

# Memorandum



DATE November 30, 2018

CITY OF DALLAS

Members of the Economic Development & Housing Committee: Tennell Atkins, Chair,  
to Rickey D. Callahan, Vice-Chair, Lee M. Kleinman, Scott Griggs, Casey Thomas, II, B.  
Adam McGough, Mark Clayton, Kevin Felder, Omar Narvaez

SUBJECT 2018-2019 Urban Land Bank Demonstration Program Annual Plan

On Monday, December 3, 2018, the Economic Development and Housing Committee will be briefed on the proposed 2018-2019 Urban Land Bank Demonstration Program Annual Plan.

## Summary

Since 2004, the City of Dallas has operated an Urban Land Bank Demonstration Program. Chapter 379C of the Texas Local Government Code requires that the governing body of a municipality that adopts an Urban Land Bank Demonstration Program adopt a plan annually. This memo provides an overview of the proposed 2018-19 Land Bank Annual Plan.

## Background

The primary objective of the Urban Land Bank Demonstration Program (Program) is to acquire unproductive, vacant, and developable parcels of real property and parcels improved with abandoned, vacant, and uninhabitable structures for affordable housing or commercial development. The Dallas Housing Acquisition and Development Corporation (DHADC) is an instrumentality of the City and has been designated by the City to administer the Program on its behalf and act as its Land Bank. The acquisition of unproductive parcels will enable the DHADC to facilitate the development of new single-family homeownership units, multifamily rental units, and lease-purchase units on the parcels to house low- and moderate-income households and, on appropriate parcels, allow commercial development that will complement the City's affordable housing strategy.

For a parcel to be eligible for sale to the DHADC:

1. the market value of the property as specified in the judgment of foreclosure must be less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

DATE November 30, 2018  
SUBJECT 2018-2019 Urban Land Bank Demonstration Program Annual Plan

2. the parcel of land must not be improved with a habitable building or buildings or an uninhabitable building or buildings that are occupied as a residence by an owner or tenant who is legally entitled to occupy the building or buildings; and
3. the parcel of land must have delinquent taxes on the property for a total of at least five years as reported by Dallas County.

Chapter 379C of the Texas Local Government Code requires that the governing body of a municipality that adopts an Urban Land Bank Demonstration Program adopt a plan annually. The plan must include:

1. a list of community housing development organizations eligible to participate in the right of first refusal provided by Texas Local Government Code Section 379C.011;
2. a list of the parcels of real property that may become eligible for sale to the land bank during the upcoming year;
3. the municipality's plan for affordable housing development on those parcels of real property; and
4. the sources and amounts of funding anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

The proposed 2018-2019 Urban Land Bank Demonstration Program Annual Plan (Plan) contains several notable changes from the 2017-2018 annual plan. These changes relate to the following topics and are discussed in depth below: (1) acquisition strategy, (2) sales price of undevelopable parcels offered for sale to adjacent property owners, (3) restrictive covenants imposed on property sold by the Land Bank and (4) lot swaps. The Plan is attached to the memo as Exhibit A.

### ***Acquisition Strategy***

In prior years, the Land Bank primarily sought to acquire property in one of the City's Neighborhood Investment Program (NIP) areas located in West Dallas, South Oak Cliff and Southeast/South Dallas. In the 2018-19 Plan, the City proposes a three-fold acquisition strategy, one such strategy being to acquire parcels of land located in the Stabilization and Emerging Market Reinvestment Strategy Areas (RSA) that were designated and approved by Council when it adopted the Comprehensive Housing Policy on May 9, 2018 by Resolution 180704. However, because staff's analysis of the existing eligible parcels shows that less than 70 eligible parcels are located in these RSAs, the City also proposes to acquire parcels outside of RSAs that are clustered in close proximity to one another or are located near areas of pre-existing City investment. These additional acquisition strategies will create opportunities for the DHADC and the City to facilitate

DATE November 30, 2018  
SUBJECT 2018-2019 Urban Land Bank Demonstration Program Annual Plan

strategic redevelopment efforts in markets that have become stressed, at least in part, due to the presence of numerous vacant, tax-delinquent parcels.

