

**CITY OF SAN ANTONIO
PLANNING DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Emil R. Moncivais, AICP, AIA, Director, Planning Department

SUBJECT: An Ordinance for Annexation of the Timberwood Park Area for Limited Purposes and Adoption of the Regulatory Plan

DATE: June 16, 2005

SUMMARY AND RECOMMENDATIONS

This is an ordinance to extend the city limits into the Timberwood Park Area for limited purposes and adopt a regulatory plan. The effective date of limited purpose annexation is June 20, 2005.

The proposed limited purpose annexation area comprises approximately 4,345 acres or 6.79 square miles. The area is generally located north of the Stone Oak and Canyon Springs areas between Blanco Road, West Borgfeld Drive and Bulverde Road. A map of the area and regulatory plan are attached.

Staff recommends approval.

BACKGROUND INFORMATION

On March 4, 2004 the "City of Timberwood Park Committee" requested City Council's consent to incorporate. City Council denied the request on June 29, 2004 because it is inconsistent with the City's goals to preserve the integrity of the City and protect the ETJ. Subsequently, on December 20, 2004 a petition requesting annexation was submitted to the City. The boundaries were changed from the initial petition; enlarging the gap of intervening property between the City limits and the area proposed for annexation. The boundaries of the area have never been contiguous with the City limits.

The Timberwood Park area property is situated north of the Stone Oak area, generally between Blanco, West Borgfeld and Bulverde Roads and is primarily within the Edwards Contributing Zone. The entire area including property petitioned for annexation and the intervening property is comprised of approximately 4,345 acres with an estimated 1,509 housing units and population of 4,606. There are approximately 1,059 vacant residential lots and approximately 1,306 acres in agricultural use that can be developed.

According to provisions under Chapter 42 of the Texas Local Government Code, a municipality may not be incorporated in the extraterritorial jurisdiction of an existing municipality unless the

governing body (City Council) of the existing municipality gives its written consent by ordinance or resolution. If the governing body refuses to give its consent, then a majority of the qualified voters of the area and the owners of at least 50% percent of the land in the proposed municipality may petition City Council to annex the area. If the City of San Antonio refuses to annex the area within six months after receiving such a petition, that failure or refusal to annex constitutes the City of San Antonio's consent.

If the consent to incorporate is obtained by the failure or refusal to annex assuming that a proper petition for annexation was received, the incorporation proceedings must be initiated within six months after the date of the consent and must be finally completed within 18 months after the date of consent. Failure to comply with either time requirement would terminate the consent.

Attached is a flowchart that shows the process under the provisions of the Texas Local Government Code regarding municipal incorporation in another municipality's extraterritorial jurisdiction.

City staff received direction from City Council on April 14, 2005 to proceed with the limited purpose annexation with the intent to negotiate a non-annexation agreement. Non-annexation agreements are permitted by statute, but can only occur after placing the area in the City's three-year annexation plan and after public hearings are held to present the service plans. Subsequently, the County Commissioner's Court may appoint five individuals from the areas to negotiate an agreement in lieu of annexation. The public hearings were held on May 12 and May 19, 2005.

The regulatory plan for the Timberwood Park area provides for the extension of planning, zoning, and health and safety ordinances, and states that the areas will be fully annexed within three years as required by Chapter 43 of the Local Government Code. The Timberwood Park Planning Study and Regulatory Plan for Limited Purpose Annexation is attached hereto.

The following regulations will be applied to this area:

- Buildings Code, Chapter 6
- Electricity Code, Chapter 10
- Plumbing Code, Chapter 24
- Fire Prevention Code, Chapter 11, Articles III & IV
- Solid Waste Code pertaining to lot clearance, Chapter 14, Article V
- Water and Sewers, Chapter 34
- Signs and Billboards, Chapter 28
- Unified Development Code, Chapter 35, including zoning

POLICY ANALYSIS

This limited purpose annexation will ensure, through the extension of the City's health and safety regulations, that future development take place in a manner that will protect and enhance both private and public investment in the area, ensure the compatibility of existing and proposed

land uses, allow for planning of adequate infrastructure, and ensure the health, safety, and welfare of the community.

The City's goals for annexation are to promote orderly growth, enhance the City's fiscal position and to preserve the integrity of the City and its ETJ. The opportunity to plan land uses in annexed areas is also greatly improved with the provisions of the City's Unified Development Code.

