



## MEMORANDUM

After a considerable amount of time and effort, the Corpus Christi Association of REALTORS and the Builders Association of Corpus Christi have reviewed the document labeled Plan CC 2035 in its entirety.

As vested partners in our community, we feel that we have a strong obligation to this community as a whole to participate in our local government and its processes. To that end, we offer our comments to our elected officials, appointed commissioners and city staff. We offer these comments in the spirit of cooperation, with the hope that there may be some impact to the eventually adopted plan.

Understanding the need to have a comprehensive plan is obvious. Our Associations, in general, have always maintained strategic plans. The plans are reviewed several times per year, and may be modified annually in order to maintain our relevance to our members and our consumers. Within our strategic plans we have clearly identified goals and measurable results. The leadership team is tasked with ensuring that we stay on track for our members, to whom they are accountable.

We have taken the liberty of applying these same measures of expected accountability to our city leaders, both elected as well as those who are employed and paid by the citizens of Corpus Christi.

Acknowledging that a plan must be in place, and that our city government has already spent \$1.6 million dollars to obtain the Plan CC 2035 from a third party consulting firm, then we have made the assumption that this plan in some form will be adopted. Thus, we are not expecting the plan to be shelved entirely.

That being said, the bulk of our comments are very specific to points that are identified clearly in the draft. Our comments are made with the hope that consideration will be paid to them and that the city will consider making those changes to those specific areas.

Before getting into the specifics, we believe that general and overall changes must be incorporated into this plan.

We strongly encourage the planning commission and the city council take our current state of affairs into account before making any further policy changes. Having a plan that is based entirely on a ‘what if things were different’ scenario is a false premise and cannot result in true change. Everyone would want to live in better circumstances. However, starting with what you have is the reality.

We would respectfully request that the following measures be taken to increase the potential success of this plan:

Add specific and measurable goals for each section

Make the goals time specific and incremental, so that the citizens will see the measured progress

Attach current and projected financial implications for each of the goals

The citizens of Corpus Christi have already identified certain areas of concern. While these items are mentioned or identified within the plan, here are some particular areas of focus that we would encourage you to identify and pursue:

Street Repair and maintenance

Infrastructure: Water and sewer systems

Infrastructure: Waste, landfill and litter

Affordable and Workforce Housing

We are convinced that by working together with a strong private/public partnership, progress and real change can be made. We look forward to working with our elected officials and our City staff.

Please see the specific references speaking directly to the plan on the following pages.

## BACKGROUND

### COMPREHENSIVE PLANNING IN CORPUS CHRISTI

The Corpus Christi City Charter requires the adoption of a comprehensive plan containing a future land-use element, an annexation element, a transportation element, an economic development element, a public services and facilities element (including a capital improvement program), a conservation and environmental resources element, and any other element that the City Council deems necessary or desirable.<sup>2</sup> The City currently maintains a comprehensive plan based on a set of policy statements first adopted in 1987 and a series of area development and master service plans.<sup>3</sup> These plans have been updated since their adoption, but this has not been done uniformly and many are outdated.<sup>4</sup>

### ORGANIZATION OF PLAN CC

The First Draft is broken down into the following eleven plan elements:

**Element 1: Corpus Christi’s Vision for 2025.** This element sets forth a vision of the City in 2035 and the guiding principles that will be relied on to achieve this vision. The vision statement summary is:

In 2035...Corpus Christi is a thriving community with a strong, diversified economy, a high quality of life for individuals and families throughout the city, and a well-protected environment of natural beauty. Our unique combination of Gulf Coast bay and beach attractions, vibrant cultural life, economic opportunity, and a variety of housing choices supports long-established families and makes Corpus Christi a magnet for young professionals, entrepreneurs, retirees and visitors to the most distinctive destination on the Texas Gulf Coast.

The vision statement then more specifically describes the future economy, city services, neighborhoods and housing, and the environment.

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<sup>2</sup> City Charter, City of Corpus Christi, Texas, Article V, Section 4, available at <http://www.cctexas.com/government/city-secretary/city-charter/index>, last accessed July 6, 2015.

<sup>3</sup> Corpus Christi Policy Statements, An Element of the Comprehensive Plan, at 5-7, available at <http://www.cctexas.com/Assets/Departments/PlanningEnvironmentalServices/Files/CCPolicyStatements.pdf>, last accessed July 6, 2015.

<sup>4</sup> Element 11, Goal 1, Strategy A, at 11.5; Matt Dietrichson, *Corpus Christi may outsource more of planning department*, Houston Tomorrow (Aug. 30, 2013), available at <http://www.houstontomorrow.org/livability/story/corpus-christi-may-outsource-most-of-planning-department/>, last accessed July 8, 2015.

**Element 2: Public Engagement.** This element describes the community engagement process used to solicit input from the public, including the development of a Citizens Advisory Committee to make suggestions for encouraging public participation and discussion; topic-specific working groups; media and community outreach; interviews with individuals in the public and private sectors; seven district meetings across the City in June 2014 to discuss issues and ideas; and a citywide Visioning Forum held on June 28, 2014.

**Element 3: Understanding Corpus Christi Today.** This element provides a brief history of the City and describes current demographics, the economy, the transportation system, housing, and the environment of the City. This element also briefly details the history of the City's comprehensive planning process.

**Element 4: Green and Blue: Natural Systems, Parks & Recreation.** This element sets goals for maintaining and enhancing the City's natural systems and promoting open space, parks, and recreational opportunities for residents.

**Element 5: Resilience and Resource Efficiency.** This element sets goals for combating the effects of climate change, including sea level rise, extreme storms, and heat. It also suggests strategies for resource efficiency such as implementing green building techniques and renewable energy sources.

**Element 6: Housing and Neighborhoods.** This element describes the current makeup of the housing market in Corpus Christi, the need for affordable housing, and the advantages and disadvantages of historic development patterns. It then sets forth the goals for housing and neighborhoods for 2035 and the Policies, Strategies, and Actions that will be used to meet those goals.

**Element 7: Diversifying the Economy and Strengthening the Workforce.** This element focuses on the desired growth in certain economic sectors and for developing a marketable and successful workforce.

**Element 8: Getting from Here to There: Transportation and Mobility.** This element addresses the City's goals for transportation, including improved road networks, increased multi-modal access, and a more efficient public transportation system.

**Element 9: Community Infrastructure Facilities and Services.** This element sets forth the strategies for improving water supply, wastewater and solid waste disposal, and storm water management.

**Element 10: Future Land Use, Zoning, and Urban Design.** This element is "the guide for decision makers on the pattern, distribution, density and intensity of land uses that, over time, will help the city achieve the community's vision for the future."<sup>5</sup> It describes the existing pattern of land use and the locations where there is significant development potential, and states a desire for better urban design and for "village" type locations. It establishes the City-wide

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<sup>5</sup> Element 10, Summary.

Future Land Use Map (which is broken down by planning districts) showing the planned use of each part of the City. It also introduces a Strategic Policy Priorities Map, depicting certain goals from other elements of Plan CC, such as trail development and the locations of neighborhood villages. It states that future development must be consistent with both of these maps.

**Element 11: Stewardship and Implementation of the Plan.** This element describes how Plan CC will be implemented and updated to achieve a “living” plan. It also identifies key City departments and partners that will undertake the action steps identified in Plan CC as the means for achieving the plan’s goals.