DHADC's acquisition strategy for FY 2018-19 will prioritize:

1. acquiring eligible parcels zoned for residential use or suitable for residential use that are located in close geographic proximity to one another in order to reduce development costs related to the creation of affordable housing units and to most effectively strengthen neighborhoods;
2. to the extent that eligible parcels are available, acquiring parcels zoned for residential use or suitable for residential use that are located within the Emerging Market and Stabilization Reinvestment Strategy Areas ("RSAs") adopted by the Dallas City Council as part of the Comprehensive Housing Policy ("Housing Policy") on May 9, 2018 via Resolution 180704; and
3. acquiring eligible parcels zoned for residential or commercial use that are located near existing or planned mixed-income housing developments, City-owned land, or City-supported economic development projects that, if developed with affordable housing units or a commercial use, would support the City's affordable housing strategy.

#### ***Sales Price of Undevelopable Parcels Offered for Sale to Adjacent Property Owners***

While the City seeks to acquire parcels that are suitable for residential development, there are instances when the DHADC determines that a Land Bank property is not appropriate for residential development due to, for example, drainage or access issues. In such instances, the Code states that the Land Bank first shall offer the property for sale to an eligible adjacent property owner for the lower of either (1) the fair market value of the property as determined by the appraisal district in which the property is located or (2) the sales price recorded in the annual plan.

For FY 2018-19, the City is proposing that the DHADC may sell an undevelopable parcel to an eligible adjacent property owner for a maximum price of \$1,000.00, provided that the eligible adjacent property owner meets specific criteria listed below that are designed to ensure that the adjacent property owner will be a good steward of the land. Staff believe that the low proposed maximum sales price will help incentivize adjacent property owners to purchase and begin maintaining such undevelopable DHADC-owned parcels, which, in turn, will help stabilize the neighborhood in which the undevelopable parcel is located.

A property owner will be eligible to purchase an undevelopable DHADC parcel if the owner: (1) owns a parcel of real property located immediately adjacent to the parcel owned by the DHADC, (2) maintains a valid homestead exemption on the parcel located immediately adjacent to the parcel owned by the DHADC, (3) does not owe any delinquent property taxes on any land located within the City of Dallas and is not indebted to the City or is delinquent in any payment owed to the City under a contract or other legal

DATE November 30, 2018  
SUBJECT 2018-2019 Urban Land Bank Demonstration Program Annual Plan

obligation, (4) has not been issued a notice of violation or citation for a violation of a health and safety ordinance within the past three years and (5) agrees to maintain the parcel in compliance with all federal, state and local laws and regulations for a period of three years subject to a right of reverter. Additionally, an adjacent property owner may not lease, sell, or transfer that property to another person before the third anniversary of the date the adjacent property owner purchased that property from the DHADC.

### ***Restrictive Covenants***

In the past, DHADC imposed a restrictive covenant on each undeveloped Land Bank parcel that required the purchaser of the parcel to develop affordable housing on the parcel and to convey the parcel only to a low-income household who would occupy the affordable housing as the household's principal residence. However, the restrictive covenant did not require the low-income household to occupy the affordable housing as its principal residence for any specific term of years.

The 2018-19 Plan proposes to impose restrictive covenants that will require the Land Bank parcel to be occupied by a low-income household for a period of at least five (5) years from the initial conveyance to a low-income household. Staff believe that this new practice will provide additional guarantees that housing developed on Land Bank parcels will *remain* affordable after the initial conveyance.

### ***Lot Swaps***

The Code sets forth the manner in which a city may allow a developer to exchange a parcel purchased from the Land Bank with another parcel owned by the developer. Therefore, the 2018-19 Plan adopts the procedure outlined in the Code. However, the Code does not address situations where a Developer purchases a Land Bank parcel that is later determined to be undevelopable and who desires to exchange the undevelopable parcel with another parcel in the Land Bank's inventory.

