for fire protection that abuts the Nacogdoches city limits, which provides beneficial overlap of service in the ETJ. The northwest part of the county (Cushing, Louisville) also recently approved a taxing entity for fire protection. Regarding law enforcement coordination, NPD reports good cooperation with all area agencies. In particular, a Combined Emergency Response Team (CERT) brings together officers from the Nacogdoches Police Department, Deep East Texas Narcotics Trafficking Task Force, Nacogdoches Independent School District Police Department, and the Nacogdoches Sheriff's Office.

- ◆ The Nacogdoches County Hospital District is responsible for emergency medical services (EMS) county-wide. The Fire Department assists on a first responder and rescue call basis.

### Parks and Recreation Considerations

- ◆ Areas annexed in recent years have not received particular attention for parks and recreation needs. Instead, once annexed, they became part of the overall community-wide mix as the City plans for future parks and recreation system enhancements for the benefit of current and future residents of Nacogdoches. The City does not currently have any parks that would be considered “regional” facilities which serve population that is relatively distant from the site. The former racetrack property on the City’s northwest side would fall into the regional category if it is eventually developed by the City into a large recreation complex, at which point it would be annexed. In the growing northeast area of the community, Maroney Park serves close-by residents as well as those who now own homes farther away along Appleby Sand Road.
- ◆ While there are various portions of the City’s ETJ that would be attractive for potential park development and recreational use, the reality is that the City has limited resources to maintain its existing parks and recreation system. As a result, while the City recognizes the desirability of having “green” space in all new developments in and outside the city, it would be a management headache and fiscal burden for the City to be responsible for numerous small, scattered park sites, where people would naturally want play equipment and other improvements as soon as possible. The Parks and Recreation Department is already stretched by the heavy use and high maintenance required for the park sites at Lake Nacogdoches. In other cases the City has had to decline land donation offers, such as in the new Cypress Ridge multi-family development on southeast Loop 224.
- ◆ The City currently coordinates with the Nacogdoches Independent School District on parks and recreation matters through a shared-use agreement. Nacogdoches County does not have any parks facilities or programs. Properties with trails are available to the public in the ETJ through the Texas Forest Service and Stephen F. Austin State University. The staff philosophy in coordinating with the school district is to maintain good relations to avoid any charging for use of school facilities, which could be interpreted as a form of double taxation. Coordination with other area school districts will be needed since some people perceive their teaching and programs as better than in the city, but their facilities are more limited.

### Finance and Administration Considerations

- ◆ In general, recent annexations have “paid off” for the City from a fiscal impact perspective. For example, Mystic Lane had a positive impact on the City’s overall valuation. On the other hand, incorporation of this existing subdivision required various investments by the City. The City had to address a drainage “washout” situation on what was previously a County road by spending approximately \$50,000 for asphalt overlay plus \$5,000 in annual maintenance. An even greater expense was the approximately \$300,000 spent to extend wastewater service, which is often a money-losing aspect of such annexation proposals, especially if the City does not pick up much new revenue on the utility side due to some

properties remaining on private septic service. It cannot always be assumed that such developments will tie into municipal sewer lines. However, appraised values in the area are what made the Mystic Lane numbers “work” for the City.

- ◆ Annexation typically pays off for the annexed areas as well. Mystic Lane owners were mostly interested in annexation to address their road problems. City sewer service was less of a priority. City staff predict that Woodland Hills to the south will pursue annexation when its current water contracts come up for renewal. However, the City is currently “maxed out” on how much water it can pump just to serve existing citizens. Timber Ridge off State Highway 21 East is another example of a non-MUD development in the ETJ that is interested in annexation since it already receives water service from the City but is paying out-of-city water rates.
- ◆ The City has perhaps “given away too much” on some occasions where an incentives package was provided up front (in theory, to help make project financing workable) versus the typical five-year approach of providing rebates as homes are built and go onto the tax roll. In some cases lots were sold but only a limited number of homes were built despite the up-front payment, resulting in an “investment lots” situation until adequate funds are available for actual construction. The motivation for annexation in such cases is to take advantage of the City’s development incentive. But, this means the incentive is having a positive effect assuming the development would have occurred elsewhere otherwise. Development incentives along Park Street were paid up front, and housing starts are progressing steadily. Appleby Sand and Park are probably the most popular locations currently, with another 1,000 acres of long-term development anticipated for Park Street.
- ◆ The City has negotiated service extension and annexation deferral agreements previously. Examples include a “50-50” deal to extend sewer service to an SFA site, and an industrial development (improvement) district that focused on city utilities while deferring zoning and less-needed city services (road maintenance, garbage pickup, etc.) for a period of years. The City benefits from negotiated payments in lieu of annexation even though the revenue is less in some cases than the property taxes that would have been collected.
- ◆ While most annexation possibilities either move forward or are deemed impractical early on through preliminary discussions, one area the City has intentionally avoided for fiscal reasons is Carrizo Creek.
- ◆ Voting/redistricting issues have not arisen from recent annexations since the population added has not been significant even though 500-plus acres were incorporated.

