



By *Michie Matlock*
02/18/2022

ORDINANCE NO. 20-72

AN ORDINANCE OF THE CITY OF GRANBURY, TEXAS, ("CITY") ENACTING A MORATORIUM STAYING THE ACCEPTANCE AND PROCESSING OF ANY AND ALL PLATS IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION, PROVIDING FOR FINDINGS OF FACT, DEFINITIONS, APPLICABILITY, PURPOSE, ENACTMENT, DURATION, EXTENSION, EXCEPTIONS AND EXEMPTIONS, DETERMINATION AND APPEALS, REPEALER, SEVERABILITY, ENFORCEMENT, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Granbury, Texas ("City") is a Home-Rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the Granbury City Council ("City Council"), as a duly-elected legislative body, finds that it is facing significant historic and contemporary land use challenges that exist due to the lack of capacity of the current wastewater collection system and limited capacity in the current treatment facility and delay in securing a permit from Texas Commission on Environmental Quality ("TCEQ") for the building of a new wastewater treatment facility; and

WHEREAS, the City Council finds that the City has been actively and diligently engaged in its assessment of the City's wastewater treatment program, including evaluating its necessity for a new treatment facility, purchasing land for said facility, performing design and engineers for said facility and requesting the proper permits from the TCEQ to build said facility and wastewater collection and treatment improvements; and

WHEREAS, Texas Local Government Code Section 51.001, provides the City general authority to adopt an Ordinance or police regulations that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, Texas Local Government Code Chapters 211, 212, 213, 214 and 217 grant the City certain regulation authority concerning construction, land use, nuisances, structures and development-related activities; and

WHEREAS, the City seeks to ensure that impending and future development is conducted in an environmentally, fiscally-sustainable, and responsible manner that honors the City's unique ecological makeup and rich heritage; and

WHEREAS, the City will not be able to collect and process the wastewater if unlimited growth and development should occur under the City's existing facilities in certain portions unless the City adequately addresses these concerns about the effect of development on the City without

additional and properly designed and constructed wastewater collection and treatment facilities;
and

WHEREAS, in 2017, the City commissioned engineering firm, Enprotec / Hibbs and Todd, Inc. to perform a master study of the City's wastewater treatment collection and treatment facilities. The study illuminated the need for an additional wastewater treatment facility(s); and

WHEREAS, in 2017, Enprotec / Hibbs and Todd, Inc. provided the City with a study including the data necessary to determine the necessity for an additional wastewater treatment facility(s) for a twenty-year time frame; and

WHEREAS, the City has been diligently evaluating and assessing the findings in the 2017, Enprotec / Hibbs and Todd, Inc. Wastewater Study; and

WHEREAS, the City held sessions on June 5, 2018 to review the findings of the Enprotec / Hibbs and Todd, Inc. Wastewater Study with the public; and adopted the study of Enprotec / Hibbs and Todd, Inc.; and

WHEREAS, additional wastewater treatment facilities are needed to allow for growth and development within the City Limits and Extraterritorial Jurisdiction ("ETJ") while protecting the environment, health, safety, quality of life, and general welfare of its residents; and

WHEREAS, the City has submitted to TCEQ a permit request for a new wastewater treatment plant needed to accommodate the future development and economic growth which is consistent with the findings of the Enprotec / Hibbs and Todd, Inc. Wastewater Study; and

WHEREAS, there has been delay in the issuance of the necessary permits from the TCEQ impacting further development and issues that will affect future growth and organized and planned development of the area within its jurisdiction; and

WHEREAS, the City finds this permitting process from TCEQ will require a reasonable amount of time to complete; and

WHEREAS, in order for the City to have adequate and reasonable time to process the permit and to consider the impact upon future growth, the natural environment, public health and safety, development, and places of architectural, and ecological importance and significance within the City Limits and ETJ, the City wishes to maintain the status quo by implementing a moratorium, during which applications for development, including all Plats to include: Record Plats, Final Plats, Preliminary Plats, Replats, Amending Plats, Minor Plats and Development Plats and/or approvals will be suspended; and

