

GUIDELINES AND RECOMMENDATIONS FOR TXDOT INVOLVEMENT IN LOCAL DEVELOPMENT REVIEW

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Product 0-4429-P1
Project Number 0-4429
Project Title: TxDOT Involvement in the Local Development Process

Prepared in cooperation with the
Texas Department of Transportation
and the

Federal Highway Administration

February 2004

TEXAS TRANSPORTATION INSTITUTE
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College Station, Texas 77843-3135

ACKNOWLEDGMENTS

This project was conducted in cooperation with TxDOT and FHWA. The research reported herein was performed by the Texas Transportation Institute (TTI). Mr. Clay Smith, P.E., district transportation planning engineer of TxDOT's San Antonio District, served as the research project director (PD) and Ms. Julia Brown, interim district engineer of the San Antonio District, served as the program coordinator (PC).

The authors would like to thank the members of the Project Monitoring Committee for their advisement and guidance:

- Mr. Robert Appleton, Bryan District, Texas Department of Transportation;
- Mr. Andy Ballard, City of San Antonio, Texas;
- Ms. Maria Burke, Design Division, Texas Department of Transportation;
- Mr. Randy Hopmann, Lubbock District, Texas Department of Transportation;
- Mr. Tom Hornseth, County Engineer, Comal County, Texas;
- Ms. Melissa Neeley, Environmental Division, Texas Department of Transportation;
- Mr. Tony Palacios, Federal Highway Administration; and
- Mr. John Zimmerman, Right-of-Way Division, Texas Department of Transportation.

The authors would like to provide special thanks to Clay Smith and Julia Brown for sharing their years of experience and insight on the San Antonio District's process and cooperative efforts in local development review. They would also like to provide special thanks to Comal County engineer, Tom Hornseth, for his insights related to county thoroughfare planning and the use of 'local credits' for right-of-way acquired through the platting process.

The authors would like to thank other very helpful individuals for providing the research team with access to their experience, knowledge, and contacts throughout this research project:

- Mr. Ray Crow, County Road and Bridge Administrator, Brazos County, Texas;
- Mr. Richard Vance, County Engineer, Brazos County, Texas;
- Ms. Jane Kee, City Planner, City of College Station, Texas;
- Mr. Ken Fogle, Transportation Planner, City of College Station, Texas;
- Ms. Catherine Hejl, Bryan Area Engineer, Texas Department of Transportation; and
- Mr. Jay Page, Associate Bryan Area Engineer, Texas Department of Transportation.

The authors would like to thank the following individuals from TTI for their assistance:

- Mr. John Overman, research, assistance and guidance on NEPA;
- Mr. Russell Henk, review and input on draft report;
- Mr. Gary Lobaugh, graphics and formatting assistance;
- Ms. Pam Rowe, survey editing, and word processing;

- Ms. Meghan Wieters, research on county statutes, legislation, and county survey processing;
- Editors in TTI's Communications group.

Finally, the research team would like to thank the individuals who took the time to complete the surveys upon which a substantial portion of this research report is based. The research team appreciates the time and effort taken by these individuals from counties in Texas, selected cities, TxDOT districts, and other state departments of transportation (DOTs).

DISCLAIMER

The contents of this report reflect the views of the authors, who are responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official view or policies of the Federal Highway Administration (FHWA) or the Texas Department of Transportation (TxDOT). This report does not constitute a standard, specification, or regulation. The research supervisor in charge of this project was Edwin N. Hard.

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1.0 INTRODUCTION

The review of subdivisions and land development in the state of Texas has historically been the responsibility of cities and counties. With the exception of perhaps a few districts, over the years there has been limited collaboration between local jurisdictions and the Texas Department of Transportation (TxDOT) in the *planning stages* of development along state roadways. TxDOT involvement in local development review is important because decisions related to access and right-of-way along state roadways are made during the site development and platting stages of development. TxDOT's involvement in this process can serve as an important means to implement a statewide access policy, to protect and/or preserve state right-of-way, and to improve coordination in local thoroughfare and land use planning.

Apart from preserving resources and money, TxDOT involvement in local development will foster more successful development of land and transportation facilities as a result of better coordination between the agency and local entities. Increased coordination and collaboration between TxDOT and local jurisdictions will result in better decision making, more integrated thoroughfare and land use planning, and create more successful and sustainable growth through planning.

This report provides guidelines and recommendations for how TxDOT districts and/or area offices can and should be involved in the local development process, particularly in the review of site development plans and subdivision plats that affect state roadways. This product, P1, is also included in Report 0-4429-1, *Methods and Benefits of TxDOT Involvement in the Local Development Process*, and is in large part an extraction of the final chapter of Report 0-4429-1 into a stand-alone document containing only the guidelines and recommendations of the research. The guidelines and recommendations were developed based on findings and conclusions obtained from surveys of Texas cities, Texas counties, TxDOT districts, and the DOTs of many states around the country. Relative to the full 0-4429-1 research report, this document is intended to serve as a more easily utilized reference document for TxDOT districts and area offices involved in local development review.