The 2018-19 Plan proposes to allow a Developer to swap a parcel previously purchased from the DHADC with a new parcel purchased from the DHADC if the DHADC determines, in its sole discretion, that: (1) the Developer timely made the request, and (2) the cost to develop affordable housing or a commercial use on the previously-purchased parcel is prohibitively expensive. In such instances, the Developer must submit a proposal for the new parcel in accordance with the application process. If the Developer is awarded the new parcel, the DHADC will refund any difference in the purchase price between the old parcel and the new parcel. Likewise, if the new parcel has a purchase price higher than the old parcel, the Developer must pay the differential in the purchase prices between the old and new parcels.

DATE November 30, 2018  
SUBJECT 2018-2019 Urban Land Bank Demonstration Program Annual Plan

### **Next Steps**

Before adopting the FY 2018-19 Plan, the City of Dallas must hold a public hearing on the proposed Plan. The Department of Housing and Neighborhood Revitalization is proposing that City Council hold the public hearing on January 9, 2019.

In accordance with the Act, the City of Dallas provided notice of the hearing to all City-certified Community Housing Development Organizations (CHDOs) and to neighborhood associations identified by the City as serving the neighborhoods in which properties anticipated to be available for sale to the land bank are located.

In addition, the City of Dallas made copies of the proposed Plan available to the taxing entities and to the public beginning November 5, 2018.

### **Issues**

Chapter 379C of the Texas Local Government Code (Code) requires that the governing body of a municipality that adopts an Urban Land Bank Demonstration Program adopt a plan annually. If the City Council does not adopt an annual plan, the City will not be authorized to operate its Urban Land Bank Demonstration Program.

### **Fiscal Impact**

The City Council recently allocated \$1.5 million in bond funding to support the acquisition of unimproved tax foreclosed properties by the Land Bank. There is no additional cost consideration to the City for adopting an annual plan.

### **Departments/Committee Coordination**

The Department of Housing and Neighborhood Revitalization has partnered with the Department of Planning and Urban Design (P&UD) to share information about the proposed annual plan with neighborhood organizations who have registered with P&UD.

### **Staff Recommendation**

Without objection by the Economic Development and Housing Committee, the 2018-19 City of Dallas Urban Land Bank Demonstration Program Annual Plan will be set for a public hearing on January 9, 2019.



David Noguera  
Director, Department of Housing & Neighborhood Revitalization

**DATE** November 30, 2018  
**SUBJECT** 2018-2019 Urban Land Bank Demonstration Program Annual Plan

c: Chris Caso, City Attorney (l)  
Carol A. Smith, City Auditor (l)  
Bilierae Johnson, City Secretary  
Preston Robinson, Administrative Judge  
Kimberly Bizor Tolbert, Chief of Staff to the City Manager  
Majed A. Al-Ghrafy, Assistant City Manager

Jon Fortune, Assistant City Manager  
Joey Zapata, Assistant City Manager  
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer  
M. Elizabeth Reich, Chief Financial Officer  
Directors and Assistant Directors

# **2018-2019 Land Bank Annual Plan**

**Economic Development and Housing Committee**  
**December 3, 2018**

**Maureen Milligan, Interim Assistant Director  
Housing & Neighborhood Revitalization  
City of Dallas**



# Presentation Overview

- Summary
- Background
- Issues
- Recommendation



*Economic and Neighborhood Vitality*



**City of Dallas**

# Summary

- Urban Land Bank Demonstration Program Act signed by Governor Perry on June 18, 2003.
  - Act is codified in Texas Local Government Code Chapter 379C.
- The Act, as amended, gives municipalities the right to establish land bank programs to:
  - reclaim vacant real property from tax delinquency status and
  - use such land to develop affordable housing for low income households or for commercial purposes.
- The Act requires that the governing body of a municipality that adopts an Urban Land Bank Demonstration Program adopt a plan annually.
- In 2004, the City of Dallas designated the Dallas Housing Acquisition and Development Corporation (DHADC) to administer the Land Bank.



