

**CAUSE NO. CC-20-03611-A**

**CITY OF DUNCANVILLE, TEXAS,**

**Petitioner,**

**v.**

**CANAAN BAPTIST CHURCH, a  
nonprofit corporation or association,**

**Respondent.**

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**COUNTY COURT AT LAW NO. 1**

**DALLAS COUNTY, TEXAS**

**CANAAN BAPTIST CHURCH’S MOTION TO DISMISS PURSUANT TO TEX. PROP.  
CODE § 21.019 AND IN THE ALTERNATIVE PURSUANT TO TEX. R. CIV. P. 91a  
AND MOTION TO STAY**

Canaan Baptist Church, a nonprofit corporation (hereinafter “Canaan Baptist” or the “Church”) hereby files its Motion to Dismiss Petitioner’s, the City of Duncanville, Texas (“Duncanville” or the “City”), Amended Petitioner’s Original Petition in Condemnation and Eminent Domain (hereinafter, the “Petition”) pursuant to Section 21.019 of the Texas Property Code and, in the alternative, Texas Rule of Civil Procedure 91a, and its Motion to Stay pending resolution of the Motion to Dismiss (the “Motion” or “Motion to Dismiss”).

**I. INTRODUCTION**

Canaan Baptist is a small, predominantly African American Christian church that ministers to the Duncanville and South Dallas community. Central to the Church’s sincerely held religious beliefs is the conviction that Jesus Christ has called them to be a “city on a hill,” (Matthew 5:14), by spreading his love and Truth to the people in the community where they live, both in words and in acts of service.

In 2002, the Church acquired a property that would in time serve as a new base of its ministry, including the eventual construction of physical buildings, which would increase the

Canaan Baptist’s Motion to Dismiss

Church's ability to practice its religious beliefs by ministering to the community. Because it is a small congregation, the Church anticipated that raising money for the buildings would take several years and much prayer, patience, and sacrificial giving. It would also require overcoming many challenges, including purchasing the property and rezoning the land for church use. Yet they persevered in faith—continued to pray, continued to wait, continued to give, continued to believe. Now here they are within eye-shot of seeing decades of sacrificial giving, prayer, and belief come to fruition by breaking ground on a new permanent facility.



*Religious Activities by Canaan Baptist on the Property  
on September 28, 2019*



*Religious Activities by Canaan Baptist on the Property on May 31, 2020<sup>1</sup>*

But just as the Israelites had to face the mighty walls of Jericho before entering the promised land, the Church must now overcome an attempt by the City to seize the property they have owned and used for religious activities for eighteen years. Despite having a multitude of other options available for building an unspecified public facility, *see* Petition at 4.01, the City of Duncanville seeks instead to wield the full force of government against its own citizens through one of the most violent powers in its arsenal—eminent domain.

The City of Duncanville’s condemnation petition infringes upon Canaan Baptist’s foundational right to freely exercise its religion. Under the Texas Constitution, “All Men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences” and “No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion[.]” Texas Constitution, Art. 1, Sec. 6. To protect

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<sup>1</sup> These and other images of the Canaan Baptist congregation’s religious activities on the Property are attached to Pastor Baker’s Declaration as Exhibits A-E. *See* Baker Declaration, attached hereto as Exhibit 1.

that right, Texas law requires the City to demonstrate that its condemnation petition seeks a compelling state interest advanced through the least restrictive means. Tex. Civ. Prac. & Rem. Code § 110.009(a)-(b); *KMS Retail Rowlett, LP v. City of Rowlett*, 593 S.W.3d 175, 184 (Tex. 2019). The City cannot show it has a compelling interest to take *this particular* property from the Church, nor can it show that it cannot build the fire station (or whatever it intends to build that is not disclosed in the petition) somewhere else. The Property is sacred to the Church because of God’s call and His provision through prayer and sacrificial giving and because of the ongoing worship and ministry that the Church already conducts there. But to the City, the Property is merely its “preferred” choice among other viable options for building its facility. The City’s threats that they have no choice but to sell will not intimidate the Church—they will remain obedient to their call to worship and minister at their Property, and, God permitting, they will soon build on it as well. There are many places in the world where governments can take the property of churches without regard to religious liberty, but not in Texas. Not here. Not now.

## **II. BACKGROUND**

### **A. Canaan Baptist Church and the Property**

Founded in 1969, Canaan Baptist Church is a longstanding pillar of faith and service in its South Dallas community. For over 50 years, Canaan Baptist’s purpose has been to “adhere to the principles of a New Testament church,” as declared in Acts 2. *See* Ex. F to Baker Declaration. The Church sincerely believes that this property was given to it by God to serve the community in the South Dallas and Duncanville area by spreading the Gospel of Jesus Christ and tending to the needs of “the least of these.” Matthew 25:40. In addition to worship services, the Church provides clothing giveaways, help for the homeless, voter registration drives, and other essential services to



the community, including many low-income, underserved, and disenfranchised community members. *See generally* Ex. 1, Baker Declaration.

