

Subdivision Regulations in McKinney's ETJ

February 18, 2020 City Council Work Session

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CITY OF MCKINNEY BOUNDARIES

- E.T.J.
- City Limit

Aerial Data: 2019
Map Date: 2/11/2020

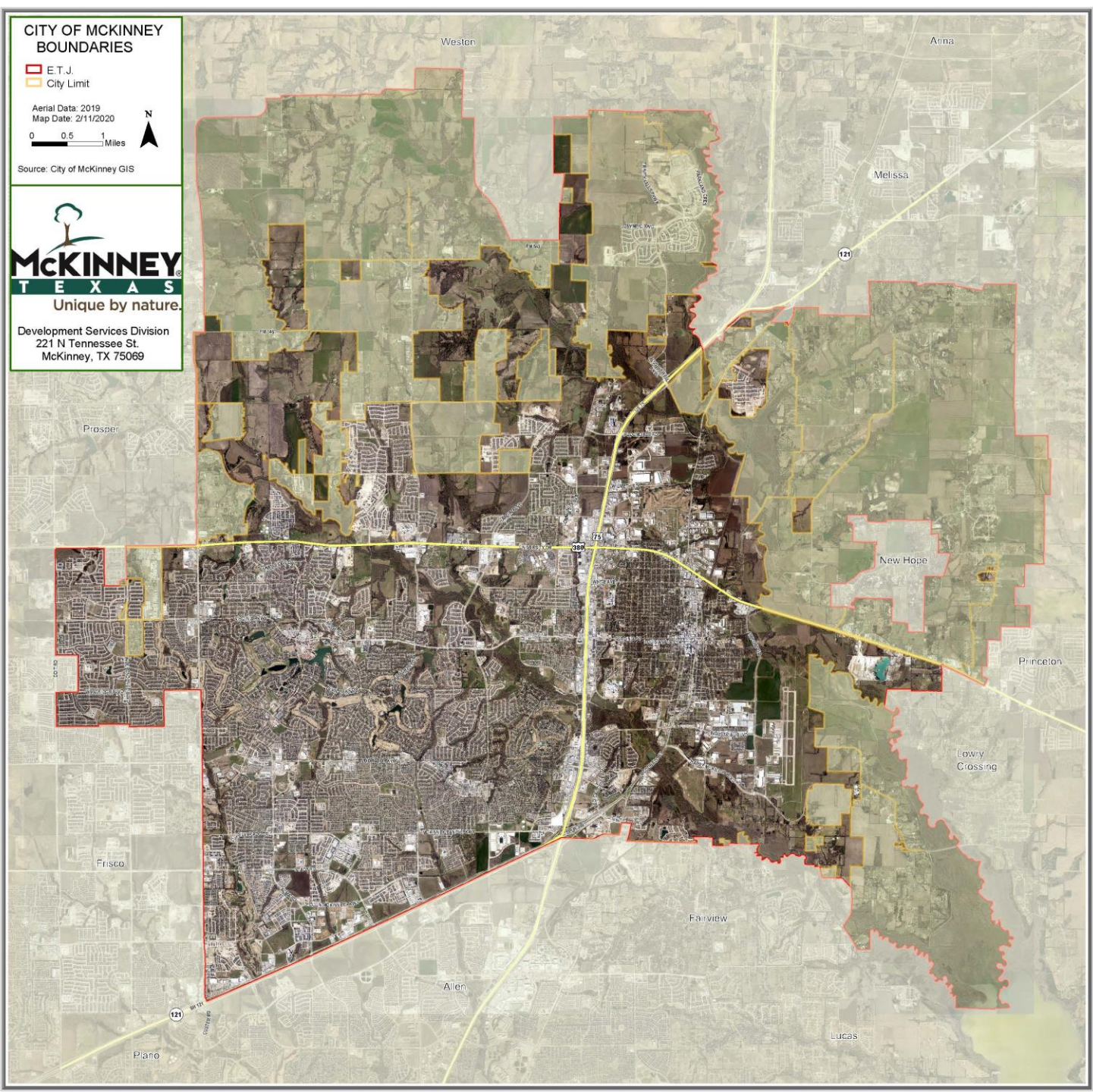
0 0.5 1 Miles



Source: City of McKinney GIS



Unique by nature.
Development Services Division
221 N Tennessee St.
McKinney, TX 75069