# Background—Components of Annual Plan

- Eligible parcels
- Acquisition strategy
- City of Dallas comprehensive housing plan for affordable housing development
- Sale of property to a qualified participating developer
- Right of first refusal for qualified organizations
- Sale of Land Bank property:
  - to an eligible adjacent property owner
  - for commercial use
- Sales prices for Land Bank parcels
- Deed restrictions and right of reverter for Land Bank parcels
- Reversion of unsold Land Bank properties
- Parcel exchange and parcel swap
- Supportive funding

# Background—Eligible Parcels

**For a parcel to be eligible for sale to the DHADC/Land Bank:**

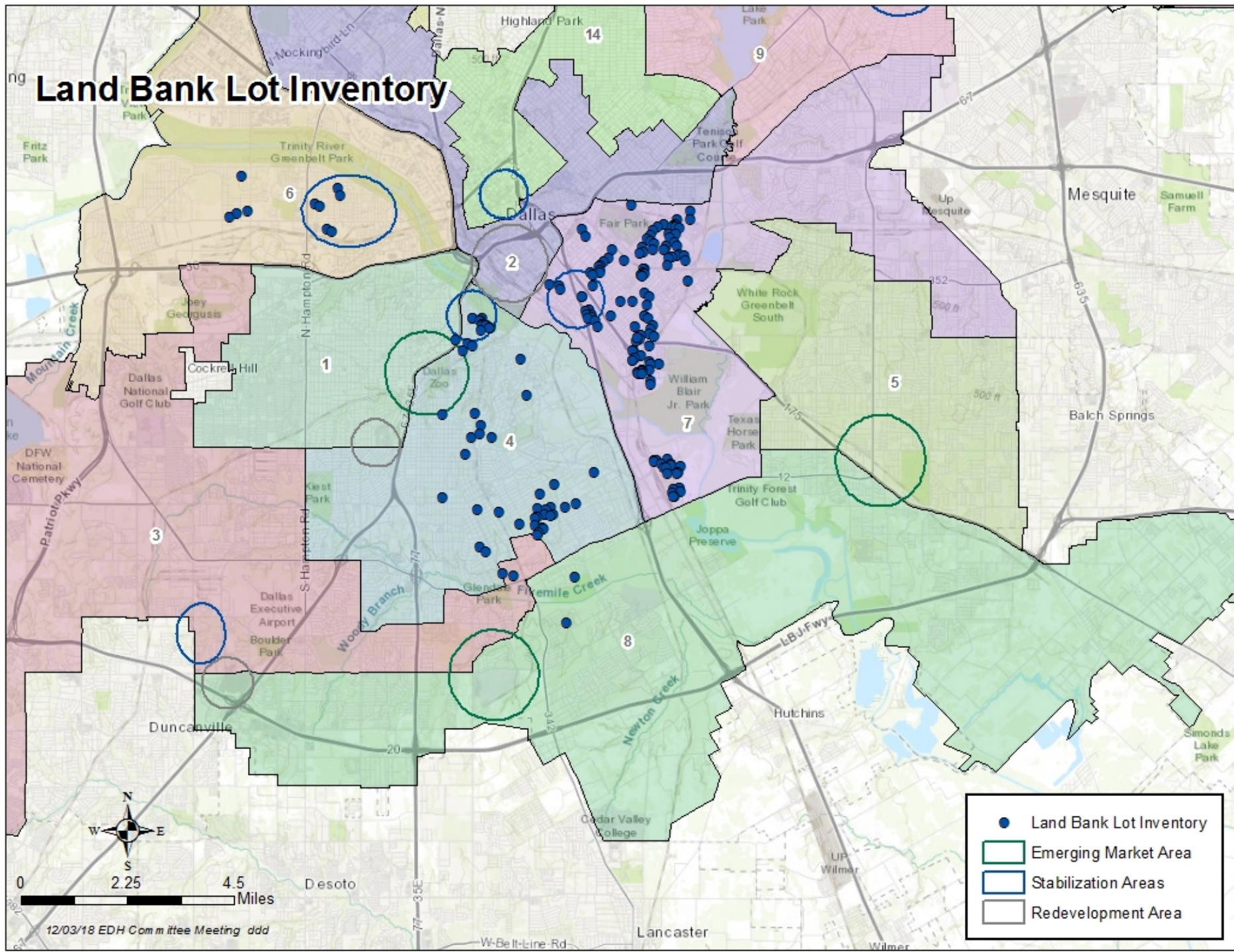
1. the market value of the property as specified in the judgment of foreclosure must be less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale,
2. the parcel of land must not be improved with a habitable building or buildings or an uninhabitable building or buildings that are occupied as a residence by an owner or tenant who is legally entitled to occupy the building or buildings, and
3. the parcel of land must have delinquent taxes on the property for a total of at least five years as reported by Dallas County.