The Church currently has approximately 125 members who regularly gather to worship (in person under normal circumstances). *Id.* ¶ 7. The current church location consists of two small houses converted into a small sanctuary and an activity center. The buildings are land-locked in a residential neighborhood and, consequently, the Church cannot expand the size of these buildings to grow its congregation and its outreach to the community. *Id.* ¶ 6.

The story begins in 2002, when, after five years of fundraising and sacrifice from its members, the Church purchased the Property at 232 and 302 West Camp Wisdom Road Duncanville, TX 35116 (later re-platted into a single tract retaining the address of 232, and hereinafter referred to as the “Church Property” or the “Property”). The 82,765 square foot West Camp Wisdom Road location provides ample space, prominent visibility, and access to the Duncanville community that the Church believes God has called it to serve. *Id.* ¶ 12. Over the last eighteen years, the Church believes it has witnessed God remove numerous obstacles to illustrate that *this* Property is meant for *this* Church’s ministry. *Id.* ¶ 12-14.

When the Church first obtained the Church Property, several business owners in the area told the Church that not only was the Church Property *not* zoned for “church use,” but the City would not rezone the area for “church use.” This obstacle was removed in 2006 when the City finally approved a special use permit for the Church Property to include “church use,” for at least the next 25 years. *Id.* ¶¶ 13-14.

Later, in 2010, the Church was able to re-plat the two properties that comprise the Church Property (i.e., 232 West Camp Wisdom Road and the former 302 West Camp Wisdom Road) into a single-platted property, bearing the current address of 302 West Camp Wisdom Road. This step

enables the Church to build a bigger building and parking lot to better serve, bless, and reach the people of Duncanville. *Id.*

In 2016, the church finalized building plans and presented them to the City, but the City would not approve the church's plans because the City's fire department claimed the plans would not allow a proper entrance of fire trucks. The Church was forced to spend time and money to recreate its building plans. *Id.* ¶ 15.

In recent years, the Church has continued to raise money to begin constructing physical buildings on the Property, which the Church intends to use for Sunday services, as well as for religious activities and community service activities throughout the week. *Id.* ¶ 18. To that end, the Church has already paid and retained the services of various development and engineering firms to present the Church's development plans to the City to facilitate the Church's construction project. *Id.* ¶ 16.

In addition to using the Property *now* for various religious activities and community service initiatives, Church members have begun to prepare for their eventual permanent move by conducting a "Jericho Walk," which includes worshipping and praising the Lord at the Property for His provision and asking God for direction on how the Church Property should be used for God's glory. *Id.* ¶ 17. Church Members regularly go to the Property for religious activities, including worshipping God, thanking Him for his provision, and praying for the continued success of the building campaign and that He would fulfill his plans to bless the community through the Church and the Property. Additionally, the Church uses the Property to serve the local community by holding clothing drives, movie nights, and youth activity days. *Id.*, Exs. A-E. Soon enough, they plan to take some these religious activities indoors, but the significance of the Property on the Church's service to the community is not diminished by the lack of bricks and mortar.

## **B. The City's Efforts to Seize the Property**

In November 2018, the Duncanville Bond Program was approved and included four propositions. "Proposition C" provided for a new fire station and emergency operations center. The budget for Proposition C is six million dollars, with one million dollars (17% of the budget) allocated to the purchase of the land, if applicable.<sup>2</sup> *Id.* ¶ 18.

In or around January or February of 2019, Peyco Southwest Realty ("Peyco") wrote Canaan Baptist's Pastor, Dr. Jarvis Baker ("Pastor Baker" or "Dr. Baker") a letter expressing its interest in purchasing the Property. The letter did not identify the City as the interested purchaser. *Id.* ¶ 19.

In March 2019, Jessica James, Director of Economic Development for the City, ordered an appraisal on the Church Property.

In June 2019, B.J. Hall of Peyco visited Pastor Baker's mother's home. Ms. Hall asked about purchasing the Church Property, and Pastor Baker told her the Church was not interested in selling the Church Property. During the meeting, Ms. Hall never disclosed that the City was the interested purchaser. *Id.* ¶ 21.

In or around the fall of 2019, Pastor Baker received another letter from Peyco about purchasing the Church Property. He does not recall if he responded to this inquiry, but if he did respond in any way, he would have indicated that the Church was not interested in selling the Church Property. *Id.* ¶ 22.