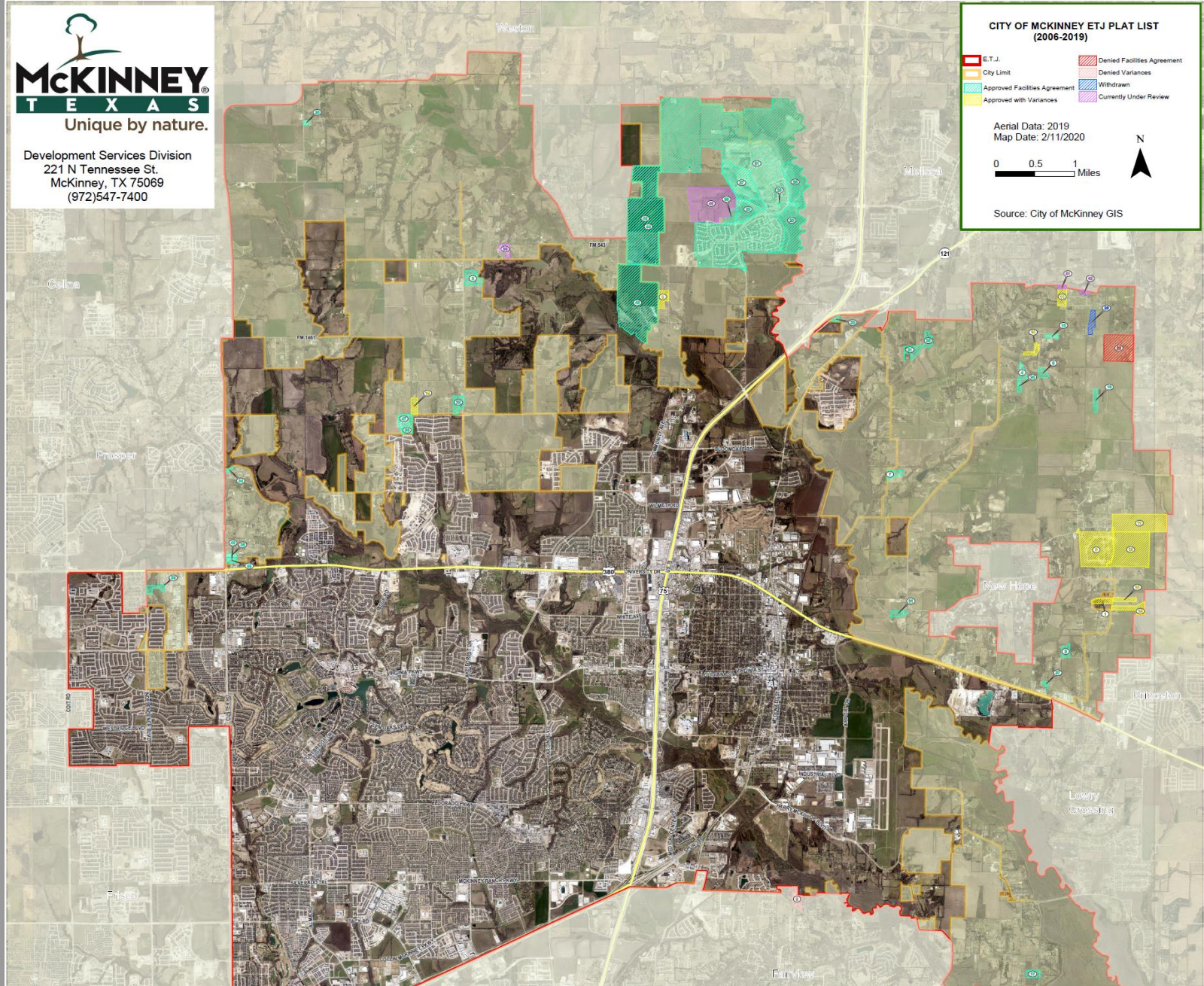


Background Timeline

- **1968 (Ord. 691):** McKinney adopts Subdivision Regulations applying to the City and its Extraterritorial Jurisdiction (ETJ)¹.
- **1982 (Ord. 1290):** McKinney updates its Subdivision Regulations to include a provision requiring platting prior to constructing streets, utilities, buildings, etc.
- **March 2002 (Res. 2002-03-060(R)):** McKinney enters into a City-County Plat Approval Agreement granting McKinney exclusive control over subdivision plats and related permits in its ETJ (also known as the “1445 Interlocal Agreement”).
- **Present Day:** McKinney is enforcing Section 142-5 of the Code of Ordinances (Subdivision Regulations) which states, with minimal exceptions, that a plat is required prior to constructing streets, utilities, public infrastructure, etc. This verbiage was upheld by the Court of Appeals² in May of 2018.

1. In the ETJ, the City has no land use control or zoning authority but can make plans for the ultimate development in the area through master plans and the City's Comprehensive Plan.

2. Collin County, TX v. City of McKinney, TX v. Custer Storage Center, LLC. No. 05-17-00546-CV. Court of Appeals, Fifth District of Texas at Dallas.



Location of properties that have requested platting variances and/or have entered into facilities agreements since 2006

Current Challenges

- Due to the extensive size of McKinney's ETJ (approximately 48 square miles in size), properties in the far reaches of the ETJ are being treated the same way as properties in close proximity to McKinney's corporate boundaries.
- Specifically, the Subdivision Ordinance requires that public infrastructure be extended to and through properties that are being platted as required by ordinance. This leads to the request for variances to not install infrastructure and introduces the need for related facilities agreements.
- These requirements of the subdivision regulations can be perceived as being overly burdensome especially when the scope of the development being proposed is very minor and some of these ETJ properties will not be incorporated into the city's limits for many decades to come.
- On January 21, 2020, this issue occurred regarding a property in the far northern and eastern parts of McKinney's ETJ (Case #19-0238PF) on which only two houses would be located.
- To address issues like this, staff has identified a few options that we'd like to discuss in more detail.

Potential Solutions or Options

- Do nothing.
- Modify the City's Interlocal Agreement with Collin County to ensure that they are the platting authority in all of the ETJ.