# Background—Acquisition Strategy

## Acquire parcels located:

1. in close geographic proximity to one another, or
2. within the Emerging Market and Stabilization Reinvestment Strategy Areas (“RSAs”), or
3. near existing or planned mixed-income housing developments, City-owned land, or City-supported economic development projects that, if developed with affordable housing units or a commercial use, would support the City’s affordable housing strategy.

# Land Bank Lot Inventory



● Land Bank Lot Inventory

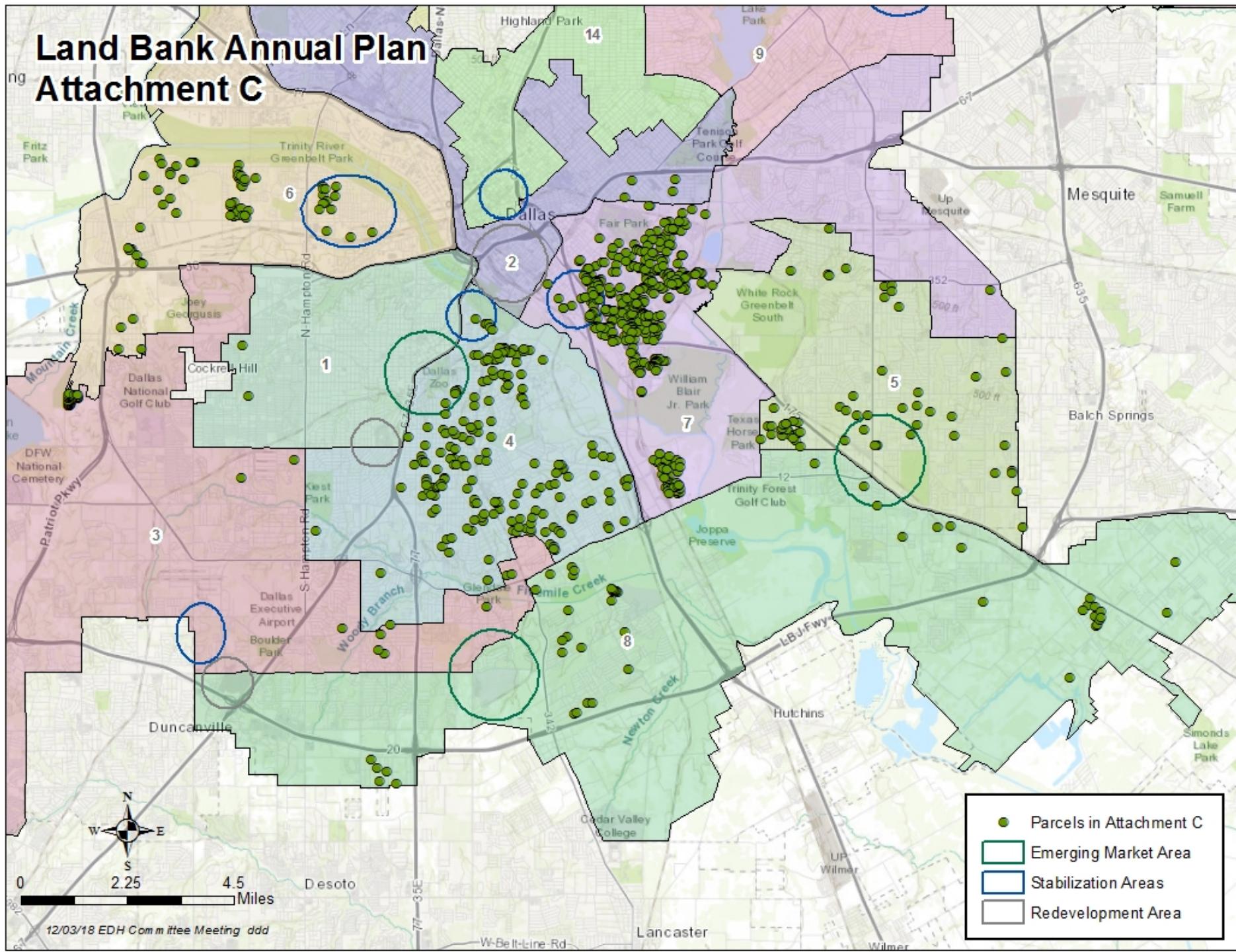