2.0 BACKGROUND

This research examined the development review processes of cities and counties in Texas to evaluate and identify opportunities for TxDOT involvement and coordination on developments that impact state roadways. It assessed TxDOT's current level of involvement in the local development process and identified current districts coordinating with local entities, how and why they coordinate, and when in the development process their coordination takes place. The research examined county authority to address development concerns and evaluated legislation that speaks to a county's ability to develop thoroughfare plans and address development impacts along both state and county roadways.

The research also examined if and how local jurisdictions, particularly cities, obtain or preserve right-of-way along state roadways as part of regulation of local development and redevelopment. The project identified and assessed local development regulations that have a significant effect on state facilities and future TxDOT right-of-way needs.

3.0 EXPLANATION OF THE LOCAL DEVELOPMENT REVIEW PROCESS

The local development review process is the general steps or stages that cities and counties in Texas use to review and process development plans.

3.1 Example City Process

Many cities follow a multi-staged process in their review and approval of subdivision plats and site (development) plans. The length of the process may vary depending on the size of the city and the amount and complexity of its development regulations. A general example and definition of the stages of the city process and the general order in which they are reviewed and approved is provided below:

- A. *Development (Conceptual) Plan* – general map showing layout of proposed lots, streets, etc.;
- B. *Preliminary Plat* – map prepared to scale showing bearings/dimensions of proposed lots, streets, etc.;
- C. *Final Plat* – map conforming to preliminary plat with official requirements needed for filing for record;
- D. *Site (Development) Plan* – shows proposed layout of building(s), parking lot, and driveways on site;
- E. *Building/Construction Plans* – shows construction details of buildings/improvements on site; and
- F. *Issuance of Development/Building Permits* – permit providing permission to make improvements or begin construction on site.

3.2 Example County Process

The development review process used by counties includes several of the same stages as the above city process. However, it involves fewer stages since counties typically only review subdivision plats and not site plans. An example process used by many counties in reviewing and approving subdivisions/plats includes the three stages that are listed below:

- A. *Development Plan* – general map showing layout of proposed lots, streets, etc.;
- B. *Preliminary Plat* – map prepared to scale showing bearings and dimensions of proposed lots, streets, etc.; and
- C. *Final Plat* – map conforming to preliminary plat with signatories, dedications, and other requirements needed for filing for record.

As with cities, the development review process used by counties in the state may vary depending on the county's size and its urban or rural nature. A few counties in the state have been granted authority to regulate certain aspects of development due to special or unique local or regional conditions.

4.0 GUIDELINES AND RECOMMENDATIONS FOR TXDOT INVOLVEMENT IN LOCAL DEVELOPMENT REVIEW

The guidelines and recommendations of this research are arranged in 10 areas of discussion. They are discussed in subsections of this document in the following chronological order:

Area of Discussion	Subsection
Establishment of Local/TxDOT Agreement for Development Review	4.1
Establishment of Development Review as a Routine Work Activity	4.2
Plan Review, Development Meetings, and Coordination	4.3
TxDOT Involvement on Development (Concept) Plans	4.4
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TxDOT Involvement to Reduce Future Right-of-Way and Project Costs	4.7
Coordination with Counties on Plats and Thoroughfare Planning	4.8
Local Involvement and Assistance in the NEPA Process	4.9
Potential Legislation and Changes to Transportation Code	5.0

The sections to follow, as outlined above, provide insight, guidelines, and recommendations for improving coordination between TxDOT and local jurisdictions in development review as well as in local and regional transportation planning.

4.1 Establishment of Local/TxDOT Agreement for Development Review

Based on survey findings, all of the coordination between TxDOT and cities throughout the state is informal in nature. Coordination is taking place between the staff members of cities and districts or area offices who, in many cases, have developed good working relationships to properly review and process development. While this is to be commended, there is no guarantee it will continue after turnover of local and TxDOT staff, city councils, and county commissions. Attrition of key staff members or administrators within any of the organizations could result in an end to or a setback in cooperative efforts in local-state development review that have taken years to establish and have evolved over time.

In light of this, some form of continual and renewable agreement is needed between TxDOT and local jurisdictions to avow the importance and purpose of coordination in development review and to identify and clarify the roles and responsibilities of each entity. Many cities and districts have municipal maintenance agreements in place which establish each entity's responsibility for maintenance (e.g., mowing, street sweeping, etc.) in and along state rights-of-way within a city. The agreements are reviewed and revised from time to time, and their terms may be effective for several years or be renewed on an annual or biannual basis.

Cooperative Development Review Agreements

A ‘cooperative development review’ agreement similar to a municipal maintenance agreement could be used between TxDOT and local jurisdictions for coordination and cooperation in local development review. The agreement would acknowledge and require TxDOT’s review and input on all site development plans that affect state roadways. Like a municipal maintenance agreement, the extent and scope of the agreement could be developed unique to each area. However, it would be beneficial to start from a prototype or standard draft agreement.