The Second Draft of Plan CC is a pared down version of the First Draft. The “Public Engagement” and “Understanding Corpus Christi Today” elements were removed and the remaining elements renumbered. Each element in the Second Draft contains a vision statement and the goals and policies for achieving that vision. The other material contained in the First Draft (descriptions of existing conditions, challenges to meeting the vision, and reasons for setting the goals, as well as the strategies and action steps for meeting those goals) has been removed. Reportedly, the reason for issuing this Second Draft is to provide a renewed public comment period, focusing exclusively on the goals and policies proposed.<sup>6</sup> Once the goals and policies have been sufficiently vetted, the City will release another draft with revised strategies and actions to meet those goals and invite public comment.<sup>7</sup>

## TALKING POINTS

### POINTS SPECIFIC TO PLAN CC RECOMMENDATIONS IMPLICATING REALTOR<sup>®</sup> INTERESTS

#### **POINT 1: Several Plan CC proposals may make development more costly.**

Plan CC contains several proposals that may make development and housing more costly, including the following:

**Increased Focus on Tree Preservation and Planting:** Goal 6 of the Natural Systems, Parks & Recreation Element is to increase shade along major streets and in parks and other public spaces. Although the language of the Goal itself suggests that it is focused on trees in public areas, the policies and action items under this Goal make clear the intent to have developers contribute towards the City’s yearly tree planting goal.<sup>8</sup> It proposes policies that include promoting tree preservation and tree planting on both public and private property. Action items include amending the Unified Development Code (the “UDC”) to require planting shade trees in parking lots,<sup>9</sup> and having all development approvals require sufficient irrigation to establish trees and replacement of trees that die within three years.<sup>10</sup> The policies supporting this goal also suggests

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<sup>6</sup> Kristen Crow, *Plan CC 2035 sees confusion*, Corpus Christi Caller-Times, Jun. 2, 2015, available at [http://www.caller.com/news/building-our-future/growth/plan-cc-update-scheduled-for-council-workshop\\_01549415](http://www.caller.com/news/building-our-future/growth/plan-cc-update-scheduled-for-council-workshop_01549415), last accessed July 7, 2015.

<sup>7</sup> *Id.*

<sup>8</sup> Element 4, Goal 6, Strategy A, Action 2 (suggesting 1,000 trees a year for ten years).

<sup>9</sup> Element 4, Goal 6, Strategy B, Action 3.

<sup>10</sup> Element 4, Goal 6, Strategy B, Action 4.

that the City will adopt a tree preservation ordinance in the future, although Plan CC does not explicitly describe what such a program might look like in Corpus Christi.<sup>11</sup>

Requiring planting and irrigation of trees in parking lots as a condition of development approval will likely increase the cost of developments subject to those conditions above what it would have been absent those conditions, and may also affect the feasible density of such development to the extent that the tree planting occupies space that otherwise could have been used for parking or other development. The action item proposing this requirement asserts that “changes in conventional parking lot design can provide room for more trees without affecting the number of parking spaces,” but does not explicitly require that tree planting requirements be implemented in a way that does not reduce a site’s development potential.<sup>12</sup>

Tree preservation ordinances sometimes are focused on protecting native trees species, trees with historical significance, and public trees, by requiring a permit to remove trees.<sup>13</sup> But many tree preservation ordinances are far more extensive and intrusive on private property rights. These can take a wide variety of forms, including requiring tree planting as part of overall site landscaping, requiring a detailed pre-development inventory of a site’s trees, requiring replacement (at 1:1 or another ratio, and either on- or off-site,) of trees that are removed for development, restricting or preventing the development of existing wooded areas, requiring a permit to cut or remove a tree of a particular species or size, and any number of other variants of regulation. Any requirement to plant or preserve trees can add significantly to development costs. How costly a tree preservation ordinance will be depends upon the details of the ordinance and how it is implemented. Unfortunately, Plan CC raises the potential for using a tree preservation ordinance to accomplish plan goals concerning tree preservation, without providing any sense of what such an ordinance would look like or any assurances that it would not place undue costs and burdens on development.

**Comment:** Trees provide substantial values to the environment, including shading and cooling, storm water management, air filtering, wildlife habitat, and aesthetic value. Studies have shown that trees can add considerably to a property’s value.<sup>14</sup> That does not mean, however, that tree preservation regulations themselves are beneficial to property values. At an extreme, some can be applied in a manner that makes it impossible or impractical to develop particular properties.<sup>15</sup> Ideally, any tree planting and preservation ordinance should be non-prescriptive and flexible enough to allow developers and builders to respond to each unique site and meet other development regulations, while also advancing the environmental and aesthetic benefits trees provide.<sup>16</sup> It should avoid costly and time-consuming procedural requirements. Plan CC should be revised to include clear language establishing that when implementing the tree preservation goal the City will be sensitive to development cost and private property rights concerns.

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<sup>11</sup> Element 4, Goal 6, Policies (“Propose tree preservation and tree planting on public and private property.”)

<sup>12</sup> Element 4, Goal G, Strategy B, Action 3.

<sup>13</sup> International Society of Arboriculture, *Tree Ordinance Guidelines*, <http://www.isa-arbor.com/education/onlineResources/treeOrdinanceGuidelines.aspx>, last accessed July 14, 2015.

<sup>14</sup> NAR, *Growth Management Fact Book* (4<sup>th</sup> ed. 2015) (hereinafter “Fact Book”) at 125, citing studies from Georgia and California.

<sup>15</sup> *Id.* at 125-126.

<sup>16</sup> *Id.* at 124-125.

**Impact Fees.** Goal 6 of the Implementation Element seeks to expand funding options available to the City to meet the plan goals. It specifically identifies impact fees as a potential funding source for transportation and utility infrastructure.<sup>17</sup> Plan CC observes that impact fees tend to be politically attractive because they shift costs of future development to that future development and away from existing residents and businesses.<sup>18</sup> It further notes that a formal impact fee process is more predictable and fair than negotiated exactions or proffers.<sup>19</sup> It also proposes using impact fees to channel development into areas targeted for development and redevelopment by using a tiered fee or fee waivers for those areas.<sup>20</sup>

A development impact fee is a charge imposed on new development to fund the cost of off-site public facilities and services that benefit the new development. The rationale for impact fees is that the proponent of new development should incur the cost of capital public facilities and services needed to serve the new development, as opposed to the cost being paid by the general public through taxes or by the users of the service through user fees. Based on this principle, impact fees are designed to require that each development pay its proportionate share of the cost of providing off-site public facilities and services generated by the new development.

A properly designed impact fee system fairly accounts for the infrastructure costs incurred by the local government to serve a new development by shifting the infrastructure costs to new development in proportion to the impact of the new development. Payment of impact fees may be required at the time of development approval, at the building permit stage or upon issuance of the certificate of occupancy. As a general rule, impact fees may not be used to pay for the maintenance of existing facilities, to cover operating expenses, or to remedy deficiencies in existing capital facilities or services.<sup>21</sup>

NAR has an adopted policy position opposing impact fees. It states:

NAR opposes impact fees. Where impact fees exist, NAR urges their repeal. When impact fees are used, they should follow strict guidelines, for example: proceeds from impact fees should be segregated from other governmental revenues; impact fees should be used solely for capital improvements related to a specific new development.<sup>22</sup>

Impact fees may adversely affect property values and increase development costs. Although developers may find some efficiency gains in eliminating negotiated exactions, which may lower development soft costs, impact fees will increase development costs in comparison to using broad-based taxation to provide infrastructure and services.<sup>23</sup> One of the main, and most

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<sup>17</sup> Element 11, Goal 6, Strategy A, at 11.14.

<sup>18</sup> Although it does not account for the fact that many potential consumers of new development are actually current residents. See Zimmerman/Volk Associates, Inc., *An Analysis of Residential Market Potential: The City of Corpus Christi, Nueces County, Texas*, May 2014, available at [http://media.wix.com/ugd/c701b0\\_562a416c356040adbeda9a0d7caa7038.pdf](http://media.wix.com/ugd/c701b0_562a416c356040adbeda9a0d7caa7038.pdf), last accessed July 16, 2015.

<sup>19</sup> Element 11, Goal 6, Strategy A, at 11.14.

<sup>20</sup> *Id.*

<sup>21</sup> See Fact Book at 25-26 (citing Arthur C. Nelson & James B. Duncan, *Growth Management Principles & Practices* at 123 (APA, 1995)).

<sup>22</sup> See <http://www.realtoractioncenter.com/for-associations/issues-mob/policies.html>.

<sup>23</sup> Fact Book at 29.

enduring, criticisms of impact fees is that they can have adverse effects on the market for housing and other development because of their effect on profit margins for developers. The relative economic burden of impact fees will be shared between developers on the one hand, and buyers or tenants on the other, depending on market factors. In any case, however, an impact fee will likely raise housing costs from what they would be absent the fee.