FISCAL IMPACT

The Timberwood Park area was evaluated for a limited purpose annexation over a three-year period. Over the three-year period, the cost/revenue analysis estimates a net gain to the General Fund of \$19,396 for implementation of the limited purpose annexation. The revenues and expenditures associated with the provision of services for a full purpose annexation are not included in this assessment. This analysis will take place during negotiations.

COORDINATION

This item was coordinated with the City Attorney's Office, Office of Management & Budget and the Assistant City Manager's Office.

SUPPLEMENTARY COMMENTS

Action is required at the reading of the annexation ordinance.



Emil R. Moncivais, AICP, AIA
Director, Planning Department



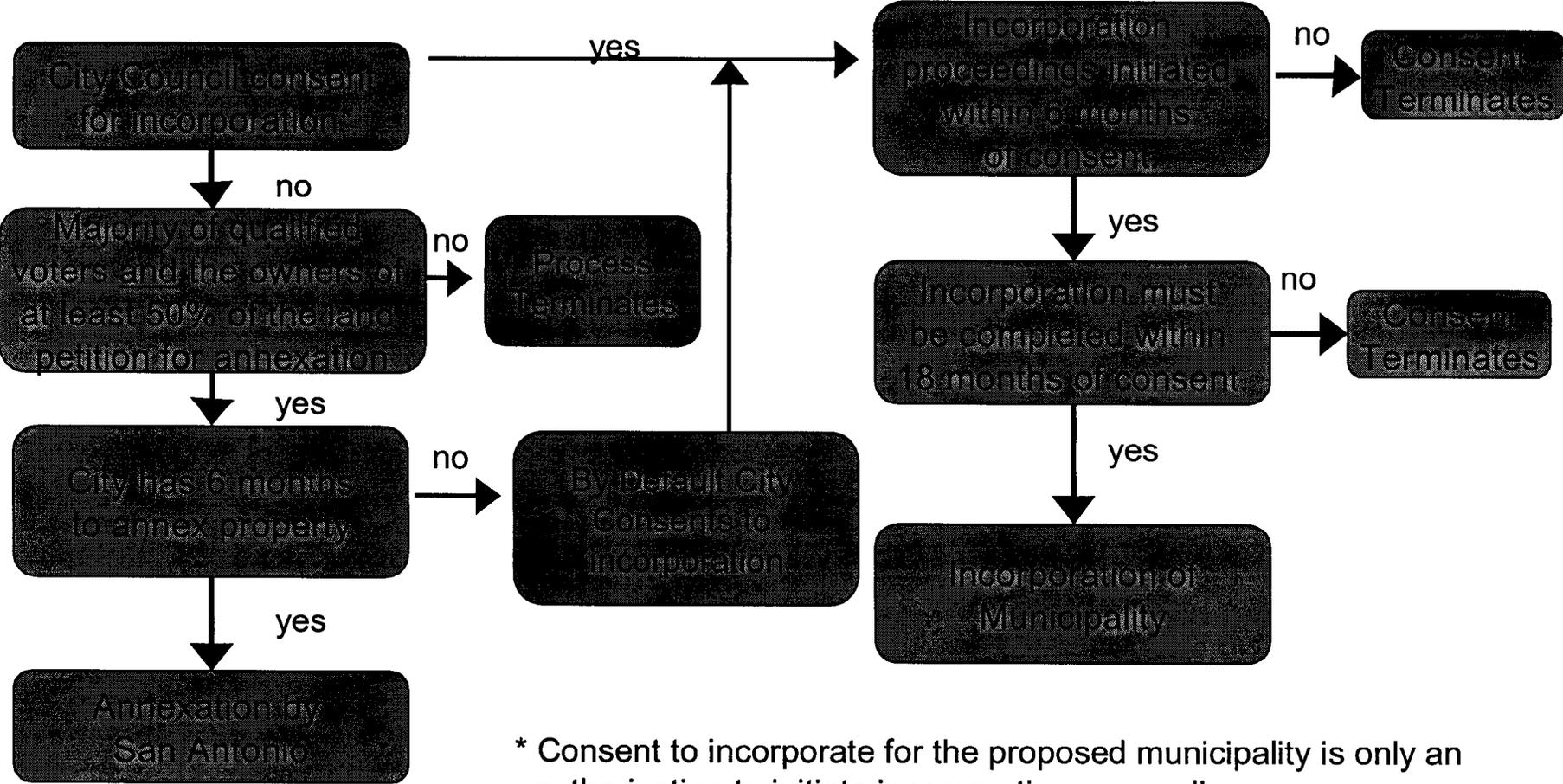
Jelynn LeBlanc Burley
Assistant City Manager



J. Rolando Bono
Interim City Manager

Incorporation of Municipality within San Antonio's ETJ

Source: Chapter 42.041 Texas Local Government Code



* Consent to incorporate for the proposed municipality is only an authorization to initiate incorporation proceedings.