Interlocal Agreements/MOUs

A local entity/TxDOT agreement on development review coordination could also be in the form of an interlocal agreement or a memorandum of understanding (MOU) that outlines TxDOT’s involvement in the development review process and how local jurisdictions will revise their review process to include TxDOT. The Transportation Code requires TxDOT to develop MOUs with state agencies to provide a formal mechanism by which affected agencies can review TxDOT projects that have the potential to affect an agency’s interests. A similar form of MOU could be developed between TxDOT and local jurisdictions related to cooperative local-state development review. A key element of the agreement would be designation of staff positions within each organization that would serve as liaisons or contact persons and stewards over local-state efforts in thoroughfare planning and development review.

4.2 Establishment of Development Review as a Routine Work Activity

Districts and/or area offices should make local development review a routine and consistent element of its work activities. In doing so, they should budget the necessary amount personnel and monetary resources to properly perform this function. Oversight of TxDOT’s local development review activity should be the responsibility of an engineer or planning staff member. This individual needs the authority to be able to make decisions on behalf of TxDOT and to represent the organization at local development review meetings.

The level of TxDOT staff needed for local development review will vary depending on the amount of development activity within a given district. For districts and area offices that currently do not have staff time and personnel dedicated to this activity, a good indication of the amount of time and personnel resources needed can be obtained from TxDOT offices that have processes in place for development review such as the San Antonio, Austin, and Bryan Districts. A comparison of amount of staff time allocated to the number of site plans and plats processed in each of these districts could be used to estimate needs in other areas.

Each district and area office should have at least one person designated to serve as the liaison or contact person to cities and counties for local development. In urban or suburban districts and area offices with mid- and large-sized cities and steady growth, coordination with local entities and development review could be a contact person’s sole or primary work activity. For districts and area offices that are more rural in character with less growth, local coordination and development review may be one of many job responsibilities of the local liaison.

4.3 Plan Review, Development Meetings, and Coordination

TxDOT should review all plans and plats that impact state roadways. These should include:

- all developments that abut or have access to state roadways; and
- major developments, such as shopping centers, big box retailers, and major employers that would be located in close proximity to state facilities.

The research found that many districts received some or all local plats and site plans and agendas for development review meetings. It found that TxDOT reviewed and provided comment on site plans and some attended local development review meetings, but in many cases, it did not appear that this occurred on a routine basis. It is important for TxDOT to look at, review, and provide comment on all plans, not just those that appear to be of most significance on a development review agenda.

Consistency Needed in Local/State ROW Requirements

Coordinated development review would be facilitated if local and state design and right-of-way (ROW) requirements for on-system facilities were consistent. As part of local-state coordination in development review, local entities and TxDOT should review and discuss applicable requirements. Where possible, TxDOT's or mutually agreed upon right-of-way and/or design requirements should be incorporated into local development codes (unified or otherwise).

Attendance at Local Development Review Meetings

TxDOT should attend local development review meetings, where possible. Attendance at these meetings will allow agency representatives to communicate directly with all stakeholders (e.g., city, developer, and franchise utilities) and gain a better understanding of the developments under review, the issues and concerns of other stakeholders, and the process. It will also help to foster good working relationships with local staff planners/engineers and developers and help to familiarize TxDOT with local development regulations. Importantly, it will serve to make other stakeholders aware of TxDOT requirements and expectations, which in turn will save time in the long run.

More Communication from TxDOT Area Engineers

In addition to TxDOT participation in development review meetings, TxDOT area engineers should become more active in coordinating and communicating with local staffs, councils, and commissions. Area engineers should work with local entities and establish a recurring meeting schedule to discuss planning and development of upcoming projects and to explain the mutual benefits of coordination early in the process. At a minimum, area engineers should meet with local entities on an annual basis; however, meetings on a semi-annual or quarterly basis may be needed in areas where there is ample growth and development activity.

How TxDOT and local jurisdictions coordinate on local development may vary by district, area office, and communities. How it occurs, to a large extent, will be a function of the local development case load, the amount of development activity, and personnel resources

available. It will also be a function of the development process of the local jurisdiction and its development regulations.

Ideally, the coordination should occur directly between TxDOT and local jurisdictions. The research found that some local entities rely on developers to coordinate with TxDOT. If this is the case, it is important that TxDOT and local jurisdictions follow up with one another to ensure developers follow through with requirements and decisions. Direct coordination is preferred, particularly for districts/area offices and local entities that do not have a routine cooperative process in place. Without direct coordination, each entity does not benefit from acquiring information on the others plans, upcoming and ongoing projects, and regulations.

4.4 TxDOT Involvement in Development (Concept) Plans

In many communities, the development plan is an optional first step in the development process. It is a map or plan showing the general layout of proposed lots and streets, intended land uses, and in some cases building footprint locations. It is typically not required for all developments but is commonly required for major subdivisions and commercial developments that will be phased and developed over time.

TxDOT should review development (concept) plans that are near or adjacent to state roadways for many reasons. These plans are often used for large, major residential and commercial subdivisions that could have significant impacts to state roads. Decisions made in the development plan will be used to guide subsequent platting and site development. It is at this stage in the process that TxDOT's input could be of most benefit with respect to access and right-of-way. Such input could help determine location and number of driveways and any corresponding shared and/or cross-access easements needed in the platting process. It could also preclude property from being platted in such a way that improvements and structures on the site would have a negative impact on existing state right-of-way or be in conflict with future plans to widen the roadway. Obviously, this first stage in the development process would be the best time for developers to be made aware of any TxDOT plans to widen the roadway in order for additional right-of-way (if needed) to be taken into account in the development's subsequent platting and site development plans.