WHEREAS, the City Council of the City of Granbury has reviewed and accepted the written findings attached hereto as Exhibit 'A', identifying the shortage of essential public wastewater facilities in summary that show:

1. Evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that are expected to result from new property development, including identifying:
 - a. Any essential public facilities currently operating near, at, or beyond capacity; and
 - b. The portion of that capacity committed to the development subject to the temporary moratorium; and
 - c. The impact fee revenue allocated to address the facility need; and
2. Evidence demonstrating that the temporary moratorium is reasonably limited to:
 - a. Areas of the municipality where a shortage of essential public facilities would otherwise occur; and
 - b. Property that has not been approved for development because of the insufficiency of existing essential public facilities; and

WHEREAS, the City's program for addressing issues during this temporary moratorium includes: planning, regulating, building, and educating; and

WHEREAS, in recognition of the importance of Plat applications as defined herein, and approvals to the development community, the City desires to implement this moratorium for a stated and fixed time period, and to include a waiver provision in accordance with Local Government Code Chapter 212, Subchapter E.

WHEREAS, the City Council finds that the enactment of this Ordinance is directly related to the immediate preservation of the public peace, health and/or safety, and thus should be adopted as a measure that is effective immediately upon its adoption and execution.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRANBURY, TEXAS, AS FOLLOWS:

SECTION 1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as legislative findings of fact as if expressly set forth herein.

SECTION 2. DEFINITIONS

As used in this Ordinance, these terms shall be defined as follows. Terms appearing in this Ordinance but not defined herein shall have the meanings provided in the City's Code of Ordinances, or if not defined by the City then the common meanings in accordance with ordinary usage.

1. Commercial property: means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.
2. Essential public facilities: means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

3. Permit: means a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.
4. Project: means an endeavor over which a regulatory agency exerts its jurisdiction and for which one (1) or more permits are required to initiate, continue, or complete the endeavor.
5. Property development: means the construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replating of a subdivision of residential or commercial property.
6. Record Plat: shall mean a plan drawing prepared by a licensed land surveyor that depicts an approved subdivision or assemblage of land and associated easements or restrictions. Once approved, plats are recorded in the Real Plat Records of Hood County, Texas. Types of Record Plats include a: Final Plat, Replat, Amending Plat and Minor Plat. For the purpose of this ordinance, the definition shall also include Development Plat, which is filed with the Office of the City Secretary.
7. Plat: refers generally to a plat application which has been formally filed after addressing all of Development Review Committee comments, providing all requisite information, material and studies and paying all required fees. This reference shall include inferences to a preliminary plat, final plat, amending plat, minor plat, replat or development plat.
8. Residential property: means property zoned for or otherwise authorized for single-family or multi-family use.

SECTION 3. APPLICABILITY

The City of Granbury hereby enacts this Ordinance in order to implement a temporary moratorium on the acceptance and processing of all applications and of any Plats, particular permits and other forms of municipal authorizations related to specific construction and land development activities. This moratorium applies to the areas listed in Exhibit 'B', showing the city zoning district uses within the City Limits and the ETJ.

Unless a project falls within an Exception (as provided below), this moratorium applies to all applications for property development and the respective Plat Applications.

SECTION 4. PURPOSE

This moratorium is being enacted to maintain the status quo, and to:

1. Process and potentially litigate the required permits through the TCEQ;

2. Obtain and review public input and expert guidance.

SECTION 5. ENACTMENT

The City of Granbury hereby enacts this Ordinance implementing a moratorium on the City's acceptance, review, approval, and issuance of permits in the City Limits and ETJ.

SECTION 6. DURATION

The initial duration of this moratorium shall be for a period of One Hundred and Twenty days after enactment of this Ordinance, or repeal of this Ordinance by the City, whichever is sooner.

SECTION 7. EXTENSION

If the City determines that the initial period is insufficient for the City to fully complete its processing of the necessary permits through TCEQ, this Ordinance may be renewed or extended for an additional period of time, necessary to complete the permitting processes in accordance with the time limits as provided by law upon a majority vote of the City Council.