Timberwood Park Area

Planning Study and Regulatory Plan For Limited Purpose Annexation



"Planning today for a better and brighter future tomorrow...."

Timberwood Park Area

Planning Study and Regulatory Plan for Limited Purpose Annexation

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BACKGROUND

The City of San Antonio Planning Department has prepared a study leading to the limited purpose annexation of an unincorporated area commonly known as Timberwood Park and including the subdivisions known as Blanco Hills Country Estates, Windsong Estates, and Angels View. The area is generally located north of the Stone Oak and Canyon Springs areas between Blanco Road, West Borgfeld Drive and Bulverde Road.

Planning Milestones

Limited purpose annexation triggers a requirement for conversion to full purpose status within three years unless the date for full purpose annexation is postponed by written agreement between the City and a majority of the affected landowners. State law establishes planning milestones for each of those three years:

- By the end of the first year, the City must prepare a land use and intensity plan to be a basis for services and capital improvement project (CIP) planning.
- By the end of the second year, the City must include the area in the long-range financial forecast and in the program to identify future CIP projects.
- By the end of the third year, the City must include CIP projects for the area in the adopted CIP program and identify potential sources of funding.

The area will be placed in San Antonio's three-year annexation plan. During this three-year planning period statutory provisions allow for the negotiation of services and non-annexation agreements.

Area Description

The Timberwood Park area boundary can generally be described:

- to the south as the northern city limits of the City of San Antonio and the northern edge of the "Oliver Ranch" area;
- to the west as Blanco Road and the eastern edge of the Oakwood Acres and Sherwood Forest subdivisions;
- to the north as Borgfeld Drive; and
- to the east as Bulverde Road.

A map of the area is found in Attachment 1.

The Timberwood Park area encompasses approximately 4,345 acres (6.79 square miles). The area is predominately residential and has the potential to continue to develop as such. The residential and the potential for residential development comprises of approximately 89 percent of the study area. Approximately 35 percent of the study area is currently developed with 1,509 single-family homes. Approximately 24 percent of the study area is vacant and platted for residential development. In addition, 30 percent of the study area is comprised of agricultural use with a high potential for residential development. The remainder of the study area includes commercial, park and public or institutional uses totaling no more than 1.4 percent of the study area. Street rights of way comprise the remaining area.

The area's current population is estimated at approximately 4,606 residents.

PLANNING STUDY

The sections that follow outline the planning study for the area proposed for limited purpose annexation prepared in accordance with Chapter 43 of the Texas Local Government Code.

Projected Ten Year Development with and without Limited Purpose Annexation

The Timberwood Park limited annexation area has experienced significant growth in recent years. According to U.S. Census estimates, over 1000 housing units were built in this area from 1990 to 2000, more than doubling the area's total number of housing units within a decade. Despite this recent growth, a considerable percentage of the study area remains undeveloped or underdeveloped. Based on the most recent data from the Bexar County Appraisal District, approximately 24% of the land in Timberwood Park is vacant. Most of this vacant land has already been subdivided into small lots appropriate for single-family development. An additional 30% of land in Timberwood Park is considered Agricultural by the Appraisal District.

Given the recent growth and development in the area, it is reasonable to assume that the vacant land in the area will continue to be developed, mainly as single-family housing, though some commercial development could occur along Blanco Road and Borgfeld Drive. Additionally, much of the agricultural land could potentially be subdivided into residential lots. This anticipated future growth and development will occur with or without annexation.

Issues Supporting Limited Purpose Annexation

Increased development and population growth in the region is expected to induce continued development activities in the limited purpose annexation area. Limited purpose annexation will enable the City to regulate the type and character of development through the application of zoning, site development standards, building codes and other regulatory tools not available in unincorporated areas. This will benefit the public by requiring high quality and sustainable development that will create a long-term investment for the community.

In the absence of regulations, the economic stimulus of the commercial and residential growth in this sector of San Antonio may result in incompatible land use changes in the proposed annexation area. The application of zoning following limited purpose annexation will minimize the possibility that incompatible land use changes will occur.