4.5 TxDOT Involvement in Local Platting

TxDOT should be included in the review of all preliminary plats by cities and counties that are adjacent to state roadways. Its involvement should be at the preliminary plat stage and prior to the final plat. The final plat must conform to the approved preliminary plat, and in most cases, changes or revisions (unless very minor) from the preliminary plat cannot be made at the final plat stage.

TxDOT Involvement in Platting to Manage Access

TxDOT should be involved in local platting to undertake or assist in planning and management of driveways and access points along state roadways. Consideration of access as part of the platting process is imperative to implement a statewide access management program and to properly manage driveways along a thoroughfare or corridor. This is because the amount

of roadway frontage of a property is a primary factor in the number and location of driveways that will be allowed when it develops (or redevelops).

Many local access ordinances regulate the number and location of driveways by requiring that they be spaced a minimum distance apart. Such ordinances include different spacing requirements for each type of thoroughfare included on the local transportation plan. However, these separation distances will not be met if property along a state roadway is platted into narrow tracts with small amounts of frontage. As each tract is individually sold and developed over time, it will almost always be allowed its own driveway, even if it does not meet proper driveway separation requirements. This is because denial of access could be considered a taking.

TxDOT should review plats and work with local jurisdictions to try and prevent property along state roadways from being platted in such a way that could lead to a proliferation of driveways. When properties along state roadways are proposed to be platted into tracts that will not have sufficient frontage, TxDOT should work with local jurisdictions to require access easements on plats to create shared driveways in order to meet proper driveway spacing requirements. The use of joint and cross-access easements can be an important tool in managing access along state roadways.

TxDOT Involvement in Platting to Coordinate in Area Thoroughfare Planning

TxDOT should be involved in platting to help ensure that local transportation planning is carried out considering the plans and needs of state roadways (as well as local thoroughfares). Platting is one tool used by local entities to implement their thoroughfare plan. Local development regulations relate to the entity's thoroughfare plan and corresponding design and right-of-way requirements for the roadway classifications shown on the plan. Local transportation plans commonly contain both city and state roadways. The amount of right-of-way required for a state roadway on a local plan may not be the same as what a TxDOT district requires for the same roadway. Without TxDOT input, local jurisdictions may not consider TxDOT's future right-of-way needs when processing plats along state facilities. This can create significant and costly problems because most local development ordinances regulate on-site improvements relative to right-of-way location.

TxDOT and local entities should coordinate and review the amounts of right-of-way required by local plans for all state roadways included on the plan to ensure that local and state right-of-way amounts are consistent. The research found some Texas cities where local right-of-way amounts being applied were not the same as TxDOT's. Most cities thought that their right-of-way amounts were the same or generally the same as TxDOT's, but even a small difference could have costly consequences as development occurs over a period of years.

TxDOT Involvement in Platting to Protect or Preserve State Right-of-Way

TxDOT should increase and/or provide early communication and coordination with local entities for existing on-system facilities that are planned for rehabilitation or widening and for new state facilities that are planned. Moreover, TxDOT should work closely with local entities to ensure that additional state right-of-way that is needed is preserved or dedicated as property is platted along existing state facilities or in an area where a new state facility is planned. Dedication or preservation of state right-of-way as part of the local platting process could significantly reduce right-of-way and project costs when the project is developed.

The majority of cities surveyed in Texas for this research indicated that they acquire or preserve right-of-way along state facilities as part of their platting process. How it is done appears to differ slightly among cities depending on their legal comfort level with respect to dedication versus preservation. While some cities may require developers to dedicate property for future state right-of-way, others may only elect to require developers to reserve the right-of-way for future public use. Important factors that cities consider in right-of-way dedication or preservation include the amount of right-of-way required, its reasonableness related to the development in question, and the stage of planning TxDOT is in on the project for which right-of-way is needed. If TxDOT is in the advanced planning stage and/or has preliminary design schematics prepared for the project, more specific information is known about the amount and location of needed right-of-way and cities will be much more inclined to acquire the right-of-way during platting.

When property is reserved, developers are not allowed to develop or make improvements on the portion of their site that has been identified as a reserve for future right-of-way. This will ensure that parking lots and structures are not built on the portion of the tract that is reserved for future state right-of-way. When TxDOT is ready to develop the facility, perhaps many years later, it will then purchase the right-of-way reserve from the landowner. While right-of-way reserves do not transfer property ownership to the local entity, they help to reduce the costs of future right-of-way acquisition by ensuring that TxDOT will not pay damages for removal of improvements such as parking lots or buildings.

When cities require dedication of property along state facilities, it does not become the property of TxDOT. Right-of-way dedications are normally made to the local jurisdiction, or in some cases, it may be dedicated 'for public use.' Exactly how right-of-way is acquired or reserved in the local platting process will vary from city to city. TxDOT districts and area offices should coordinate with cities on state facilities in need of additional right-of-way and establish how the additional needs can be taken into account on plats.