■ Emerging Market Area

■ Stabilization Areas

■ Redevelopment Area

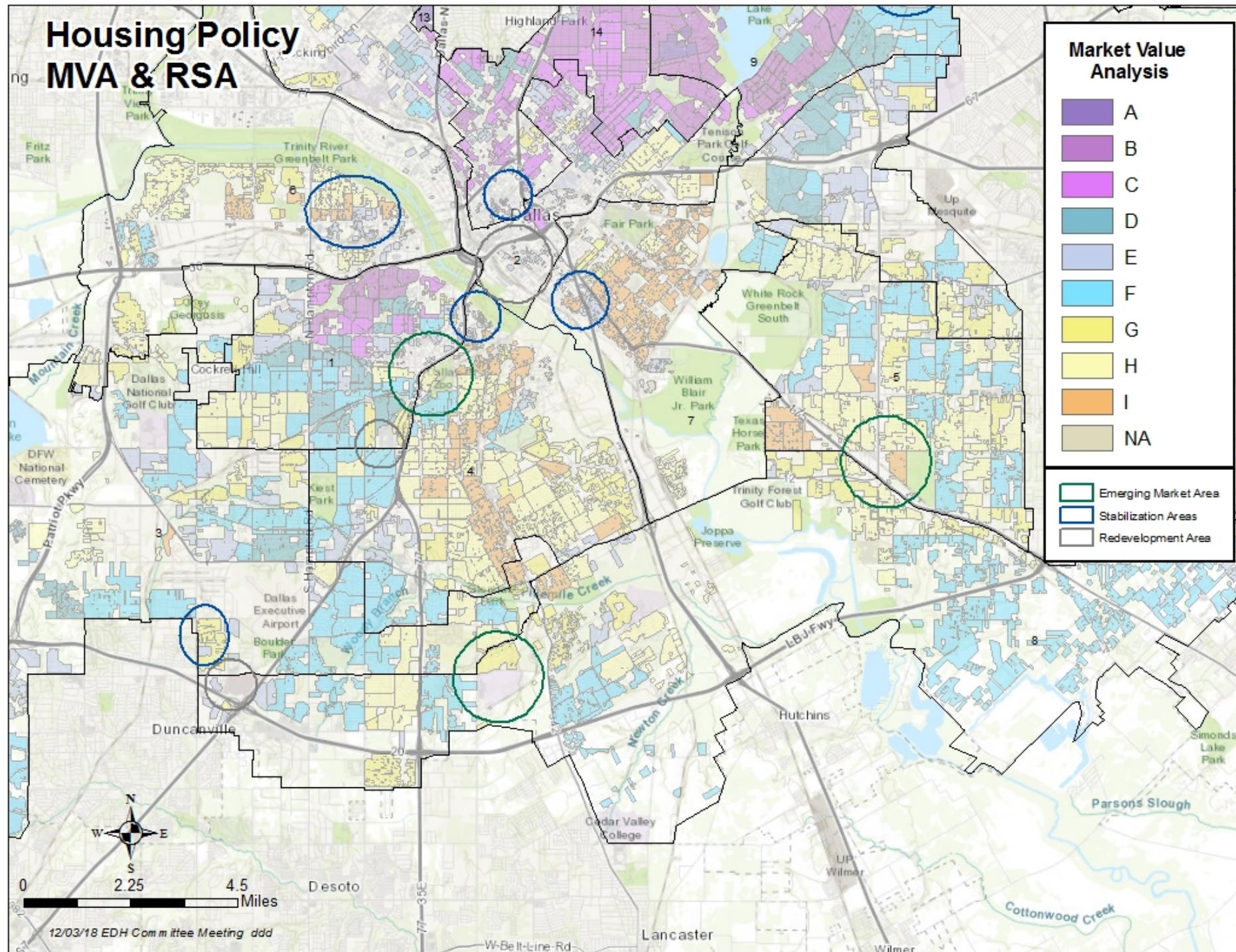
# Land Bank Annual Plan

## Attachment C

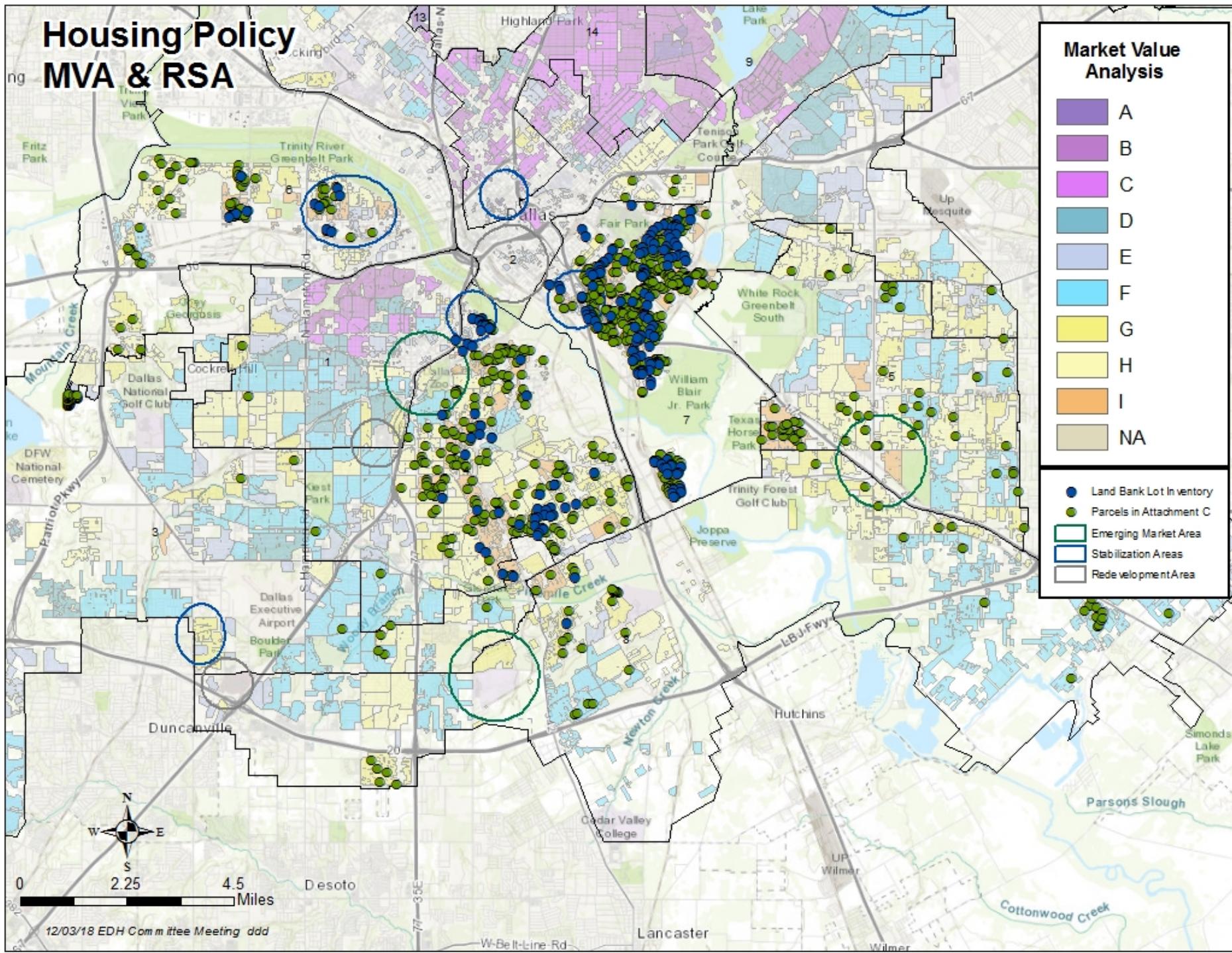


- Parcels in Attachment C
- Emerging Market Area
- Stabilization Areas
- Redevelopment Area