Public Benefit from Limited Purpose Annexation

Limited purpose annexation provides the time necessary to plan for needed improvements while allowing for the immediate application of land use and other City regulations in advance of future economic development and growth in the surrounding area.

The three-year period between limited purpose annexation and full purpose annexation will give the City additional time to plan for the provision of services in the study area. Property owners in the area will have three years to plan for the financial impact of full purpose annexation.

Economic, Environmental and Other Impacts of the Limited Purpose Annexation

Limited purpose annexation will establish a framework for comprehensive planning for the area. After an area is annexed for limited purposes, the City will begin planning for the delivery of services in preparation for full purpose annexation. Furthermore, the application of zoning, development standards and building codes will help ensure quality development or redevelopment and protect property values by ensuring that all new development and redevelopment meets higher standards than would otherwise be enforced. Zoning regulations will protect property owners, businesses and residents from the possible intrusion or expansion of incompatible uses.

Transportation and Infrastructure

Due to the rapid growth and development occurring in this region, significant public infrastructure improvements are being planned for the area. This past year, the Bexar Met Water District, the water service provider for the area, constructed a 2.5 million-gallon water tower in the Timberwood Park community. This \$2.2 million, 147-foot-tall structure is scheduled to be put into service in the summer of 2005.

Using funding from its 2003 Bond Election, Bexar County plans to reconstruct Borgfeld Road, on the northern boundary of the limited purpose annexation area, to improve roadway alignment and provide a center turn lane and necessary drainage. Bexar County also plans to use 2003 Bond Election funding to develop outdoor recreation facilities at Bullis Park located adjacent to the limited purpose annexation area at its northwest corner.

The Texas Department of Transportation (TxDOT) is planning to widen Blanco Road to four lanes (with a continuous left turn lane) from Wilderness Oaks to W. Oak Estates in the southwest corner of the limited purpose annexation area. TxDot is also planning to rebuild U.S. 281, located just east of the area, as a

tollway and construct a grade separated interchange for the Borgfeld Road/U.S. 281 intersection.

These planned public infrastructure improvement projects anticipate increased growth and development in the area. Full Purpose Annexation will allow for area residents to participate in future general bond elections that may include projects in this area that complement, support, and protect these improvements.

Water Resources

The Timberwood Park limited purpose annexation area is located primarily in the Edwards Aquifer Contributing Zone (sometimes called drainage area or catchment area). The "contributing zone" contains the drainage basins of the streams that recharge the Edwards aquifer.

Annexation allows for regulations pertaining to flood plain protection and storm water management that provide adequate measures for the retention, detention and distribution of storm water in a manner that not only protects the area from flooding but also minimizes the possibility of adverse impacts to the quality of the water that flows from this area into the Edwards aquifer. To further protect the area's natural character, natural storm water conveyance systems including earthen drainage channels, temporary ponds and on-site storage currently are options provided for in the City's development code.

Open Space and Parks

Annexation can provide for open space regulation which is instrumental in preserving habitat, protecting the quality and quantity of water resources, providing an alternative means to manage storm water runoff, promoting good air quality and creating opportunities for recreation and education.

Scenic, Cultural and Historic Resource Protection

Timberwood Park has only a small number of recorded cultural resources. These include prehistoric and historic archaeological sites, recorded historic structures (Recorded Texas Historic Landmarks (RTHL) or local landmarks, cemeteries (Gerfers Cemetery), and no official Recorded Texas Historical Markers. This dearth of cultural resources information can be directly linked to the almost non-existent number of cultural resources surveys conducted in the area. A review of the Texas Sites Atlas reveals that numerous surveys have occurred within the Camp Bullis Military Reservation located due west of Timberwood Park, but that no major cultural resources have been recorded within the Timberwood Park area. A 1936 Texas State Highway Department map (currently Texas Department of

Transportation) for Bexar County reveals less than five possible house sites within the Timberwood Park area at that time.

It is important to identify those cultural resources that may exist within Timberwood Park, in particular, the 1306 acres currently identified as agricultural exempt. Three streams/creeks run through Timberwood Park, including Mustang Creek, Mud Creek, and Elm Waterhole Creek. These creeks are known to contain cultural resources and should be considered high probability areas to contain cultural resources. The City's Code provides mechanisms to help identify and preserve elements of our cultural heritage including buildings, monuments, and other features.