Credit for Property Acquired through Local Platting

TxDOT should allow property that is dedicated as part of the local platting process to count toward a city's (or county's) locally required funding match to the state project for which the right-of-way was acquired. The amount of this match would be equal to the appraised value of the property. If TxDOT would allow this credit, it could foster increased local-state coordination in platting by providing cities more incentive to work with TxDOT. By the same token, TxDOT's incentive for crediting right-of-way dedication as a match would be reduced right-of-way costs and a reduction in staff time needed in acquiring right-of-way.

4.6 TxDOT Involvement in Site Plan Review

TxDOT should review all site plans that are adjacent to state roadways to ensure that TxDOT's interests are taken into account in local development review. It should also review site plans for large developments such as major shopping centers, big box retailers, and major employment centers that are in close proximity to state facilities.

Partnering with Locals and Early Involvement

TxDOT should be involved in site plan review to assist and partner with local staff to ensure that sites impacting state facilities are designed and developed in accordance with all applicable plans, plats, and regulations. Coordination and support between local and TxDOT staff could be helpful in instances where economic and political motivations are present that influence site design.

Research found that the primary purpose for TxDOT involvement in site plans is for driveways and driveway permitting. It found many good cooperative efforts between cities and districts in site plan review; however, it also found some cases where TxDOT's initial involvement occurred at the time of application for a driveway permit, after the plat and site plan were already approved. The researchers believe that some survey respondents may have equated coordination with a city for the site's driveway permit with 'site plan review.'

TxDOT should be involved early in site plan review and, in coordination with local staff, should review the number and location of driveways for conformance to proper spacing requirements and the site's approved plat (as currently done in the San Antonio District). It should be involved well in advance of the application for a driveway permit. This is because the application for a driveway permit occurs near the end of the development process, after plat and site plan approval and just prior to construction. The purpose of the driveway permit is usually for review and comment on driveway design, its drainage impact, and how it should tie into the existing state roadway. Earlier involvement on TxDOT's part will allow input on the number and location of driveways and give TxDOT the benefit of considering other factors, such as internal circulation, as part of any input or recommendations they may have on the site.

TxDOT Review of Site Elements Other than Driveways

In addition to driveways, TxDOT should be involved in reviewing other important elements of site plans that impact state roadways. Local development ordinances are applied at the site plan review stage to regulate or guide the layout of buildings and structures, access and on-site circulation, drainage, and parking. Most of these ordinances regulate development on the site in relation to TxDOT right-of-way. TxDOT should have input into the development of the ordinances and assist in decisions related to structures, parking, circulation, drainage, and in some cases landscaping and signage. Such input could help reduce potential negative impacts on state right-of-way, preclude improvements being made that would be in conflict with future state improvements, or help improve aesthetics along on-system facilities.

4.7 TxDOT Involvement to Reduce Future Right-of-Way and Project Costs

In the years preceding a state facility's widening, TxDOT should review and provide input on driveways, parking lots, building setbacks, and other site elements for new developments or redevelopments. The agency's involvement in local development review along these facilities could significantly reduce project costs when the road is eventually widened years in the future. Local site plan review may not consider the widening of a state roadway if there is no coordination with TxDOT.

Review of Driveways along Roads Planned for Widening

In review of development or redevelopment along on-system facilities to be widened, TxDOT should work with local entities to ensure that access to the site is designed such that it will still be safe and functional after the roadway is widened. If one or more driveways need to be removed when the roadway is widened, a site may no longer be able to function as its existing use and TxDOT could potentially have to pay damages. For example, if removal of a driveway to a gas station changes the internal site circulation such that use of the gas pumps is no longer possible, this removal could lead (at least in part) to the business' closure and payment of damages as part of the project's cost.

Review of On-Site Parking along Roads Planned for Widening

TxDOT should be involved with local jurisdictions in the review of parking lot setbacks and layout on sites along state roadways planned for future widening. Such coordination could help preclude removal of on-site parking and payment of damages in future widening projects. TxDOT involvement would make local city staff and the development community aware of the future back-of-curb and right-of-way locations so that these could be considered in site plan design and review. With this knowledge, the city could increase its parking setback requirement on new development or redevelopment in order for sites to develop with future improvements taken into consideration.

Local decisions made during the site plan review process related to parking lots adjacent to TxDOT facilities have significant impacts on future state projects. Key elements in many parking ordinances typically include parking lot design, setback from the right-of-way, and the amount of parking spaces required. If state widening plans are not considered in the design and placement of parking lots, it could result in the removal of on-site parking and payment of subsequent damages when the road is widened. Such costs could be significant since parking lots are frequently designed with rows of head-in parking spaces parallel and adjacent to state right-of-way. For developed sites, removal of parking could reduce its amount of spaces below what is required by city ordinance. When this occurs, a city may consider it non-conforming from a parking standpoint, which could further increase TxDOT's costs of damages.