On December 10, 2019, Pastor Baker received another letter from Peyco stating that they understood that the Church was not interested in selling the Church Property, but the City wanted

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<sup>2</sup> City of Duncanville, 2018 Duncanville Bond Program: Proposition C, <https://www.duncanville.com/bond/proposition-c/> (last accessed Oct. 3, 2020). *See* Exhibit 2, Proposition C.

to purchase it because the City acquired the land next door to the Church Property, and the City wanted the Church Property to build a fire station. By and through text messaging with Ms. Hall, Pastor Baker made it clear that the Church would not sell the Church Property. At some point during these text conversations, Ms. Hall let Pastor Baker know that the City wanted to meet with him and the other Church leaders. *Id.* ¶ 23.

On December 20, 2019, Peyco sent a letter to the Church asserting once again its desire to buy the Property and adding that the City could take the Property by eminent domain. That day, one of the Church's elders, Gregory "Greg" Barber ("Elder Barber"), also received a voicemail message from Ms. Hall. She reiterated that the City wanted to purchase the Church Property and that they needed to call her back. *Id.* ¶ 24.

On December 23, 2019, Elder Barber received another voicemail message from Ms. Hall stating again that (1) the City wanted the Church's property, and (2) the City could take the property by eminent domain if it had to, but that it would prefer to work something out with the Church. When the City, through Peyco, threatened eminent domain, neither Pastor Baker, Elder Barber, nor any Church member received the statutorily required Texas Landowner's Bill of Rights. Elder Barber called Ms. Hall to tell her the Church leaders could not meet until after the first of the year because of the holidays. *Id.* ¶ 25.

On January 10, 2020, Pastor Baker and other Church leaders met with City officials to discuss the City's intent to take the Church Property. At the meeting, a City official told the Church that the Property was the City's "preferred" choice for its project. The Church explained that the Property was integral for the Church's plan and that its congregation was invested in this particular site for its religious mission. The Church explained that the City's plan would set the Church's eighteen years of progress back to year one, especially since a City official stated that

the Church's ability to acquire another property would depend on the City Council's approval to zone another area for church use. *Id.* ¶ 26.

The Church leaders were confused and distraught after the meeting. They did not have legal counsel present, and they did not know whether they could do anything to fight the City's eminent domain threats. *Id.*

On March 12, 2020 and April 24, 2020, the City sent written proposals to Pastor Baker and offered the Church a purchase price for the Church Property.<sup>3</sup> *Id.* ¶ 27. Due to the City's statements, some Church leaders believed at the time that the Church had *no choice* but to sell the Property. *Id.* ¶ 31.

Then, in May, Albert D. Hammack, an attorney in Dallas who serves as the Municipal Court Judge of the Town of Highland Park, responded to the City's April 24th proposal on behalf of the Church. *Id.* ¶ 29; *see also* Ex. H to Baker Declaration. Throughout the 2020 summer, Mr. Hammack intermittently communicated informally with the City's attorney on behalf of the Church. Mr. Hammack indicated that the Church was not able to deliberate on the City's proposal and that, even if it did, the City's proposal was not sufficient. *Id.* ¶ 30.

After the Church retained counsel for this lawsuit, Pastor Baker learned about the powerful protection Texas law provides to the Church's religious liberty. Accordingly, the Church will not deliberate upon the City's proposal because it does not wish to sell the Church Property. *Id.* ¶ 31.

On August 26, 2020, the City served Pastor Baker with the Amended Original Petition in Condemnation and Eminent Domain. *Id.* ¶ 32. Throughout this process, the Church never wanted

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<sup>3</sup> These letters are attached as exhibits to the City's Amended Original Petition in Condemnation and Eminent Domain.



to sell the Church Property and still does not want to sell it. The Church believes that this Church Property was provided by God for Canaan Baptist to exercise its religious mission. *Id.* ¶ 33.

### **III. ARGUMENT & AUTHORITIES**

Canaan Baptist moves to dismiss the City’s Petition for Condemnation under Texas Property Code § 21.019 (concerning the dismissal of condemnation petitions) and Texas Rule of Civil Procedure 91a (providing for motions to dismiss a cause of action because “it has no basis in law or fact”). Under Rule 91a, “A cause of action has no basis in law if the allegations, taken as true, together with inferences reasonably drawn from them, do not entitle the claimant to the relief sought.” In addition, “a cause of action has no basis in fact if no reasonable person could believe the facts pleaded.” *Id.* This motion is timely because it is filed within sixty days of the Petition. *See* Tex. R. Civ. P. 91a(3).