SECTION 8. EXCEPTIONS AND EXEMPTIONS

A. Exceptions.

1. No Impact Projects. The moratorium implemented by this Ordinance does not apply to a project that does not:
 - (a) increase waste-water treatment
2. Ongoing Projects. The moratorium implemented by this Ordinance does not apply to any projects that are currently, actively in progress for which valid plat applications have been received and have not expired (as of the date of this moratorium).
3. Vested Projects. The moratorium implemented by this Ordinance shall not apply to projects that are Vested as provided by state law. Property owners asserting their vested rights under Texas Local Government Code Chapter 245 must submit an application along with a narrative outlining evidence of their vesting status under this moratorium to the City Manager or his Designee for review in accordance with City policy.

B. Exemptions. Any property owner who does not assert rights under Texas Local Government Code Chapter 245, but who seeks authorization to proceed with the development permitting process during the time of the moratorium can request the following alternative forms of approval:

1. Waiver by the City Council
 - (a) A moratorium adopted under this subchapter must allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by:
 - i. Claiming a right obtained under a development agreement; or
 - ii. Providing the public facilities that are the subject of the moratorium at the landowner's cost.

- (b) The permit applicant must submit the reasons for the request to the governing body of the municipality in writing. The governing body of the municipality must vote on whether to grant the waiver request within 10 days after the date of receiving the written request

SECTION 9. DETERMINATIONS & APPEALS

A. Determinations. The Director of Public Works or his designee shall make all initial determinations regarding the status of all projects seeking to apply for permits during this temporary moratorium and recognition of all Exceptions (as provided herein).

B. Appeals. Property Owners seeking to challenge a determination made pursuant to Section 9 A. herein, may appeal that initial determination to the City Manager. Secondary determinations of the City Manager may be appealed to the City Council, whose decision shall be final.

SECTION 10. REPEALER

In the case of any conflict between the other provisions of this Ordinance and any existing Ordinance of the City, the provisions of this Ordinance will control.

SECTION 11. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

SECTION 12. ENFORCEMENT

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this moratorium is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance.

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law and/or equity.

SECTION 13. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

SECTION 14. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice

and public hearings were also provided as required by Texas Government Code Chapter 212, Subchapter E.

PASSED AND APPROVED on this 14th day of December 2020.



NIN HULETT, MAYOR

ATTEST:



CARLA WALKER, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:



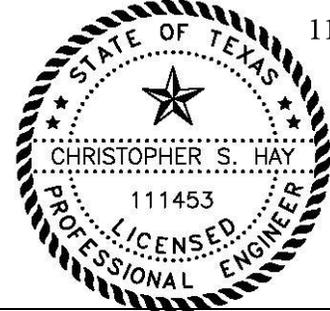
JEREMY SORELLE, CITY ATTORNEY





Technical Memorandum

To: Jeremy SoRelle
From: Chris Hay, P.E.
CC: Josh Berryhill, P.E.
Date: November 13, 2020
Subject: City of Granbury Wastewater System Capacity Issues



11/13/2020

Background

The City of Granbury (City) is in the process of upgrading the wastewater system through the Phase I Wastewater System Improvements Project (Project). The Project is comprised of upgrades to the existing wastewater treatment plant, construction of a new wastewater treatment plant, and various wastewater collection system (System) improvements. These improvements will address existing System deficiencies that have been highlighted by increased growth that has occurred in recent years, replace existing infrastructure that has reached the end of its useful life, and provide additional capacity for growth in the future.

Information

The City has experienced significant growth in the eastern portion of the System and has started seeing issues arise due to the increased flow during wet weather flow events. Numerous sanitary sewer overflows (SSOs) have occurred which have resulted in unauthorized discharges of wastewater and have required the City to notify the Texas Commission on Environmental Quality (TCEQ). The City hired Enprotec/Hibbs & Todd, Inc. (eHT) to prepare a wastewater model to analyze the System, determine the cause of the SSO's, and outline improvements required to resolve the issues.