To the extent that market dynamics allow developers to pass the cost of impact fees on to buyers, impact fees will also have the effect of raising the cost of new housing.<sup>24</sup> Generally speaking, in an area where the market is insensitive to price changes, the fee is most likely to be passed on to buyers. In an area that is insensitive to price changes but has barriers to entry (e.g., a shortage of developable land), the developer can pass the fee along to buyers but may choose to produce a more upscale product to attract buyers who are better able to absorb the cost of the impact fees (which may impact housing affordability).<sup>25</sup>

In areas where the market is more price sensitive, builders and developers are likely to bear some or all of the cost of the fee, which will reduce the margin of profit they can expect from a given type of development. In response, some developers may change their product, for example by building larger more expensive homes in an effort to recoup some of the expected profit margin, which will affect housing affordability.<sup>26</sup> Some developers may also choose to avoid jurisdictions where impact fees are imposed in favor of developing at locations not subject to impact fees. If impact fees act as a disincentive for developers to develop new housing and buildings in that jurisdiction, the effects may spill over to the local economy, affecting both its attractiveness to new investment and its ability to grow.

Another potential consequence is that the market will pass some or all of the economic burden of the fee onto owners of vacant land available for development, reducing the value of land jurisdiction-wide.<sup>27</sup> No matter who bears the burden of the impact fee – the landowner, the developer, or the buyer – there will be an economic consequence to the assessment of the fee.

In Corpus Christi, impact fees may not be the most appropriate tool for generating funds for infrastructure improvement, particularly in light of Plan CC's goals calling for significant redevelopment in older parts of the City. Existing infrastructure must be repaired and upgraded to accommodate infill. Existing residents will benefit as much as new residents from these improvements. It is arguably not fair to impose the cost of repairs and upgrades only on new residents. Moreover, to the extent that impact fees discourage developers from pursuing opportunities for infill development, the effect of using this mechanism to fund infrastructure improvements may undercut the plan's goals in that respect.

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<sup>24</sup> *Id.*

<sup>25</sup> Alvin L. Arnold et al., *Impact fees and their effect on development – Development impact fees in the 1990s*, 1 Construction & Development Financing § 2.86 (3d ed.).

<sup>26</sup> Brett M. Baden, et al., *Effects of Impact Fees on the Suburban Chicago Housing Market* 3 (1999) at 3, available at Heartland Institute Policy Study No. 93 at [https://www.heartland.org/sites/all/modules/custom/heartland\\_migration/files/pdfs/9437.pdf](https://www.heartland.org/sites/all/modules/custom/heartland_migration/files/pdfs/9437.pdf), last accessed July 16, 2015.

<sup>27</sup> Arthur C. Nelson, *Development Impact Fees: The Next Generation*, 26 Urb. Law. 541, 551 & 555-56 (1994).



**Concurrency:** Goal 1 of Element 8 of Plan CC proposes establishing a multimodal “level of service” standard, along the lines of those adopted by the Florida Department of Transportation’s Quality/Level of Service Handbook and the Transportation Research Board’s Highway Capacity Manual.<sup>28</sup> Levels of service are performance standards for public facilities, used to measure how well the facilities serve the community’s needs.<sup>29</sup> A multimodal level of service standard addresses transit, bicycling, and other modes of transportation in addition to vehicle traffic on roads and highways.

Levels of service for transportation and other public infrastructure are often used in connection with a concurrency program, which requires that adequate public facilities be in place before new development is placed in service.<sup>30</sup> Most concurrency programs delay development approvals until the public facilities needed to satisfy the level of service standards are in place, rather than requiring that developers pay for public improvements. As a practical matter, however, delaying development until new or additional public facilities are available may not be feasible for a developer, who may therefore choose to provide the facilities at its own cost instead of waiting.<sup>31</sup>

Plan CC does not mention adopting a concurrency program but the establishment of multimodal levels of service could set the stage for such a program. If so, the effect could be to delay development in areas that have overburdened transportation infrastructure until the City is able to provide the infrastructure needed to satisfy level of service standards, which could slow growth in the supply of housing and other development and drive up prices. Alternatively, the effect could be that developers undertake to provide and pay for the necessary road improvements ahead of the City’s schedule, so that they are able to proceed with development on their preferred schedule, which will have cost effects similar to those of an impact fee.

**Urban Design Requirements:** Several goals in Plan CC suggest the creation of a set of urban design guidelines for neighborhood and building development.<sup>32</sup> In particular, the plan suggests amending the City’s UDC to adopt design for “alternative development patterns” that focus on outcomes rather than specific design features and a series of overlay districts.<sup>33</sup>

Design standards can be very difficult to draft because it is often difficult to be precise and clear in describing the desired design characteristics of development in ways that developers, design professionals, and regulators can understand and apply consistently.<sup>34</sup> Without precise definitions, it may be difficult for developers to meet the standards expected by the reviewer,

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<sup>28</sup> Element 8, Goal 1, Strategy A, Action 1.

<sup>29</sup> See Fact Book at 18.

<sup>30</sup> Fact Book at 18.

<sup>31</sup> Fact Book at 19.

<sup>32</sup> See Element 5, Goal 1, Strategy D; Element 6, Goal 2, Strategy B; Element 6, Goal 7, Strategies D and E; Element 10, Goal 3, Strategies A, B, and C.

<sup>33</sup> Element 10, Goal 3, Strategy C, Action 1.

<sup>34</sup> Fact Book at 104-105.

which can increase the cost of the design review process.<sup>35</sup> Additionally, to the extent that specific design features or expensive materials are required, development costs will rise.<sup>36</sup>

Plan CC also proposes policies intended to promote a “sense of neighborhood,” which appear to require specific design criteria, such as “interconnected development” and “unobtrusive parking solutions.”<sup>37</sup> To the extent that these design features are incorporated into the UDC as regulatory requirements, development costs could increase because developers will be required to incorporate these features into their plans.

**POINT 2: Plan CC proposes the adoption of a rental registration program and a “crime-free rental housing” program, both of which can place unfair demands on landlords and implicate constitutional and property rights issues for landlords and tenants.**

Goal 4 of the Housing and Neighborhoods Element states that “All housing is in good condition and is code-compliant.” Two of the action items under the Goal 4’s strategies are to establish a registration and inspection system for rental properties and to adopt a crime free rental housing program based on a national or local model.<sup>38</sup>

Rental registration ordinances typically require landlords to register properties with the local jurisdiction and sometimes require the landlord to obtain a license to lease the property, submit to periodic inspections, and pay a fee to cover the jurisdiction’s administrative and inspection costs.<sup>39</sup> The process allows the jurisdiction to hold landlords accountable for code violations and also allows the jurisdiction to ensure that rental units meet health and safety codes.<sup>40</sup> It also allows the jurisdiction to be pro-active about maintaining housing and neighborhoods in good condition instead of merely responding to complaints from tenants or neighbors.<sup>41</sup>

Crime free rental housing programs have several common features, including some or all of the following: licensing of landlords, requiring installation of certain safety features, participation in training, use of a “crime-free” lease addendum that specifies certain conduct (whether engaged in by tenant, guests, or others) that will be a basis for eviction, requiring eviction of a tenant if prohibited conduct is discovered or a certain number of calls from or about the tenant are received by the police, and consequences (including potential fines or revocation of rental license) for violations of the ordinance.<sup>42</sup> Some jurisdictions have adopted completely voluntary programs, some are mandatory, and others take a hybrid form in which the program becomes

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<sup>35</sup> *Id.* at 105.

<sup>36</sup> *Id.* at 107.

<sup>37</sup> Element 6, Goal 8, Policies.

<sup>38</sup> Element 6, Goal 4, Strategy A, Action 2; Element 6, Goal 4, Strategy B, Action 1.

<sup>39</sup> Fact Book at 150.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 152.

<sup>42</sup> Emily Werth, *the Cost of Being “Crime Free”*: Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances, Sargent Shriver National Center on Poverty Law (Aug. 2013) at 2-4, available at <http://povertylaw.org/sites/default/files/files/housing-justice/cost-of-being-crime-free.pdf>, last accessed July 8, 2015.

mandatory in certain property types (i.e. multi-family housing) or after a property has been the site of a certain number or type of criminal incidents.<sup>43</sup>

These two action steps potentially raise several issues of concern for the Realtors<sup>®</sup>.