Review of Building Setbacks along Roads Planned for Widening

TxDOT, in coordination with local jurisdictions, should closely review building setbacks on development plans along state facilities that are planned for future widening. A building setback is the distance a structure is required to be set back from the existing right-of-way. If development review staff in local jurisdictions is aware of future right-of-way locations for planned TxDOT widenings, they can base the building setback requirement on the future right-of-way location instead of its existing location. If building setbacks are based on the existing right-of-way, it could result in the costly purchase and removal of buildings when the roadway is eventually widened.

Other Local Development Regulations TxDOT Should Consider

TxDOT, in coordination with local jurisdictions, should review the location of landscaping and signs in reviewing development plans along state facilities that are planned for

future widening. Many municipal landscape ordinances are structured to require a significant amount of its landscaping near or along the site's roadway frontage. If this landscaping is located in an area that will be acquired by the state, TxDOT could be required to pay damages and costs for new landscaping. Similar to parking, the removal of landscaping on existing development could result in a site becoming non-conforming with respect to a city's landscape requirements.

If signs are required to be moved, TxDOT could also be required to pay for the costs of relocating the old sign or purchasing and installing a new sign. Many cities impose regulations on signs as part of site plan review. Key elements in local sign ordinances include sign size, height, and location. As with driveways, parking lots, and building setbacks, coordination between local entities and TxDOT on the location of landscaping and signs as part of the local site plan review process could reduce project costs and delays on existing state facilities planned for future widening.

4.8 Coordination with Counties on Plats and Thoroughfare Planning

As with cities, TxDOT should establish a proactive initiative in districts and area offices to routinely receive and review county plats that affect state roads. Improved coordination for access management and right-of-way preservation would benefit districts and counties. Advantages such as improved ability to complete important state roadways in the area, decreased ROW costs for future roadway construction, and improved awareness of future projects in the area by both entities make county-TxDOT coordination mutually beneficial.

Development Review Agreements with Counties

TxDOT should enter into cooperative development review agreements or MOUs with counties that routinely review and process plats. For the most part, these should include counties located in and around urban and suburban areas and those located wholly or partially within a metropolitan planning organization (MPO) and/or designated Transportation Management Areas (TMA) in the state. The agreements should be continual and renewable, avow the importance and purpose of county-TxDOT coordination in plat review, and identify and clarify the roles and responsibilities of each entity.

Survey responses from counties indicated that increased interest and communication would be needed for better coordination in the platting process between counties and TxDOT. This situation could be improved by the leadership, administration, and/or management of each entity in educating staff on the benefits and importance of coordination and establishing it as a higher priority within districts and counties. Coordination in county platting has become more important than ever due to recent legislation passed giving many counties the ability to develop and enforce thoroughfare plans.

Coordination with Counties in Thoroughfare Planning and SB 873

State legislation passed in 2001 creates an important opportunity for TxDOT and county coordination in thoroughfare planning. Senate Bill (SB) 873 provides some counties in Texas with the authority and ability to adopt and enforce a major thoroughfare plan, so long as it is consistent with an MPO's adopted plan. It applies to counties with a population of 700,000 or

more or to counties that are adjacent to one of these counties. It also applies to counties with a population of 150,000 or more that are adjacent to the Texas-Mexico border. The bill allows counties to establish right-of-way limits up to 120 feet, or potentially greater than 120 feet if such a requirement is consistent with an MPO's plan for the area.

TxDOT should support legislative issues that promote thoroughfare planning in counties. Senate Bill 873 provides an important impetus for TxDOT (along with MPO member entities) to work with counties in developing a county thoroughfare plan that coordinates county and state facilities and includes provisions for new state facilities or widening plans for existing on-system roadways. TxDOT and other MPO member entities should work closely with counties in developing their plans and ensure that consistent right-of-way amounts are established. With this new legislation, counties have the ability to require developers to dedicate or preserve right-of-way for state facilities that are included on the county's plan.

While Senate Bill 873 provides the important ability for certain counties to adopt and enforce thoroughfare plans, the bill does not apply to many counties and surrounding counties of growing areas in the state where it could have a significant impact. TxDOT should support and encourage that SB 873 be expanded to include counties located wholly or partially within all MPOs and TMAs of the state or to counties having one or more municipalities with a population over 10,000. As adopted, Senate Bill 873 does not apply to counties and surrounding counties in growing areas of the state such as Tyler/Longview, Bryan/College Station, Corpus Christi, Midland/Odessa, and numerous other significantly populated areas that could benefit from the ability to develop and enforce thoroughfare plans at the county level.

County Credit for Property Acquired through Platting

Coordination between TxDOT and counties is of mutual benefit to both entities. Cities and counties are required to contribute a certain monetary amount, termed a 'local match,' to help pay for the construction and right-of-way costs of new or improved state roadways in their jurisdiction. In many small cities and rural counties, the local match is difficult or impossible to meet because of their small tax base.

TxDOT should allow property that is dedicated as part of the county platting process to count toward a county's required funding match to the state project for which the right-of-way was acquired. The amount of this match should be equal to the appraised value of the property. If TxDOT would allow this credit, it could foster increased county-TxDOT coordination in platting by providing counties more incentive to work with TxDOT.