- Modify the City's Interlocal Agreement with Collin County to create different tiers wherein the City would assume platting authority in inner areas of the City's ETJ but would defer platting authority to the County in outer areas.
- Modify the City's ETJ boundaries to relinquish parts or all of the City's ETJ.

Potential Solutions or Options: Do Nothing.

Pros	Cons
No ordinances need to be modified.	The City will continue to come across situations wherein application of the subdivision ordinance in the ETJ seems unreasonable thereby introducing the potential for the inconsistent application of the ordinance.
No immediate need to modify any coordination with Collin County.	Recent statutory changes mean that plats may become a more dominant City Council agenda item than previous.
	Recent statutory changes have the intent of a quicker review period but have resulted in process that is much less customer focused and friendly. The customer will assume the process is a City responsibility, which makes it difficult to maintain a “Together we’ll make it happen” brand message.



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Potential Solutions or Options: Full County Authority.

Pros	Cons
Staff administration of this type of arrangement would be much easier and would reduce the current impact of the ETJ on staff.	Collin County may not agree to modify the arrangement outlined in the current 1445 Agreement.
The City would no longer find itself in situations wherein application of the subdivision ordinance could be seen as unreasonable.	Costs for future infrastructure projects in the ETJ would increase due to the inability to acquire easements/ROW at no costs via the platting process.
The development community would no longer find themselves stuck between Collin County (permitting) and the City (platting).	Proper subdivisions or other large scale developments would be built to the County's construction standards which would require some type of coordination with the City in regards to water and wastewater infrastructure.
Amendments to the subdivision ordinance should be relatively minor.	Given the fact that large neighborhoods would be built to the County's standards, future maintenance and reconstruction costs could escalate if/when these areas are annexed into the City (could also result in less of a desire to annex in the future).
	Loss, or perceived loss of ability to help direct and guide the future growth of McKinney per the Comp Plan.
	If laws or policies changed in the future, there could be possible challenges in trying to 'reclaim' platting authority.
	Some amendments to the Subdivision Ordinance would be required.
	The City would no longer have the authority to decide which proposed developments in the ETJ are appropriate for a facilities agreement and platting variances and which are not.