Additionally, the City's Code allows for corridor overlay districts designed to protect and strengthen the desirable and unique features of corridors. These districts offer a level of protection for property values, helping to prevent blight caused by incompatible, insensitive development. Such districts might be used to protect the unique scenery along the Blanco Road corridor that makes up part of the western boundary of the Timberwood Park area.

Proposed Zoning for the Area

Pursuant to Chapter 43 of the Texas Local Government Code, the City will develop a land use and intensity plan as a basis for services and capital improvement projects planning by the end of the first year after the date an area is annexed for limited purposes. After completion of this plan, suitable zoning designations may be recommended for the area based on the plan. The Zoning Commission will hold at least one public hearing and make a recommendation to the City Council concerning any rezoning. The City Council will hold a public hearing and adopt any changes to the zoning map.

Factors that will be used to recommend appropriate zoning include consideration of the public health, safety, and general welfare and protection of historical and cultural areas. The City shall consider the size, shape and characteristics of parcels and their suitability for different types of development intensity. The compatibility of adjacent land uses with those in and around the study area will be considered.

Because most of the Timberwood Park area is already developed as detached single-family parcels that are a half an acre to one acre in size, the appropriate future zoning for most of the area would most likely be a Neighborhood Preservation (NP) District. According to the City's Unified Development Code, Neighborhood Preservation Districts "are designed to protect existing platted subdivisions which are substantially developed with single-family detached dwelling units . . . in order to prevent such subdivisions from being further

subdivided in a manner in order to avoid congestion in the streets, prevent safety hazards, protect the health and general welfare of subdivision residents, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, and facilitate the adequate provision of public facilities.

While most of the proposed limited purpose annexation area will probably be granted a residential zoning such as Neighborhood Preservation District, there may be a possibility for neighborhood or community commercial zoning along Blanco Road and Borgfeld Drive, both major streets on the perimeter of the Timberwood Park. Such commercial zoning districts would permit commercial activities designed to serve the neighborhood or community while ensuring compatible development and appropriate buffers between residential and commercial uses.

From the effective date of the limited purpose annexation until the property is subsequently rezoned, the area will be treated for development purposes in accordance with §35-352 of the Municipal Code, which provides for Development Reserve ("DR") zoning for newly annexed property. While use restrictions are imposed pursuant to the DR district, it is recognized that the annexed property may be compatible for a use permitted in other zoning districts. It is the policy of the City to initiate rezoning of the property to an appropriate zoning classification upon completion of the land use and intensity study.

Uses permitted by right within the DR zoning district include all uses permitted in the R-6 Residential Single-Family zoning district which include single family homes, churches, schools, nurseries, recreation facilities and accessory uses. Nonconforming rights may be granted to newly annexed area in accordance with §35-703 of the Municipal Code. The development standards applicable to a DR zoning district shall be those required within the R-6 zoning district until the property is rezoned to another zoning district.

§35-352 and -703 are attached to this study (see Attachment 2). Any comments regarding the proposed rezoning will be considered at the public hearings for the proposed limited purpose annexation.

Table 2. Dimensional Standards for DR Zoning Districts:

Zoning District	Min. Lot Size (sq ft)	Max. Density (du/acre)	Min. Front age (ft)	Min. Lot Width (ft)	Max. Lot Width (ft)	Max. Building Height (ft)	Min. Front Setback (ft)	Max. Front Setback (ft)	Min. Side Setback (ft)	Min. Rear Setback (ft)
DR	6,000	7	30	50	150	35 (2 ½ story)	10	N/A	5	20

REGULATORY PLAN

Development Regulations

The following planning, zoning, health and safety ordinances will be enforced in the area if annexed for limited purposes:

- Building Code (Chapter 6 of the Municipal Code)
- Electricity Code (Chapter 10 of the Municipal Code)
- Fire Prevention Code (Articles III and IV of Chapter 11 of the Municipal Code)
- Solid Waste Code specifically pertaining to Lot Clearance (Article V of Chapter 14 of the Municipal Code)
- Plumbing Code (Chapter 24 of the Municipal Code)
- Signs and Billboards (Chapter 28 of the Municipal Code)
- Water and Sewers (Chapter 34 of the Municipal Code)
- Unified Development Code (Chapter 35 of the Municipal Code), including, but not limited to, all zoning regulations

and all subsequent amendments, replacement ordinances, and related technical and illustrative manuals to these ordinances. Notwithstanding the Municipal Code references above, the following exceptions shall be established if this area is annexed for limited purposes:

- Property owners will be allowed to erect, maintain, and repair traditional barbed wire or electric fences used in conjunction with agricultural, farming or ranching operations.
- Fees will be waived for property owners seeking to register existing uses as non-conforming rights.