First, Plan CC does not discuss code enforcement, poor housing or neighborhood conditions, or criminal activity in rental housing as particular challenges that the City faces and needs to address. Other than the fact that many other cities have these types of ordinances, Plan CC does not point to any existing conditions within the City that make these action steps necessary to maintaining or achieving the goals of housing that is in good condition and code compliant.<sup>44</sup>

Second, these programs create additional burdens for landlords which may reduce the availability of rental housing stock and decrease affordability.<sup>45</sup> Not only will landlords have to pay registration fees but the costs of property maintenance and supervision will also likely increase. In a city, like Corpus Christi, with significant housing affordability concerns, initiatives that increase the cost of and decrease the supply of rental housing should be undertaken only after determining that they are necessary in that city, not just because they are approaches used elsewhere.

Third, these types of programs may infringe on the rights of landlords and their tenants. Such programs implicate the protections against unreasonable search and seizure under the Fourth Amendment to the United States Constitution. Even civil inspections are subject to Fourth Amendment protections, and require a warrant, owner or tenant consent, or an imminent health or safety threat.<sup>46</sup> In many instances, property owners in jurisdictions that have rental licensing programs are forced to choose between consenting to a search program (by registering and/or obtaining a license to operate as a rental) or not being permitted to legally rent their property.

These programs also infringe on the property rights of landowners. Property rights are often described as a “bundle of sticks” in which each stick is a particular right associated with property ownership: e.g. the right of possession, the right to exclude others from the land, the right to dispose of the land either permanently by selling or temporarily by leasing.<sup>47</sup> Although some regulations that restrict property rights are expected and accepted (e.g. environmental laws, zoning), the right to lease property is not one of the “sticks” that has traditionally been restricted.

Furthermore, the crime-free programs attempt to shift policing duties to landlords. While residents of owner-occupied homes are free to use city services without fear of repercussion, landlords and tenants are subjected to an alternate policing system where there are significant repercussions for utilizing basic city services. This places an unfair cost on landlords (as well as

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<sup>43</sup> See e.g., San Bernadino, California, *Crime Free Multi-Housing Program*, [https://www.ci.san-bernardino.ca.us/cityhall/community\\_development/code/crime\\_free\\_multi\\_family\\_housing\\_program/default.asp](https://www.ci.san-bernardino.ca.us/cityhall/community_development/code/crime_free_multi_family_housing_program/default.asp); Sunnyside, Washington, Municipal Code, Section 5.02.040, <http://www.codepublishing.com/wa/sunnyside/html/Sunnyside05/Sunnyside0502.html#5.02.040>.

<sup>44</sup> See Element 3 and Element 6.

<sup>45</sup> See Fact Book at 155.

<sup>46</sup> *Camara v. Municipal Court of City & Cty. of San Francisco*, 387 U.S. 523 (1967).

<sup>47</sup> See Denise R. Johnson, *Reflections on the Bundle of Rights*, 32 Vt. L. Rev. 247 (2007).

putting landlords in potentially dangerous situations in order to preserve the right to lease their property). It also can have disastrous consequences for tenants who may forego reporting crimes against them for fear of losing their housing.<sup>48</sup>

**POINT 3:** (Note: In original Plan) **Plan CC proposes the creation of a redevelopment agency that could be given eminent domain power, infringing on private property rights.**

Plan CC calls for the City to consider creating a development agency “in designated areas of the city where redevelopment is desired, such as the Urban and Neighborhood Village locations.”<sup>49</sup> This action step further states:

Corpus Christi does not have a redevelopment agency that can act to accelerate redevelopment in desired locations by making and implementing plans that require land assembly and improvements in order to attract and leverage private investment...One approach would be to use Texas Local Government Code Chapter 374 [The Texas Urban Renewal Law].<sup>50</sup>

The Texas Urban Renewal Law authorizes a municipality to remove slum and blighted conditions through eminent domain.<sup>51</sup> Although the Texas statute provides some limitations on the use of eminent domain to take properties that are not blighted, overall, it appears to permit the City to take property for redevelopment by a private entity.<sup>52</sup>

The possibility that Corpus Christi will create a redevelopment agency under the Urban Renewal Law raises significant property rights concerns. While it is important that the City have the necessary tools to implement Plan CC, those tools should not be used to eliminate private property rights. A redevelopment agency could certainly be a valuable tool for promoting redevelopment of the downtown area and promoting the development of Urban and Neighborhood Villages. However, that agency should focus on acquiring and assembling property through other means and on providing guidance and assistance (in the form of public-private partnerships) to facilitate desired development.

**POINT 4:** **The proposed transition of certain areas from residential to non-residential uses to increase compatibility with nearby military, industrial and aviation uses raises potential concerns.**

### **Military Compatibility Area Overlay District**

Goal 8 of the Future Land Use Element calls for regulations to protect military and civilian airport uses. One action step proposed is to create a Military Compatibility Area Overlay District (the “MCA”), as recommended by a Joint Land Use Study conducted by the City and the Department of Defense in 2013 to identify certain land uses that are incompatible with the naval

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<sup>48</sup> For further discussion see Werth, *supra* n.42.

<sup>49</sup> Element 11, Goal 4, Strategy A, Action 1; see also Element 6, Goal 7, Strategy A, Action 1.

<sup>50</sup> Element 11, Goal 4, Strategy A.

<sup>51</sup> 72 Tex. Jur. 3d *Urban Renewal* § 1 (2015).

<sup>52</sup> David B. Brooks, Tex. Prac., *Municipal Law and Practice* § 19.12 (2d ed. (2014)).

air station operations (the “JLUS”).<sup>53</sup> It recommended the adoption of a Military Sustainability Master Plan Element in the comprehensive plan and recommended establishing the MCA, over the areas shown on Figure 2 of the JLUS, to restrict land uses that are incompatible with various aspects of operations.<sup>54</sup> The MCA would permit those land uses that are generally considered compatible with the military airfields and the Corpus Christi International Airport – light industrial, commercial, agricultural, parks, and low-density residential – but would not permit other uses. The MCA would also regulate density and height of structures in order to improve compatibility with the airfield.

### **Transition Special Districts for Aviation and Industrial Areas**

The Future Land Use Element calls for “transitions from residential enclaves to nonresidential uses ... in industrial and aviation special districts.” The Future Land Use Map identifies two areas — Transition Aviation Special District and Transition Special District — as areas where residential uses, deemed incompatible with industrial and aviation uses, are to be “transitioned” to nonresidential uses. The “Transition Aviation Special District” is located south of the Corpus Christi Naval Air Station on Flour Bluff.<sup>55</sup> The “Transition Special District,” also described as the “Special I-37 Transition District”<sup>56</sup> is designated as the area north of Interstate 37 and west of the Harbor Bridge.<sup>57</sup> This area is adjacent to oil refinery operations and other industrial uses.<sup>58</sup>

### **Concerns about MCA and Transition Districts**

These proposed changes could have a significant impact on property values within those areas. This is due to the limited uses that would be permitted in those areas and, within the Transition Districts in particular, the explicit goal of “transitioning” existing residential uses elsewhere. With respect to the intended uses in the MCA, Plan CC notes that there is little demand for additional office space<sup>59</sup> and has not raised a lack of available industrial sites as an issue. Insufficient demand for the permitted uses may significantly depress the values of properties that are suitable for other uses but rezoned into the MCA. Landowners whose property is already developed with a use or structure that becomes nonconforming as a result of being placed in the MCA or one of the Transition Districts could find it extremely difficult to recoup the value invested in the property, assuming that there is likely to be low demand for allowed uses and significantly reduced value for nonconforming uses.

Transitioning these areas away from residential use is intended to promote economic opportunities in the City by removing incompatible uses. Plan CC notes that residents in the

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<sup>53</sup> Element 10, Goal 4, Strategy A, Action 2; NAS Corpus Christi: Joint Land Use Study (“JLUS”), at 42, Table 2, available at [http://www.ccjlus.com/images/documents/NASCC%20JLUS%20Final\\_sm.pdf](http://www.ccjlus.com/images/documents/NASCC%20JLUS%20Final_sm.pdf), last accessed July 9, 2015.

<sup>54</sup> JLUS, *supra* n.53 at 27, Figure 2.

<sup>55</sup> See Future Land Use Map at Exhibit 10.10 on p. 10-35.