### ***New Annexation Realities in Texas***

As growth continues around Nacogdoches, the City will likely annex additional land in its ETJ, whether through voluntary or involuntary means. The annexation process for Home Rule Cities is governed by planning and procedural requirements in Chapter 43 of the Texas Local Government Code. The Texas Legislature significantly revised these requirements in 1999 with the passage of Senate Bill 89 (SB 89).

Under the revised statute, specific properties must be identified in an officially-adopted municipal annexation plan for three years before they may be annexed (although some exceptions are provided, as noted under Policy 5 earlier in this chapter). This key provision of SB 89 was aimed at providing much earlier notification to property owners of a nearby city's annexation intentions. In addition, if the City does not pursue annexation within 31 days of the third anniversary of plan adoption, then the property is ineligible for annexation for another five years.

The total acreage of areas to be annexed in any given year may not exceed 10 percent of the overall acreage within the City's existing incorporated area. In addition, the City may carry forward all or a portion of its 10-percent acreage allowance from one year to the next in cumulative fashion. This means that if the City does not annex 10 percent of its existing area one year, it may carry forward that acreage and combine it with another 10 percent the next year. The maximum allowable accumulation of annexation acreage is 30 percent of the City's incorporated area.

An annexation area must be contiguous to the existing city limits. As a result of SB 89, an annexation area must also be no less than 1,000 feet in width at its narrowest point, and only real property and not public rights of way may be counted in this minimum width. This provision was aimed at the widespread practice of "strip annexation," in which very narrow "fingers" of land were annexed, typically along roadway corridors, to extend the City's jurisdiction – and particularly its extraterritorial jurisdiction – well beyond the primary incorporated area. This was sometimes done to stake a city's claim to an area ahead of another nearby municipality. Strip annexation was also a way to bypass less desirable properties in favor of higher-value areas.

As in the past, the City must meet stringent service planning and delivery requirements for proposed annexation areas. Once an area is identified for potential annexation, the City must compile a comprehensive and detailed inventory of all services that it or other entities currently provide in the area. This inventory must include the condition of facilities, existing public safety response times, and current service costs. The inventory must cover all services and facilities the City is required to provide following annexation. These include police protection; fire protection; emergency medical services; solid waste collection; water and wastewater facilities; roads and streets including lighting; parks, playgrounds and swimming pools; and any other public-owned facilities, building or service.

Senate Bill 89 accelerated the service planning timeline by requiring the City to begin preparation of its annexation service plan within 10 months of receiving the data required for the service inventory. Significantly, the Legislature also reduced the time frame in which "full municipal services," including necessary capital improvements, must be provided from 4.5 years to 2.5 years, although the statute includes some allowances for extending this service schedule.

Prior to the time that full municipal services are achieved, the City's service plan must provide for the immediate extension of basic fire, police, and EMS services on the first day following annexation. The service plan must also demonstrate how the City will maintain all water, sewer, streets, street lights, parks and recreation facilities, and other public facilities already serving the proposed

annexation area. As noted, construction of any capital improvements required for extension of municipal services must be completed within 2.5 years. These requirements may not apply if the annexation was landowner-initiated and if the City and owners agree that the improvements will not be completed within 2.5 years. Overall, the City must be able to provide municipal services that are at least of the same level as existed in the area prior to annexation and that are available in other parts of the City with similar characteristics.

Senate Bill 89 also added mechanisms for cities to negotiate with landowners and other interests within targeted annexation areas regarding service provision, limitation of land uses, and ordinance compliance in lieu of annexation. This process can lead to arbitration proceedings if negotiations are unsuccessful. The revised statute also clarified the negotiation of "strategic partnership agreements" between cities and special districts in Texas, such as Municipal Utility Districts. Finally, cities still retain the authority to preclude the incorporation of new municipalities within their ETJ.