The wastewater model indicated that three components of the system are not sized adequately to handle the existing wastewater flows during wet weather flow events. While the existing system can typically handle the normal wastewater flow (peak flow from the system), the TCEQ requires the wastewater collection system be designed to transport the peak flow from the service area *plus* infiltration and inflow. During wet weather flow events, the infiltration and inflow, in addition to the peak flow, is what creates issues in the collection system. The areas where issues are seen in the system are:

1. The gravity System between the Existing Wastewater Treatment Plant (WWTP) and Lift Station #7;
2. The wet well capacity at Lift Station #7; and
3. The pumping capacity at Lift Station #23.

The existing gravity system downstream of Lift Station #7, which conveys the Lift Station #7 discharge along with wastewater from customers between Lift Station #7 and the Existing WWTP, is comprised of 10-inch diameter PVC gravity sewer mains. Based on TCEQ minimum slope requirements, the capacity of this line is approximately 630 gallons per minute. There are approximately 1,476 living unit equivalents (LUEs) that contribute to Lift Station #7. Based on existing historical flow, this equates to a required design flow of approximately 840 gallons per minute. Even while ignoring the additional gravity customers downstream of Lift Station #7, this indicates that the existing

gravity main downstream of Lift Station #7 currently is over 133% capacity. This creates a bottleneck in the System that is a contributing factor to SSOs in this area.

The existing wet well at Lift Station #7 provides storage in the System while the pumps convey the wastewater downstream to the receiving gravity system. The wet well is approximately 14-feet deep and is 6-feet in diameter. The approximate storage volume of the wet well below the invert of the gravity line coming into the wet well is approximately 120 cubic feet. The information presented in the previous paragraph shows the design flow for Lift Station #7, based on current LUEs, is approximately 840 gallons per minute. Using TCEQ design criteria, this results in a required wet well storage volume of approximately 168 cubic feet. This indicates that the Lift Station #7 wet well is currently at 140% capacity. Since the existing wet well does not have adequate storage below the invert of the gravity line entering the wet well, during peak flow events, the wastewater backs up into the gravity system and contributes to SSOs upstream of Lift Station #7.

Lift Station #23, which discharges into a gravity system that flows to Lift Station #7, serves the outer half of the eastern portion of the System. The lift station consists of a large rectangular wet well with two submersible pumps. The current pumping capacity is 350 gallons per minute. There are approximately 1,245 living unit equivalents (LUEs) that contribute to Lift Station #23. Based on existing historical flow, this equates to a required design flow of approximately 709 gallons per minute. This indicates that the existing pumping capacity at Lift Station #23 is currently at 203% capacity. The City has not experienced any SSOs due to this capacity issue because the wet well at Lift Station #23 is so large that it serves as a buffer during moderate to high flow events. However, due to the planned growth that will contribute to Lift Station #23, this location is at risk of becoming another area in the system which contributes to SSOs. Due to the downstream constraints described above for Lift Station #7, and the System downstream of Lift Station #7, increasing the capacity of the pumps will only exacerbate the existing issues in those areas of the system.

The City Project will address these System issues through the construction of a new East WWTP just upstream of Lift Station #23. This will remove a significant amount of wastewater flow from the downstream System (Lift Station #7 and gravity system) and resolve the capacity issues. The construction of the new East WWTP will eliminate the need to replace the existing wastewater collection system from the Existing WWTP through to Lift Station #23, which provides significant cost savings to the City compared to other alternatives. In addition, the Project will provide 1 million gallons per day (MGD) of additional treatment capacity to the system to provide capacity for growth, while the Existing WWTP (2 MGD capacity) is being overhauled due to equipment reaching the end of its useful life.

The attached exhibit (Exhibit 2) shows the limits of the System that are affected by these existing capacity issues. Any new connections or developments within this area, or adjacent to it, will make the existing issues worse. Based on information from the City, it is anticipated that significant development is expected in this area in the near future. While the City is moving forward as quickly as possible to resolve these issues by implementing the Project improvements, there have been unexpected delays associated with the East WWTP portion of the project. Once the East WWTP is constructed and operational, the System issues as described above will be resolved.