<sup>56</sup> See Element 10, Goal 1, Strategy B, Action 1.

<sup>57</sup> See Future Land Use Map at Exhibit 10.10 on p. 10-35.

<sup>58</sup> *Id.*

<sup>59</sup> Element 6 at 6.9.

proposed Transition Aviation Special District and in the Special I-37 Transition District are largely low-income tenants and owners and recognizes that a fair process is needed for this transition to happen. It suggests providing incentives to residents<sup>60</sup> and financial support from private organizations to residents.<sup>61</sup> It is unclear how practical these suggestions are and whether sufficiently attractive incentives could be created to encourage large numbers of residents to move to other areas of the City. As a good source of knowledge and experience concerning the commercial and residential real estate markets, the Association should request to be part of any working group organized to further these goals.

Even if the City succeeds in efforts to transition these areas away from residential use, Plan CC does not identify how “hold-outs” will be addressed. For example, does the City contemplate using a redevelopment authority to declare hold-out areas as blighted and use eminent domain to displace property owners and residents so their property can be taken and assembled into parcels for transfer to a new private owner? The Association should note its concern over the potential that the City will try to use eminent domain to achieve this the transition using eminent domain powers if the proposed action items are not successful in accomplishing a full transition.

#### POINT 5

Element 8, calls for “orderly growth in the southern [extra-territorial jurisdiction].” The City’s authority to regulate growth in the extra-territorial jurisdiction (“ETJ”)<sup>62</sup> is limited to its subdivision regulations; it cannot zone in this area.<sup>63</sup> To achieve this goal the plan proposes to amend the UDC to create a “Rural Enterprise” zone with a maximum density of one dwelling unit per twenty acres and a certain number of uses permitted by special permit; require newly annexed areas to be automatically zoned as Rural Enterprise; not permit rezoning from Rural Enterprise until water and wastewater services are provided; and not permit water lines to be extended to an area unless there is a commitment to bring wastewater lines within three years.<sup>64</sup> The areas proposed to be annexed by 2020 are shown as A and B on Exhibit 10.14 (the “Annexation Areas”) and are located in the southern ETJ.<sup>65</sup>

Annexing these two areas is a short-term goal to be completed by 2020.<sup>66</sup> Until that happens, any problems associated with a lack of zoning will continue to exist and could be compounded by additional development. In the discussion of land use challenges, Plan CC identifies issues with proper soil conditions for septic systems and the high demand for large single-family homes

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<sup>60</sup> Element 11, Implementation Matrix at 11.51.

<sup>61</sup> Element 10, Goal 5, Strategy A.

<sup>62</sup> The ETJ is the unincorporated area within five miles of the city limits. Texas Loc. Gov’t Code § 42.021.

<sup>63</sup> Element 10, C. Challenges, 4, at 10.14. *See* Corpus Christi, Unified Development Ordinance, § 3.8.1. It may also be possible for the City to require building permits and enforce its other construction related ordinances. *See* Terrence S. Welch et al., *Municipal Regulation of the ETJ*, Brown & Hofmeister, LLP, available at <http://www.bhlaw.net/8%20MUNICIPAL%20REGULATION%20ETJ%20-%20COG%20Basics%20of%20Planning%20and%20Zoning%20-%20April%202005%20Edition.pdf>, last accessed July 10, 2015.

<sup>64</sup> Element 10, Goal 6, Strategy A.

<sup>65</sup> Element 10, Goal 6, Strategy B.

<sup>66</sup> *See* Element 11, Implementation Matrix for Element 10, Goal 6.

(due to good schools and lower land costs) which have the potential for “chaotic” development patterns which “can make providing services and infrastructure more costly than necessary” if the area is annexed.<sup>67</sup> Through the City’s subdivision regulations and its building regulations, however, it appears that the City should be able to require proper septic system design, proper road design and construction, sufficient access to properties for emergency services, and proper utility service be provided to all new development in the ETJ, even prior to annexation.

Automatically zoning all parcels in newly annexed areas as Rural Enterprise may unnecessarily restrict future development. Although the authors of Plan CC provided an analysis of available land for development for land within the City limits,<sup>68</sup> it has not provided a similar analysis for the development potential of the Annexation Areas at the proposed density. Therefore, it is unknown how much development can be accommodated at the Rural Enterprise density of 1 unit per 20 acres. Also, the plan does not detail what other zoning requirements may be imposed which could make existing legally created parcels and development nonconforming.

The provisions requiring water service plus a commitment to bring waste water service before an area can be rezoned out of Rural Enterprise to allow denser development may effectively preclude such rezoning from taking place. Water and wastewater services are not typically extended unless there is sufficient density to justify and offset the cost of the extension. Under the low density Rural Enterprise zoning, the thresholds at which extending service makes sense may not be reached, which means these areas will not be able to satisfy the preconditions to be eligible for rezoning to accommodate additional density.

The Annexation Areas are proposed for annexation precisely because they are areas already developing as residential enclaves. Plan CC includes as one of its land use principles, “locate new residential developments adjacent to and connected to existing development.”<sup>69</sup> The density restrictions proposed by Plan CC for the Annexation Areas appear to be contrary to this principle. The Plan CC proposal to zone annexed areas at the low Rural Enterprise density would also apparently apply to any other areas identified for future annexation. Over time, this policy may significantly reduce the potential growth and development of the City.

**POINT 6: The “road-diet criteria” that Plan CC recommends for evaluating potential impacts on adjacent road networks and neighborhoods should be established before any “road-diets” are undertaken.**

To further the goal of an efficient and safe transportation network (Element 8, Goal 1), Plan CC calls for “road-diet criteria” to be established to evaluate any impacts on adjacent road networks or neighborhoods. The road-diet concept was previously introduced in the Mobility CC plan. Mobility CC is the transportation element of the current comprehensive plan. Plan CC calls for

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<sup>67</sup> Element 10, C. Challenges, 4, at 10.14.

<sup>68</sup> Element 10, at 10.8.

<sup>69</sup> Element 10 at 10.31.

certain parts of Mobility CC to be revised or reconsidered but it appears that Mobility CC will continue to be implemented alongside the other goals and actions proposed in Element 8.<sup>70</sup>

A so-called “road-diet” is the redesign of a roadway (typically a four lane road) in which a travel lane is removed and the space is dedicated to other uses, such as a two-way left turn lane, bicycle lanes, pedestrian islands, transit, or parking.<sup>71</sup> The purpose of reconfiguring the lanes is to increase safety for all roadway users, not to restrict capacity for vehicles in favor of other modes of transportation.<sup>72</sup>

Mobility CC previously identified several corridors as subjects for a “road-diet.” Plan CC calls for a review of this list, identification of other potential corridors that should be considered for a road-diet (in conjunction with the proposed creation of Urban and Neighborhood Villages), and proposes a quantitative analysis for determining impacts to capacity on adjacent networks and neighborhoods.<sup>73</sup> While the concept of a “road-diet” is not necessarily objectionable by itself, the City should be sure that no adverse traffic impacts are caused by their implementation. To the extent that applying a “road diet” to a particular corridor leads to changed traffic patterns and increased congestion on alternate routes, it can have potential impacts on development potential and costs. Based on the recommendations in Plan CC, it appears that Mobility CC did not adequately evaluate impacts to adjacent neighborhoods and road networks.

If implemented, Plan CC’s recommendation to develop and apply “road diet criteria” should serve to increase the safety of the transportation network by implementing “road-diet” design, while also ensuring that the capacity of the corridors remains sufficient for existing and future vehicle trips made along the corridor and that there are no unintended consequences to adjacent areas. Realtors should insist that the “road diet” program not move forward unless and until such criteria are developed and applied to evaluate the potential negative effects of imposing a “road diet” on a given corridor.

**POINT 7: Incentives provided to facilitate preferred development are more desirable than mandates, but should be designed not to disadvantage other types of development.**

Plan CC recognizes that the desired types and locations of development may not be realized entirely through market forces alone. It suggests the use of incentives to overcome barriers to certain types and locations of development. For example, to support Goal 2 of the Housing Element (“Quality housing meets the diverse needs of households at all income levels and all stages of the life cycle.”), Plan CC proposes that the City assist in land assembly for affordable housing, that the City engage in public-private partnerships by contributing infrastructure or streamlined zoning review for developments that meet housing goals, and that the City create a

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<sup>70</sup> Mobility CC can be found on the City’s website at <http://www.cctexas.com/Assets/Departments/PlanningEnvironmentalServices/Files/MobilityCC.pdf>, last accessed July 13, 2015.