## Housing Policy MVA & RSA



# Housing Policy MVA & RSA



# Background—Sales Price of Parcels

## Sale of land to developer

- Statute does not mandate that a Land Bank parcel be sold at a certain sales price.
- Plan states that parcel will initially be offered at fair market value (as determined by a comparative market analysis).
- Upon request, the DHADC can provide a discount if project underwriting indicates that the discount is needed to ensure the viable sale to a targeted income-qualified buyer.

# Background—Sales Price of Parcels

**Sale of parcel “not appropriate for residential development” to eligible adjacent property owner**

- If Land Bank determines that a parcel is not appropriate for residential development, statute requires that parcel be offered to eligible adjacent property owner at the lower of the fair market value or the sales price recorded in the annual plan.
- Plan states that parcel may be sold for a maximum price of \$1,000.00, provided that the eligible adjacent property owner:
  - owns a parcel of real property located immediately adjacent to the parcel owned by the DHADC,
  - maintains a valid homestead exemption on the parcel located immediately adjacent to the parcel owned by the DHADC,
  - does not owe any delinquent property taxes on any land located within the City of Dallas and is not indebted to the City or is delinquent in any payment owed to the City under a contract or other legal obligation,
  - has not been issued a notice of violation or citation for a violation of a health and safety ordinance within the past three years, and
  - agrees to maintain the parcel in compliance with all federal, state and local laws and regulations for a period of three years subject to a right of reverter.

# Background—Restrictions on Occupancy and Use of Property

## Deed Restrictions

- Statute requires Land Bank to impose deed restrictions on all Land Bank property sold to a developer.
  - Restrictions must require the development and sale, rental, or lease-purchase of the property to low income households.
  - Low income household means a household with a gross income of not greater than 115 percent of the area median family income, adjusted for household size.
- In prior years, the deed restrictions required the development and sale, rental, or lease-purchase of the property to low income households but did not impose any further restriction that the property be occupied by a low-income household for a specific term.
- Plan requires that property sold, leased or offered as a lease-purchase to a low-income household be occupied by a low-income household for a minimum of 5 years.

# Background—Lot Exchanges/Swaps

## Lot Exchange

- Statute allows a developer to exchange a lot purchased from the Land Bank with another parcel owned by the developer, subject to approval by the Land Bank.

## Lot Swap

- Statute does not address instances where a developer seeks to exchange a parcel purchased from the Land Bank with another parcel in the Land Bank's inventory.
- Plan allows a developer to swap a parcel previously purchased from the DHADC with a new parcel purchased from the DHADC if the DHADC determines, in its sole discretion, that:
  - the Developer timely made the request, and
  - the cost to develop affordable housing or a commercial use on the previously-purchased parcel is prohibitively expensive.
- Developer must submit a proposal for the new parcel in accordance with the application process and if selected, must pay any differential in purchase price.



# Issues

- Chapter 379C of the Texas Local Government Code (Code) requires that the governing body of a municipality that adopts an Urban Land Bank Demonstration Program adopt a plan annually.
- If the City Council does not adopt an annual plan, the City will not be authorized to operate its Urban Land Bank Demonstration Program.

*Economic and Neighborhood Vitality*

15



City of Dallas

# Recommendation

Without objection by the Economic Development and Housing Committee, the 2018-19 City of Dallas Urban Land Bank Demonstration Program Annual Plan will be set for a public hearing on January 9, 2019.



# **2018-2019 Land Bank Annual Plan**

**Economic Development and Housing Committee**  
**December 3, 2018**

**Maureen Milligan, Interim Assistant Director  
Housing & Neighborhood Revitalization  
City of Dallas**