### Future Annexation Outlook

The following points, also gleaned from discussions with key City staff, should be kept in mind as the City considers its interest and capacity to undertake further annexation activity in the coming decades:

- ◆ The City's leadership tends to be open to annexation if the numbers "make sense," in which case it is usually a very straightforward process (as opposed to situations like Woodland Hills, where it is very difficult to demonstrate economic feasibility for the City). Many developers now seek annexation before development to help their project economics. However, subjective factors can come into play if the City has previously experienced problems with a particular developer.
- ◆ It would probably not be politically feasible in Nacogdoches for the City to annex certain areas and zone them for agricultural or other low-intensity uses as a means of limiting and directing growth toward other areas.
- ◆ While concerns were expressed about developers "heading to Lufkin" due to more restrictive City regulations and policies in Nacogdoches, which could be exacerbated by more aggressive annexation activity, others say that not much has changed in the development arena because Lufkin has similar subdivision, zoning and storm water detention requirements and the residential development incentive continues to be an attraction for in-city projects in Nacogdoches. Those who want to avoid stricter development standards are taking their projects farther out into the county.
- ◆ The City should continue to consider annexation of certain areas just to capture additional tax revenue from people who live just outside of town but benefit from city roads and services. This was part of the reasoning behind the Mystic Lane annexation, where people who were getting some of the benefits of city living without paying city taxes eventually wanted their roads fixed and also had sewer problems due to a lack of enforceable policies in the ETJ.

- ◆ Water availability and pressure for adequate fire protection should be basic prerequisites for annexation. Water limitations could be a key obstacle to annexation in certain areas around the city. Assuming water needs are met, then Fire Department facilities and staffing should be adequate to ensure that acceptable response times can be maintained for existing and new areas of the city, especially in areas that are less accessible. For some areas, improved staffing levels would also be needed to enable interior fire attacks to commence immediately upon the arrival of a second truck.
- ◆ Given the City's limited resources to maintain numerous scattered parks and recreation sites, the City should encourage land dedication arrangements for new developments in which a homeowners association or other mechanism is employed for long-term maintenance of parks/recreation space versus municipal responsibility. Under the City's current program, parkland dedication also boosts the residential development incentive from \$2,000 to \$2,500.
- ◆ In assessing the implications for parks and recreation facilities and operations from any future annexations, the City should consider the following factors identified by City staff: (1) the southwest area of the community has the biggest void and greatest existing need for additional parks and recreation services (need for neighborhood parks, reduced accessibility to Pioneer Park across west Loop 224, opportunities to coordinate with Nacogdoches ISD); and, (2) the northwest part of the city is the second greatest area of need.
- ◆ The City should continue its coordination efforts with Nacogdoches ISD, other area school districts, Nacogdoches County, the Texas Forest Service, Stephen F. Austin State University, and any other relevant agencies or entities that would potentially provide new or enhanced parks and recreation sites or programming within the City of Nacogdoches ETJ.
- ◆ As when City staff have previously identified target areas in the ETJ based on "ease of annexation," maintenance of a generalized annexation planning map should be based on factors such as whether infrastructure is already in place and in good condition, whether the City is already providing services, whether development is concentrated in a definable area or scattered (as with some residential pockets to the south of the City), whether immediate improvements will be necessary such as road and infrastructure repairs, whether the basic cost/benefit numbers make sense (for example, as a MUD, Woodland Hills currently has a higher tax rate than the City), and whether a more distant development area can feasibly be incorporated if a "strip annexation" approach is necessary.

One conclusion of the Annexation Assessment and Strategy element is that, given the legal and physical constraints to further significant annexations by the City of Nacogdoches, City leaders and staff are able to scrutinize more closely smaller, individual annexation proposals as they arise.

The application of the City's zoning authority over an expanded area through municipal annexation activities is the most direct means of regulating the long-term development pattern in areas currently outside the City's jurisdiction. In the meantime, and given the more challenging annexation situation for Texas cities since 1999, the City can exert some influence through its subdivision review

authority in the ETJ, utility extension and capacity financing policies, capital improvement strategy, and through ongoing coordination and communication with property owners and potential developers regarding the City's outlook and intentions. Even though future land use plans are much more difficult to accomplish in areas outside a city's corporate limits, it is prudent to attempt to guide how such areas will develop to plan effectively for the future extension of public services and infrastructure improvements and to encourage high-quality, sustainable development in areas that could eventually be incorporated into the community.



# Nacogdoches Comprehensive Plan