<sup>71</sup> FHWA Safety Program, *Road Diet Informational Guide*, U.S. Dept. of Transportation, Report No. FHWA-SA-14-028, Nov. 2014, available at [http://safety.fhwa.dot.gov/road\\_diets/info\\_guide/rdig.pdf](http://safety.fhwa.dot.gov/road_diets/info_guide/rdig.pdf), last accessed July 13, 2015.

<sup>72</sup> *Id.*

<sup>73</sup> Element 8, Goal 1, Strategy A, Action 4.



Neighborhood Empowerment Zone to provide tax abatements for construction of workforce housing.<sup>74</sup> To promote Goal 5 of the Housing Element (“New and redeveloped housing is resource-efficient.”) the plan calls for providing a per-unit discount for building permits for resource-efficient housing. In some places Plan CC suggests that incentives be identified in the future.

Incentives can reduce development costs which can benefit developers through cost savings, residents through lower housing prices, and the community by providing the desired type and location of development. From the perspective of property owners and developers, incentives that make desired development types attractive and more profitable are a better approach than mandates used to require that development include certain amenities or characteristics. Ideally, incentives to develop in a particular way should not penalize or divert resources from permissible development. For example, Plan CC calls for supporting resource efficient housing by providing incentives such as permit streamlining. To the extent that permit streamlining for favored development means that local resources must be diverted from traditional permitting requests, the result may be that the streamlined process for the incentivized development causes delays for other development. In this case, waiver of permit requirements rather than fast-tracking the process may provide the desired incentive to the preferred form of development without increasing the burden on other forms of development.

**Comment:** The Association should support the use of properly designed incentives, rather than mandatory requirements, to promote the type and location of development identified in the plan. However, the Association should note that some incentives can have adverse impacts, that may increase development costs for non-incentivized developments.

## **POINTS REGARDING PLAN CC GENERALLY**

### **POINT 8: Plan CC does not appear to satisfy all of the requirements of the City Charter.**

Article V of the Corpus Christi City Charter requires the City to establish comprehensive planning in order to “guide, regulate, and manage future development and redevelopment within the corporate limits and extraterritorial jurisdiction of the city.”<sup>75</sup> To meet this requirement, the city council is required to adopt a comprehensive plan as the general plan.<sup>76</sup> The comprehensive plan is required to have:

- A future land-use element
- An annexation element;
- A transportation element;
- An economic development element;
- A public services and facilities element, which shall include a capital improvement program;
- A conservation and environmental resources element; and

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<sup>74</sup> Element 6, Goal 2, Strategy E, Actions 1, 2, and 3.

<sup>75</sup> City of Corpus Christi City Charter, Article V, Section 1.

<sup>76</sup> *Id.* at Section 4.

(7) Any other element the city council may deem necessary or desirable in order to further the [objectives of Article V of the City Charter].<sup>77</sup>

Plan CC would replace the assortment of plans currently in place in the City. Element 11, Goal 1 acknowledges the City Charter requirements, specifically noting the required plan elements.<sup>78</sup> Nonetheless, Plan CC appears to omit required elements.

Plan CC does not contain an Annexation element, even though annexation is discussed in other plan elements. For example, Goal 6 of the Future Land Use Element addresses anticipated development in the Annexation Areas and Exhibit 10.14 shows the locations of two planned annexation areas (and one designated for an industrial agreement instead of annexation).<sup>79</sup> While these and other discussions in Plan CC address the topic in certain respects, the City Charter clearly calls for a separate annexation element.<sup>80</sup>

Similarly, the public facilities element of Plan CC does not contain a capital improvement program or discuss plans for developing a capital improvement program. A Capital Improvements Plan or Program (“CIP”) is used to assess capital facility needs against the plans goals and policies on a shorter planning horizon, typically five years.<sup>81</sup> It is an important tool for the implementation of a comprehensive plan because it identifies, prioritizes and assigns funding to planned capital projects.<sup>82</sup>

Rather than ensuring that it conforms to the requirements of the City Charter, the first proposed action step under the strategy for adopting the new long-range plan is to amend the City Charter and existing ordinances to align them with Plan CC.<sup>83</sup> Plan CC does not explain why the City Charter should be amended to exclude the missing annexation and capital improvement program elements from the City’s comprehensive planning requirements. The annexation element and CIP are important planning tools, and Plan CC also does not explain how the City intends to address these subjects adequately outside of the comprehensive plan process.

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<sup>77</sup> *Id.*

<sup>78</sup> Element 11, Goal 1 at 11.5.

<sup>79</sup> Element 10 at 10.51-10.53.

<sup>80</sup> The City has an Annexation Plan, adopted in December 1999 (*see* City of Corpus Christi, Resolution Adopting the Annexation Plan Required by Section 43.052, Local Government Code, available at <http://www.cctexas.com/Assets/Departments/PlanningEnvironmentalServices/Files/Adopted%20City%20Annexation%20Plan.pdf>, last accessed July 8, 2015) as required by Texas statute (*see* Texas Loc. Gov’t Code § 43.052 (requiring the adoption of an annexation plan in order to annex properties but excepting certain annexations from these procedural requirements)), which states that the City has no plans to annex any areas subject to the statutory requirements.

<sup>81</sup> Vicki Elmer, *Capital Improvement Plans and Budgets*, Lincoln Institute of Land Policy, at 4, available at <https://www.lincolninst.edu/subcenters/teaching-fiscal-dimensions-of-planning/materials/elmer-CIP.pdf>, last accessed July 8, 2015.

<sup>82</sup> University of Wisconsin Stevens Point, Center for Land Use Education, *Planning Implementation Tools: Capital Improvement Plan*, Sept. 2008, available at [https://www.uwsp.edu/cnr-ap/clue/Documents/PlanImplementation/Capital\\_Improvement\\_Plan.pdf](https://www.uwsp.edu/cnr-ap/clue/Documents/PlanImplementation/Capital_Improvement_Plan.pdf), last accessed July 8, 2015.

<sup>83</sup> Element 11, Goal 1, Strategy A, Action 1.

**POINT 9: The implementation of Plan CC relies heavily on the reinstatement and expansion of the City’s Planning Department, which may not be feasible.**

Element 9 states that “a new Planning Department is in place” and that it will be given “a proactive role in coordinating initiatives to implement comprehensive and other plans.”<sup>84</sup> Plan CC calls for the staff of the reinstated Planning Department to include a planning director, a land use planner, an urban designer, a housing planner, a transportation planner, a neighborhood/district planner and a long-range planner.<sup>85</sup> The implementation element lists this as a short-term goal, to be achieved between 2015 and 2020.<sup>86</sup>

The City currently has a Development Services Department that provides support to the Planning Commission and to the public for permitting and regulatory activities.<sup>87</sup> The City used to have a Planning Department that was part of the Development Services Department. The Planning Department was separated from the Development Services Department in order to focus on completing this comprehensive plan update, and then was eliminated in late 2013 or early 2014 when the planning function was privatized.<sup>88</sup>

Given the recent elimination of the department, Plan CC’s goal of reinstating the City’s Planning Department and hiring dedicated staff with significant expertise in various aspects of community planning may be too ambitious. The City may find it difficult to attract (and pay for) a new staff of at least seven professionals with the necessary skill sets, particularly in light of the City’s fluctuating treatment of that department in recent years. It may also be politically difficult to reinstate a department that was recently eliminated in favor of outsourcing these planning duties to private consultants. The possibility that the Planning Department will not be re-established quickly or easily poses a significant potential problem for the implementation of Plan CC, because so many of the action steps are delegated to the new planning department.<sup>89</sup> If the planning department is not reinstated as proposed, it is not clear whether other City departments or private consultants may be able to undertake the proposed actions.

**POINT 10: Plan CC needs further editing before it is adopted.**

Plan CC contains some poorly drafted goals and a significant number of typographic errors, both of which suggest that additional review and editing of the plan is needed before it is finalized for adoption.