In order for counties to be more successful in implementing Senate Bill 873, TxDOT and other MPO member entities may want to lend their transportation expertise to particular counties with lesser staff resources in order to assist in developing a major thoroughfare plan. Assisting in developing a transportation network ahead of development, even for non-state roads, may ultimately benefit TxDOT through better access management and prioritization of roadways, better planning for future roadways and future expansion of existing roadways, and reduced acquisition costs and conflict points for future roadway projects.

Legislation is slowly granting counties more authority to protect and preserve land to address statewide interests such as flooding (§240.901), outdoor lighting (§240.031), recreation areas (§231.103, 132, 201), and building standards in the border region (§236.002). This is

beginning to open the discussion to address how the lack of land-use controls in counties impacts the transportation system.

4.9 Local Involvement and Assistance in the NEPA Process

Participation by local jurisdictions in environmental clearance should be encouraged through basic education and awareness of the environmental clearance process. The objective would be to inform local jurisdictions of the type of basic information that would save TxDOT or consulting engineers and planners time in information gathering. Although expediting the environmental clearance process hinges largely on the review time by environmental resource agencies, local involvement in the early stages of development saves time by not having to re-visit and re-open issues already resolved.

For on-system projects within cities, TxDOT should, at a minimum, involve cities in the environmental clearance process to the extent that it would provide them basic education and awareness of the National Environmental Policy Act (NEPA) process requirements. This would help to eliminate the confusion and mystery of the NEPA process for local jurisdictions, facilitate the sharing of information that is useful in the NEPA process, and further streamline the information collection and dissemination process being performed by TxDOT or its consultant.

TxDOT could allow local jurisdictions to undertake basic environmental tasks where the local jurisdiction has firsthand knowledge or information that is not easily obtainable by environmental planners usually responsible for the clearance process. In particular, local participation in environmental clearance tasks should include:

- public involvement assistance in targeting the appropriate audience,
- development of a purpose and need statement,
- community impact assessment screening assistance,
- cultural resources screening information,
- natural resources screening assistance, and
- hazardous materials screening assistance.

The objective of screening for these categories is to identify what are referred to as ‘fatal flaws’ very early in the process. These are typically adverse situations that are known to exist that would impede development and require mitigation and corrective action of some kind.

Local Involvement in TxDOT Advanced Planning to Expedite Projects

For local jurisdictions that are willing to expend the funds, TxDOT should allow them to take an increased role in advanced planning and environmental clearance for the purpose of potentially expediting a project that is of high local priority. Local jurisdictions could retain and fund qualified engineering consultants to undertake select portions of the environmental clearance process, if done according to TxDOT guidelines and requirements. General guidelines for considering this option are as follows:

- TxDOT should be included in the development and review of any local requests for proposal or solicitation for consulting services.

- TxDOT should be included with the local jurisdiction in review of consultant proposals, and TxDOT and the local jurisdiction must agree on consultant selection for it to move forward.
- The TxDOT district or area office should enter into an agreement with the local jurisdiction that clarifies the roles and responsibilities of TxDOT, the local jurisdiction, and the consultant.
- Before proceeding with this arrangement, TxDOT should advise local jurisdictions that there is no guarantee that funds will be available for the project after the consultant's services are complete (if indeed this is the case).

The research found that local involvement and assistance in environmental clearance and preliminary engineering of state roadways is not uncommon in Texas or in other states. Surveys of other state DOTs provided numerous examples of cities and DOTs coordinating in this area.

Example of Local Involvement in Advanced Planning

Research Report 0-4429-1 includes an example of local involvement in TxDOT's advanced planning and environmental clearance process. In this example, the City of College Station and the Bryan District entered into an 'advanced funding agreement' in order to potentially expedite an on-system project that is of high priority to the city. Under the agreement, the city will fund and prepare (by way of consultant) the schematic design, environmental assessment, right-of-way documents, and the plans, specifications, and estimates for the construction of a new interchange. In doing this, the city and the district are creating a 'shelved project' that will be ready to proceed to construction in the event discretionary funds become available.

As part of the agreement, TxDOT will be responsible for providing traffic projections, leading public involvement, and reviewing or processing the documents and efforts to secure approvals by the applicable state and federal agencies of the design schematic and the environmental documents.

Projects in which local jurisdictions could participate or assist TxDOT in advanced planning or preliminary engineering are those that are of high priority to a city, but that are not yet ranked high enough to be earmarked for near-term funding and placed on an MPO's or district's Transportation Improvement Program (TIP). If this is pursued, local jurisdictions should be made clearly aware that they are expending local funds with the knowledge that state funding may not be available for these projects for many years, if ever.

5.0 POTENTIAL LEGISLATION AND CHANGES TO TRANSPORTATION CODE

This section contains recommended legislation, changes to the Transportation Code, or changes in TxDOT policy that should be drafted to help facilitate the implementation of TxDOT involvement in the local development review process. The legislative and policy changes recommended below will serve to increase interaction between local jurisdictions and TxDOT by making coordination on developments that impact state roadways mandatory, as it is in numerous other states. It will also serve to provide structure and clarity on the roles of each entity in development review through the use of cooperative development review agreements for development review between certain cities and districts throughout the state.