Potential Solutions or Options: Tiered Platting Authority*.

Pros	Cons
Staff administration of this type of arrangement would be easier and would reduce the current impact of the ETJ on staff.	There may still be situations wherein City will continue to come across instances where application of the subdivision ordinance in the ETJ seems unreasonable thereby introducing the potential for the inconsistent application of the ordinance.
The City would reduce the instances wherein application of the subdivision ordinance could be seen as unreasonable for properties in the far reaches of the ETJ.	The County's platting regulations would apply in the "County's tier" which means that no ROW or easements would be dedicated.
The ETJ development community would find themselves stuck between Collin County (permitting) and the City (platting) in fewer instances.	Costs for future infrastructure projects in the County's tier of the ETJ may increase due to the inability to acquire easements/ROW at no costs via the platting process.
Amendments to the subdivision ordinance should be relatively minor.	Given the fact that large neighborhoods would be built to the County's standards, future maintenance and reconstruction costs could escalate if/when these areas are annexed into the City (could also result in less of a desire to annex in the future).
Collin County Staff have expressed preliminary support for this concept which will ultimately require an amendment to the City/County 1445 Interlocal Agreement.	Loss, or perceived loss of ability to help direct and guide parts of McKinney's future growth per the Comp Plan.
	If laws changed in the future, there could be possible challenges in the City trying to 'reclaim' platting authority.
	In some cases, the City would no longer have the authority to decide which proposed developments in the ETJ are appropriate for a facilities agreement and platting variances and which are not.

**If any action is desired by the City Council, staff recommends pursuing this option (similar to Denton/Denton County).*

Potential Solutions or Options: Modify ETJ Boundary.

Pros	Cons
The City would no longer find itself in situations wherein application of the subdivision ordinance could be seen as unreasonable.	Proper subdivisions or other large scale developments would be built to the County's construction standards which would require some type of coordination with the City in regards to water and wastewater infrastructure.
The development community would no longer find themselves stuck between Collin County (permitting) and the City (platting).	If not all of the ETJ is relinquished... given the fact that large neighborhoods would be built to the County's standards, future maintenance and reconstruction costs could escalate if/when these areas are annexed into the City (could also result in less of a desire to annex in the future).
	There would be a significant disconnect between the City's CCN and the new corporate/ETJ boundary (essentially we could be serving utilities to customers who will never become McKinney residents).
	The City's Comprehensive Plan, Parks Master Plan, Utility Master Plans and other relevant policy documents would need to be amended.

City Council Direction Requested:

How would the City Council like to proceed with addressing negative feedback regarding the subdivision ordinance's requirements in McKinney's ETJ?



FAQs

Why does McKinney require platting?

- To ensure that growth occurs in an orderly manner via the dedication of easements for utilities and right-of-way (ROW) for streets. This orderly growth is aimed at promoting the health, safety, morals, or general welfare of the public.
- To subdivide property, to consolidate properties, to create platted lots of record, and to dedicate easements and ROW.

Where does McKinney derive its authority to require platting?

- Chapter 212 of the Texas Local Government Code authorizes municipalities to adopt rules governing plats and subdivisions of land in its corporate limits and its ETJ.

Does the “Subdivision” Ordinance apply to property that’s not being subdivided?

- The Subdivision Ordinance (Chapter 142 of McKinney’s Code of Ordinances) applies to all properties in McKinney’s City Limits and its ETJ. The Subdivision Ordinance contains requirements applying to more than just the subdivision of land.

What are the options available to property owners in McKinney and its ETJ if they’re required to plat but do not want to dedicate right-of-way or easements or construct public improvements?

- Plat the property in accordance with McKinney’s Subdivision Ordinance but request the City Council’s approval of variances to not dedicate all necessary ROW and easements or construct required public improvements.
- Plat the ETJ property in accordance with McKinney’s Subdivision Ordinance and enter into a development agreement with the City (ETJ only). This agreement could temporarily suspend the Subdivision Ordinance’s requirements to dedicate ROW and easements or construct public improvements so long as the property is used for an agreed upon use.
- Do not plat the property in accordance with McKinney’s Subdivision Ordinance and thereby elect not to develop the project.