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<sup>84</sup> Element 11, Goal 3 and Policy.

<sup>85</sup> Element 11, Goal 3, Strategy B, Action 2.

<sup>86</sup> Element 11, Implementation Matrix.

<sup>87</sup> See generally City of Corpus Christi, Development Services website at <http://www.ctexas.com/government/development-services/index>, last accessed July 14, 2015.

<sup>88</sup> See Element 11, Goal 3; see also Matt Dietrichson, *Corpus Christi may outsource more of planning department*, Houston Tomorrow (Aug. 30, 2013), available at <http://www.houstontomorrow.org/livability/story/corpus-christi-may-outsource-most-of-planning-department/>, last accessed July 8, 2015.

<sup>89</sup> See Element 11, Implementation

Submitted 10/13/15  
Judy Telge,  
Facilitator  
Item #16, 10/13/15

BASGI Comments on 2<sup>nd</sup> Draft Corpus Christi Plan 2035

Our Vision:

"Employment opportunities abound in public, private and non-profit sectors of the community."  
(Corpus Christi has a diverse market with many jobs in the public and non-profit sectors.)

The Principles:

Promote good health: rather than term medical care, use broader term of health care, which encompasses medical and related.

There is excellent policy guidance from AARP, Livable Communities, that addresses impacts and needs of an increased population of older citizens and their desire for quality of life. The term Livable Communities should be incorporated, as it mirrors many of the principles of Smart Growth, and is frequently a City Initiative.

Element 1:

Goal 7: add "including accessibility"

Element 2:

Goal 6: Policy: Affordable housing preservation is part of this planning.

Element 3: No recommendations, at this time.

Element 4:

Add Goal 6: "Establish a public-private initiative to address affordable rental housing."

Policies: Provide support for stakeholder interests to convene and define housing affordability, determine housing market options and potential public and private investment opportunities, provide current data on level of rental housing availability by income category and need, and develop a data base to help identify the level of affordable housing in each Council District.

Conduct a Citywide Impact Assessment in readiness for the (new) HUD Fair Housing Act requirements prohibiting income segregation within PJs. The Consolidated Plan to be developed for 2018 will contain provisions for analysis and plan. The City's current Con Plan has no plan to address the finding that only 10% of the housing stock in 2013 was affordable to individuals and households at 30% AMI (extremely low income category).

Neighborhoods:

Goal: Adopt the policies and strategies within the "Missing Middle" to developing affordable housing, increased density, mixed housing, and creative financing in urban areas.

Policy: Plan for and support housing choices that recognize and encourage the addition of multiple housing options within the housing continuum – the large missing middle in Corpus Christi - between “multi-family housing” on the one end and traditional “single-family housing” on the other. (See information provided to Planning Commission.)

Element 5: No recommendations, at this time.

Element 6:

Goal 1:

Policies: Destinations are easily connected by accessible paths of travel and a diversity of modes of travel, both private and public.

Enhance transportation options with the addition of water transportation, developed with public-private investments.

Support the MPO Active Mobility Plan.

Element 7:

Policy: Annexation must be supported by an urban growth boundary policy and strategy. See element 8.

Element 8:

Established metropolitan boundaries, identified as urban growth boundaries, which may be expanded into the ETJ through annexation only when infill development within the City has reached a pre-identified level of attainment. The amount of vacant and near vacant land within City boundaries provides tremendous “in-pansion” possibilities. Incentives for property owners, developers and investors must be developed as part of boundary growth regulation. City priority must be to maintain and upgrade what we currently have that has been neglected (under a deferred maintenance practice) and will continue to degrade the Central City.

The Chapman Ranch annexation is counter to orderly and planned development and should be reversed.

Additional Notes:

1. Please see previous statements of support and recommendations to the initial Draft Plan by BASGI.
2. Bay Area Smart Growth supports the recommendations of the Sierra Club.
3. The second draft CC Plan 2035, although streamlined to address only Elements, Goals and Priorities, has unfortunately cut out a great deal of input and investment by the public and the consultants. We are concerned that removing the strategies and activities will undermine implementation of a comprehensive plan that has been based in public review, input and overall acceptance.

Item #16, Plan CC  
10/13/15  
~~Judy Feltz~~  
John Kelley

Honorable Mayor Martinez and City Council Members,

Today I am here to represent Santa Cruz Partnership of the Chapman Ranch and voice their concerns over the Second Draft of PlanCC2035.

The First Draft of PlanCC2035 clearly stated there was more than ample room for Corpus Christi to grow within its 2014 boundaries for at least 20 years no matter how optimistic the scenario. The second draft eliminates any references to containing geographical growth and instead suggests an additional 8,000 acres be annexed and purposed as planned development. Both Drafts fail to identify any City plan for the Chapman Ranch Annexation leaving it as Rural Enterprise/Agricultural.

These recommendations are contrary to the vision and principles stated for PlanCC2035 in numerous aspects. One incomplete section of the first draft also promised that projected costs of the plan and alternatives would be forthcoming. They are not part of the Second Draft nor is this practical measurement mentioned.

Applicable Principles defined by the plan that are in conflict with the Chapman Ranch Annexation and its designation as rural agricultural use include:

1. Be Strategic: The Chapman Ranch Annexation demonstrates the exact kind of leap frog annexation and low utilization of the required infrastructure discouraged by the First Draft.
2. Be Cost Effective: The City turned down \$13 million to not annex the Chapman Ranch and now have an obligation of \$21 million to provide infrastructure with no revenue to pay for it.
3. Act Transparently: City leaders refuse to have an open council discussion on disannexation of the Chapman Ranch despite the fact that the City's objections have been resolved.
4. Be Accountable: The first and second draft plan for Chapman Ranch offer no opportunity for development or utilization to produce wind power, this is a taking of private property rights without compensation. In addition the imposition of \$21 million of infrastructure and debt costs on rate/taxpayers without public hearings or discussions avoids transparency and accountability.
5. Pursue goals through Partnerships: The City has refused to negotiate in good faith with either the landowners or the wind farm company. If the City wants to encourage the Chapman Ranch to be developed we stand ready to hold discussions.
6. Be Business Friendly: The City turned down \$13M in lieu of taxes and tried to drive away a company that wanted to invest \$500M in our community. That is not very business friendly.

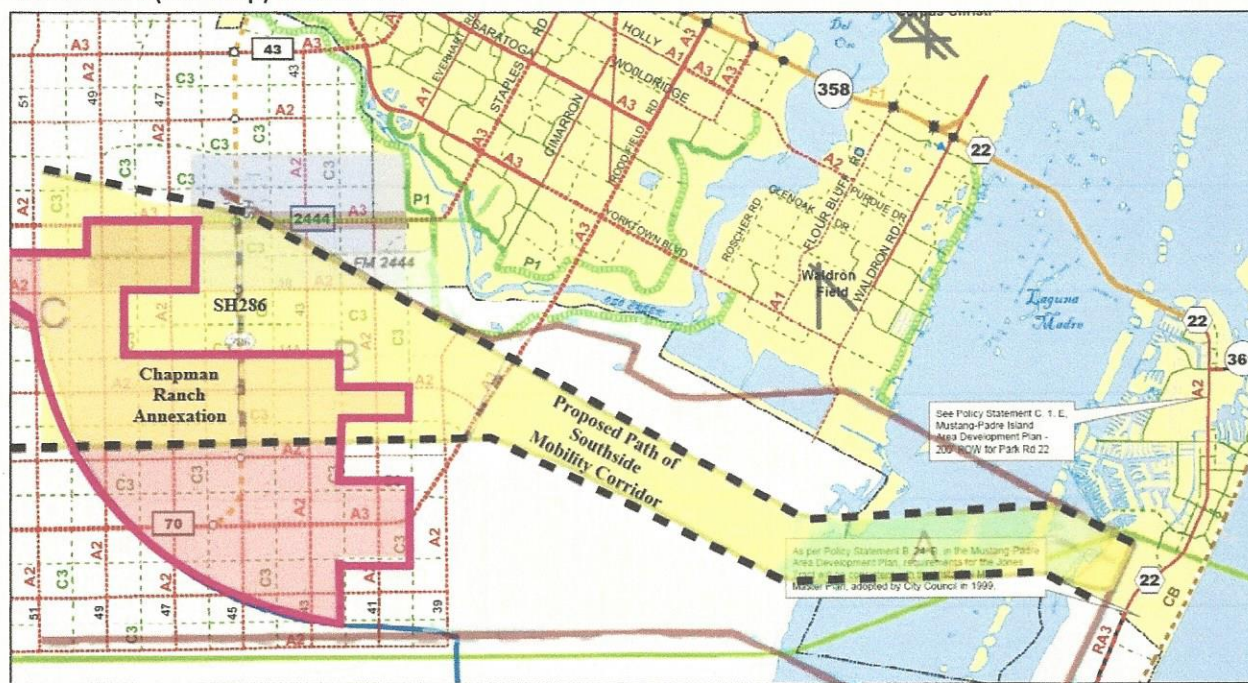
A suggestion was made during the input section on the Second Draft that a second pathway to the island be included in the plan. The City's also made a recent financial contribution to a feasibility study by the Municipal Planning Organization to build the section of the Southside Mobility Corridor from the Crosstown Expressway to Padre Island.