5.1 Allowing/Requiring TxDOT Review of Development Adjacent to State Roads

Change to TxDOT policy and/or Title 43 (Transportation) of the Texas Administrative Code is needed to allow and require TxDOT review and input on site development plans and subdivision plats that are adjacent to state roadways. The change should also be applicable to large (often multi-phased) developments that are not directly adjacent to TxDOT roadways but whose traffic significantly impacts state roadways that are in close proximity. The policy should be applicable to development processed by either cities or counties in Texas. Cities, counties, and districts that have little or no development activity would not be impacted by this change or impacted only slightly.

5.2 Requiring ‘Cooperative Development Review’ Agreements

Just as legislation was passed to require cities and counties in Texas to establish agreements related to platting in extraterritorial jurisdictions, legislation is also needed to require TxDOT districts and local jurisdictions to establish cooperative agreements to formalize cooperative efforts in the review of local development that impacts state roadways. The legislation should be drafted such that development review agreements are only required with cities at or above a certain population threshold and/or a development activity threshold.

The research found that four of the 17 states of the DOTs that were surveyed had statutes in place requiring local and DOT coordination during the review of development that impacts DOT roadways. Making coordination mandatory instead of voluntary would serve to increase the importance and priority of local development review by TxDOT. Whether or not TxDOT should support or pursue legislation for local development review agreements is ultimately a policy decision that weighs the importance and benefits of development review relative to its impacts on resources and work activities of districts around the state.

Agreements requiring coordination during development review would serve as an impetus for districts and cities that are not coordinating and ensure that existing cooperative efforts will remain in place with turnover of staff, agency administration, city councils, and county commissions. The loss of key staff members or administrators within any of the organizations could result in an end to or a setback in cooperative efforts in local-state development review that have taken years to establish and have evolved over time.

5.3 Giving Counties Authority to Manage Access

Access management and regulation is a tool that is imperative to maintaining and implementing a thoroughfare plan. Along with the new authority for select counties to establish a thoroughfare plan (SB 873), such counties will also need the authority to regulate the location, design, and spacing of access to properly implement and maintain functional classes of roadways identified on the county plan. As platting occurs and properties develop and redevelop over time, access management should serve as an important means by which counties retain or attempt to achieve a roadway’s intended function.

TxDOT should also support and encourage new legislation that would provide Texas counties with the authority to regulate the location, design, and spacing of access for new development or redevelopment to county and state roadways that are not located within the corporate limits of a city or its extra-territorial jurisdiction (ETJ). TxDOT should support and

encourage the development of county driveway regulations that correspond to the functional roadway classes of roadways on a county's and/or an MPO's thoroughfare plan.

5.4 Allowing Credit for Right-of-Way along State Facilities Acquired through Local Platting

Current FHWA and TxDOT policies related to right-of-way acquisition would not allow property that is dedicated as part of the local platting process to count toward a locally required funding match to the state project for which the right-of-way was acquired. FHWA regulations would allow this credit if the subject property was donated to the local jurisdiction, but not permit it if the property was acquired via a (presumably forced) dedication. Provisions in TxDOT's Right-of-Way Manual indicate that property that has been acquired by a local jurisdiction for public road purposes before TxDOT authorization for project right-of-way funding should be made available to TxDOT at no cost. The manual does not address whether or not TxDOT should have to compensate local jurisdictions for this property if they acquired it after TxDOT authorization for project right-of-way funding.

TxDOT should adopt a policy and pursue changes to the Transportation Code (Title 43) and TxDOT's Right-of-Way Manual that would provide local jurisdictions credit for right-of-way needed for a state facility that is acquired or preserved through the platting process of a city or county. Cities and counties in Texas are required to pay a local funding match for most state highway improvement projects that take place within their jurisdiction. TxDOT should provide a credit to local jurisdictions to apply toward their local funding match in an amount equal to the appraised value of right-of-way needed for a state project that was acquired via the local platting process. TxDOT should also provide a credit to local jurisdictions to apply toward their funding match in an amount equal to a percentage of the appraised value of right-of-way needed for a state project that was reserved via the local platting process. The percentage to be applied could be determined on a case-by-case basis and/or determined based on further research and analysis.

6.0 WORKSHOPS

This research project involved the compilation of information on TxDOT's involvement in local development review, including its methods and benefits and examples of cooperative efforts being used today. Data and information obtained in the research could be used for the conduct of workshops to implement this research through training TxDOT personnel, and perhaps even local agency planners, in the methods, benefits, and importance of local-state coordination and cooperation in development review. It is recommended that an implementation project be established to conduct a series of workshops to promote and advance cooperative efforts in development review between TxDOT and local jurisdictions.

The workshop would provide training to TxDOT district and area office personnel on the importance, purpose and need for their involvement at various stages in the local development process. It would also provide insight into the local development process, how the process impacts state roadways, and guidance for agency staff on how it can most effectively be involved in local development review.