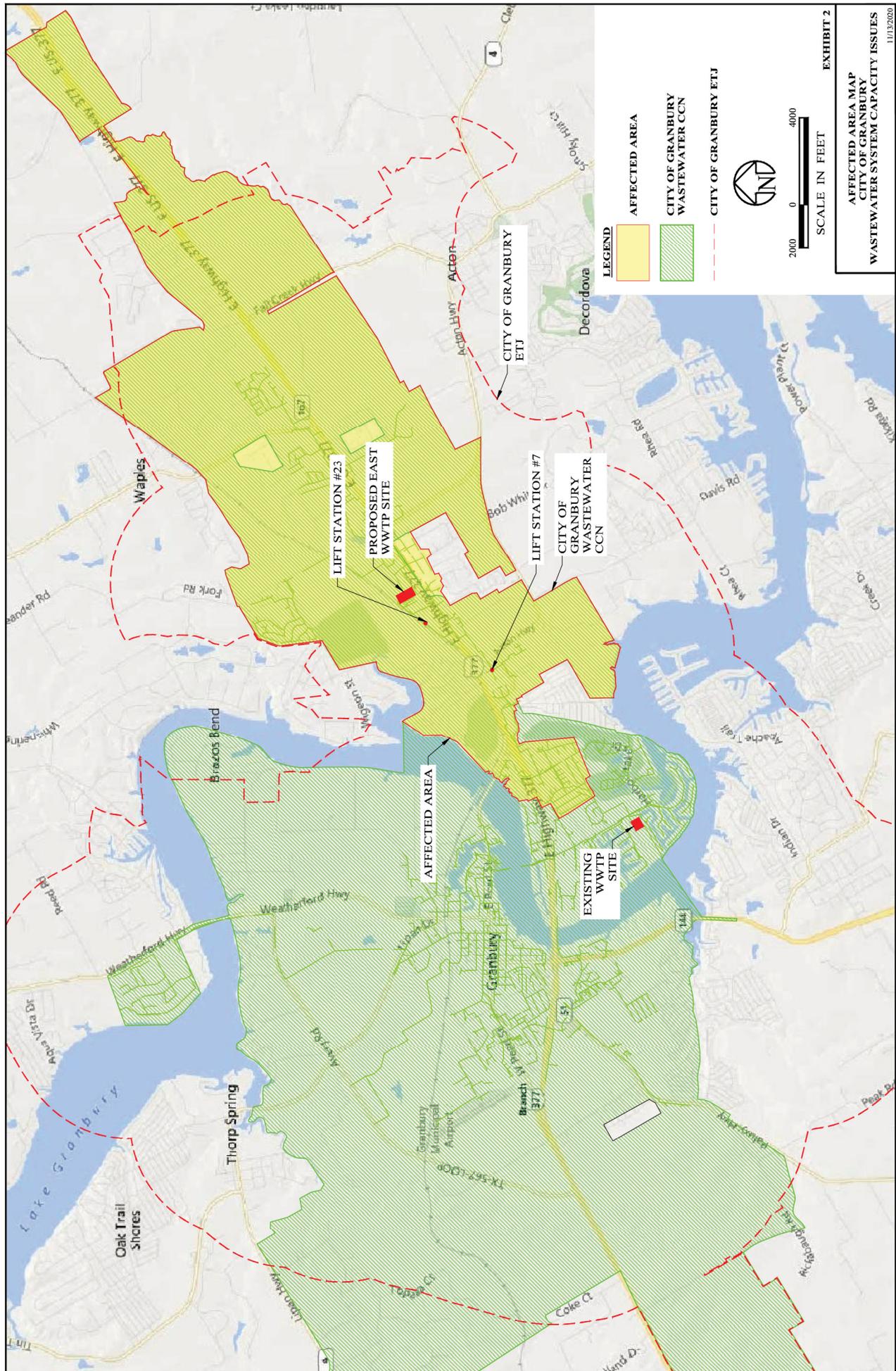


EXHIBIT 2
AFFECTED AREA MAP
CITY OF GRANBURY
WASTEWATER SYSTEM CAPACITY ISSUES
1/1/2020