These actions along with the insistence that the Chapman Ranch Wind Farm would interfere with southward growth within 30 years (the lifetime of the wind farm) indicate that City leaders plan to expand in the Chapman Ranch annexation in the foreseeable future. While both of these are contrary to

consultant recommendations and public input regarding expansion of city boundaries, the Chapman Ranch owners are more than willing to discuss the expansion of these plans.

The City has made clear it opposes wind turbines in the annexed area and Apex has withdrawn any plans to place turbines in the area. The First and Second Draft of PlanCC2035 both designate the Chapman Ranch as Rural Agricultural/Rural Enterprise while the Second Draft upgrades other lands designated Agricultural/Rural Enterprise in the First Draft as Planned Development. Leaving the Chapman Ranch designated as agricultural/rural enterprise is a restrictive designation that does not allow the owners to develop their property. Denying the ability to erect wind turbines or to develop the property, limits the income potential of the property to the point of constituting an illegal taking without compensation.

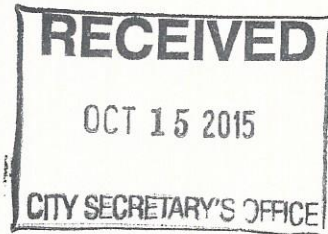
The proposed path of the Southside Mobility Corridor clearly transverses the Chapman Ranch Annexation (see map) land mass.



The extension of the Crosstown Expressway (SH286) to the island would create a natural junction at the corner of CR70, the main route to Bishop and Kingsville. The desirability of new residential and commercial developments in this area within the London School District and fifteen minutes from downtown Corpus Christi, Padre Island (across a new bridge) and Kingsville are obvious.

Therefore we ask that PlanCC2035 be altered to recommend one of two courses.

1. Disannexation of the Chapman Ranch: Disannexation would relieve the City of a \$21 million capital cost program and additional costs related to providing public safety services, solid waste, road and storm water maintenance. Disannexation would, return the property to its rural use and still be free of wind turbines.
2. Promote Development of the Chapman Ranch: Recommend the Chapman Ranch be designated as Planned Development and provide infrastructure to the intersection of 70 and 286 or allow the creation of Municipal Utility Districts to allow development to occur in the City identified growth corridor without capital cost to the city."



Sierra Club Coastal Bend Group  
PO Box 3512  
Corpus Christi, TX 78463-3512  
October 13, 2015

Corpus Christi City Council  
1200 Leopard Street  
Corpus Christi, Texas

**RE: PLAN2035 October 13 public comment**

The Sierra Club Coastal Bend Group strongly supports the original draft Plan2035. We encourage the City Council to adopt that original and more complete version of the plan.

This currently proposed Plan2035, however, does contain several sentences that recognize the importance of taking environmental issues into consideration, and this helps secure Plan2035 as deserving of community support.

Reportedly this plan cost close to \$100,000, not including the significant volunteer time given by many citizens. It would be a mistake to not approve the plan. It would also be a mistake to further reduce or dilute the recommendations of the paid consultants and volunteers merely to accommodate those who threaten to avoid Plan2035 recommendations by developing and building out side of the City limits, or by others who simply do not like any change from business as usual.

There must be positive reasons for homebuyers to want to live inside the City limits, and Plan2035 is a strong step in the right direction.

Attached to this cover letter is a brief analysis of currently proposed draft Plan2035

Sincerely,

A handwritten signature in black ink that reads "Lois C. Huff". The signature is written in a cursive style.

Lois Huff, Chair  
Sierra Club Coastal Bend Group  
361-774-1500  
lch784@gmail.com



## **Natural Systems, Parks and Recreation**

GOAL: Natural Systems.

NOTE: Policies for decision makers appear to be positive and to provide good direction.

GOAL: Urban, Item 6.

NOTE: "Give priority to DIVERSE native tree planting...." (Add "diverse")

GOAL: Open Space, Parks and Recreation, Goal 8, high quality and well maintained green spaces.  
"Continue to seek partnerships and sponsorships to support park maintenance.

NOTE: Partnerships and sponsorships would be best used to enhance not merely provide park maintenance.

## **Resilience and Resource-Efficiency**

GOAL: Resilience.

NOTE: Promotion of protection of barrier beaches and dunes is important as noted.  
Development of additional bridge to Padre Island shown on several Plan2035 maps, must honor this goal.

GOAL: Resource Efficiency.

NOTE: Policy Item 4. Add "Recommend that builders/developers consider designing houses to take advantage of prevailing winds, allowing homeowners to reduce dependence on air conditioning when possible."

## **Housing and Neighborhoods**

GOAL: Neighborhoods.

NOTE: Item 6. Much much more is needed than one sentence to encourage infill development. The City needs to completely change the way utilities are planned and paid for, removing the burden from the developers/building; this would allow the City to plan where to develop, or re-develop, by seeing that the utilities are in place for new development and that infill development no longer requires a builder/developer to pay for the increased cost of providing utilities in older areas.

## **Transportation and Mobility**

GOAL: Efficient and safe transportation network.

NOTE: Add additional policy: Support bicycle routes that promote safe biking to and from the workplace.

## **Community Infrastructure, Facilities and Services.**

GOAL: Storm water and drainage system, Item 4.

NOTE: Promote reduction of pollutants "and litter" in the Bay....(add "and litter.")

**GOAL: Solid waste, item 5. (Community Infrastructure, Facilities and Services)**

**NOTE: Add additional policy: "Encourage entrepreneurial reuse of collected recycled items."**

**Infrastructure, Facilities and Services**

**GOAL: Water-Resource management, item 1.**

**NOTE: Strategic approach needs to include funding options. (See Note on Neighborhoods.)**

**GOAL: Storm Water and Drainage System, item 4**

**NOTE: Change "Review the creation of a more equitable billing system" to "Create a more equitable billing system."**

**GOAL: ADA compliance, item 7**

**NOTE: The ADA is 25 years olds; perhaps the word "quickly" or "immediately" should be added. Add an item, Conduct an audit to identify remaining non-compliant spots.**

**Future land Use, Zoing, and Urban Design**

**GOAL: Annexation plans. Item 6**

**NOTE: Until our current roads are all in good order, and our infrastructure/utilities are in good order, no annexation should take place. Recently annexed land in Chapman Ranch area should be de-annexed.**

**GOAL: Environment and Resilience.**

**NOTE: Preserve and protect "local watersheds and other" environmentally sensitive land and water. (Add local watersheds and other)**

**GOAL: Future Land Use map.**

**NOTE: De-Annex the Chapman Ranch area, and delay planned development on the South Side. FEMA maps, transportation issues and large amounts of infill property all provide support.**

**Stewardship and Implementation of the Plan**

**GOAL: Regular public review.**

**NOTE: Very likely the only people who will attend are those who benefit financially; somehow the new planning department needs be supported in their efforts to follow this plan, perhaps by providing incentives to those in the industry who will be most helpful by assisting and not resisting.**

**GOAL: Funding**

**NOTE: Have a grant writer, who works with other City grant writers, dedicated to finding and securing grants related to PLAN2035**