The City has used its best efforts to provide accurate references to the Municipal Code sections in which the ordinances described above are codified. In the event that a portion of the Municipal Code listed above contains a reference to a portion of the Municipal Code or another City Ordinance that is not listed above then, to the extent necessary to either provide meaning to or to carry out the meaning of the listed portions, the referenced portions of the Municipal Code or other City Ordinances shall also apply. Any failure to list all relevant Municipal Code references is inadvertent and will not affect enforcement of the ordinances by the City.

The adopted regulatory plan must be the same as the proposed regulatory plan unless the San Antonio City Council finds and states in the ordinance the reasons for adoption of a different regulatory plan. The San Antonio City Council by ordinance may change an adopted regulatory plan if, in the ordinance making

the change, the City Council finds and states the reasons for the adoption of the change.

Future Full Purpose Annexation

The area will be included within the City's full purpose jurisdiction within three years of the effective date of the limited purpose annexation ordinance unless the date for full purpose annexation is postponed by written agreement between the City and a majority of the affected landowners or under any other terms as allowed under Chapter 43 of the Texas Local Government Code.

ATTACHMENT 2: EXCERPTS FROM THE UNIFIED DEVELOPMENT CODE

35-352 Development Reserve ("DR")

(a) Purpose

The purpose of the Development Reserve ("DR") zoning district is to provide a temporary zoning classification for newly-annexed property. While use restrictions are imposed pursuant to the "DR" district:

- (1) it is recognized that the annexed property may be compatible for a use permitted in any zoning district; and
- (2) it is the policy of the City to rezone the property to an appropriate zoning classification as soon as practicable.

(b) Development Restrictions within "DR" Zoning Districts

- (1) Uses permitted within a "DR" zoning district shall be the uses permitted in the "R-6" zoning district unless and until the property is rezoned to another zoning district.
- (2) The development standards applicable to a "DR" zoning district shall be the those required within the "R-6" zoning district unless and until the property is rezoned to another zoning district.

35-703 Newly annexed territory.

Nonconforming rights may be granted to newly annexed areas in accordance with the following provisions and upon payment of the fees specified in Exhibit C. All applications for nonconforming rights must be filed within sixty (60) days of the effective date of annexation.

(a) Incomplete construction.

Construction may be completed on any structure legally under construction upon annexation provided:

- (1) The owner or his designated representative applies to the director of building inspections for a permit to authorize further work on the structure stating the proposed use of the structure and attaching thereto the plans and specifications relating to the construction; and

- (2) The construction is completed within two (2) years of the effective date of annexation.

Action on the permits shall be taken by the director of development services within fifteen (15) days from the date of application. The director shall deny the permit if he finds that the construction will not meet the requirements of the building, fire protection, or minimum housing codes and other applicable ordinances and codes of the city. If the permit is refused, the construction work shall cease until necessary corrections are made.

(b) Proposed construction.

Proposed construction may be completed upon a finding by the zoning commission that sufficient evidence exists that planning for the proposed use was in progress prior to annexation, as prescribed by Appendix B to this Chapter. Within fifteen (15) days from the date of such filing, the director shall present the evidence to the zoning commission for their determination, unless the applicant agrees to a longer period. The applicant shall have twelve (12) months from the date of the zoning commission's favorable determination to secure all building permits. After that time, the nonconforming rights shall expire.

(c) Master Development plans.

Newly annexed areas may be entitled to nonconforming rights for a master development plan upon favorable consideration by the zoning commission. The zoning commission shall conduct a public hearing on the nonconforming rights master development plan after giving notice to the owners of property within two hundred (200) feet in the manner provided in section 35-403 for a rezoning. The purpose of the public hearing shall be to ascertain (1) the extent to which development of the master development plan had progressed prior to annexation and (2) the extent to which the master plan complies with the policies and objectives of the city's Land Use Plan. If the zoning commission approves the master development plan, construction in conformance with the plan must begin within one (1) year, with all portions of the plan either completed or under construction within five (5) years from the date of annexation. After that time, the nonconforming rights shall expire.