The Petition has no basis in law because it violates the Texas Religious Freedom Restoration Act (“TRFRA”), Tex. Civ. Prac. & Rem. Code § 110.009(a)-(b), the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc et seq., fails to meet the applicable pleading standard for condemnation petitions, *see* Tex. Prop. Code. § 21.012(b)(2).

#### **A. The Petition should be dismissed under the Texas Religious Freedom Restoration Act.**

The Texas Religious Freedom Restoration Act prohibits government from substantially burdening a person’s religious exercise unless it demonstrates that applying the burden to that person furthers a compelling governmental interest through the least restrictive means. Tex. Civ. Prac. & Rem. Code § 110.009(a)-(b). This protection “is *in addition* to the protection provided under federal law and the constitutions of the United States.” *Id.* § 110.009(b) (emphasis added). Consequently, just like its federal counterpart, TRFRA is a “super statute,” displacing the normal

operation of state laws. *See Bostock v. Clayton Cty.*, 140 S. Ct. 1731, 1754 (2020) (citing the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1). Thus, all government actions, including eminent domain proceedings, must comport with “the limitations imposed by the constitution and case law.” *KMS Retail Rowlett*, 593 S.W.3d at 184.

Under TRFRA, Canaan Baptist must first demonstrate that the City’s plan to seize its property will substantially burden its members’ free exercise of religion. Then, the burden shifts to the City to prove that (1) its plan to seize the Property furthers a compelling governmental interest and (2) seizing *this particular property* is the least restrictive means of furthering that interest. The City cannot meet this high burden.

***1. The City’s seizure of Canaan Baptist’s Property would substantially burden its free exercise of religion.***

TRFRA defines “free exercise of religion” as “an act or refusal to act that is substantially motivated by sincere religious belief.” Tex. Civ. Prac. & Rem. Code § 110.001(a)(1). Importantly, when assessing whether the “act” at issue is motivated by a sincere religious belief, courts may not question the truth of the citizen’s beliefs. *See Pleasant Glade Assembly of God v. Schubert*, 264 S.W.3d 1, 9 (Tex. 2008). “[I]nquiry into the truth or falsity of religious beliefs . . . is forbidden by the Constitution.” *Id.* “The burden must be measured, of course, from the person’s perspective, not from the government’s.” *Barr v. City of Sinton*, 295 S.W.3d 287, 301 (Tex. 2009). Consequently, the Court may only examine whether the acts at issue are motivated by sincere religious beliefs. On this point, there can be no dispute.

The Church’s acquisition of the Property, its investment in plans to construct a house of worship on the Property, its current use of the Property for religious activities, and its desire to expand its ministry to those within the community from a centrally-located and heavily trafficked location, are unequivocally motivated by its members’ sincerely held religious beliefs. *See, e.g.,*

Ex. 1 ¶ 12. The Church believes that God has led them and is calling them to expand their ministry by purchasing, using, and building upon this Property. Despite facing hurdle after hurdle, the Church has remained faithful for nearly 20 years to what it believes is a divine call to build a new facility. *Id.* ¶ 13.

Canaan Baptist *is already using* the land to serve its ministry through various religious activities. The Property's central location makes it effective for Canaan Baptist to host its clothing and voter registration drives, which the Church views as an essential exercise of its sincerely held belief that it should be "salt and light" to the world. *Id.* ¶ 9, Exs. A-E. The church also regularly engages in other religious activities on this location, such as prayer and worship activities, as described above. *Id.*

The Church's possession and use of the Property undeniably constitute the free exercise of religion.

***2. The City's plan to seize the Property would substantially burden Canaan Baptist's exercise of religion.***

"[W]hen the ability to express adherence to faith through a particular religiously motivated act has been meaningfully curtailed," there has been a substantial burden to religious exercise. *Barr*, 295 S.W.3d at 302. Here, the City's seizure of the Property would meaningfully curtail Canaan Baptist's free exercise of religion. If the Property were seized, Canaan Baptist's ongoing ministry and other religious activities on its consecrated Property would immediately halt. *Barr*, 295 S.W.3d at 302 (finding a substantial burden when an ordinance "[a]s a practical matter . . . ended [the religious adherent's] ministry").

Additionally, community outreach is a cornerstone of the Church's ministry, and it is precisely the visibility and accessibility of the Property's location that enables the Church's community outreach efforts within the city of Duncanville and the greater South Dallas area. Ex.

¶ 12. This visibility communicates the Church's principles, ideals, and beliefs to the thousands of motorists and pedestrians passing down Camp Wisdom Road. *See Islamic Ctr. of Mississippi, Inc. v. Starkville*, 840 F.2d 293, 300 (5th Cir. 1988) ("The assembly of those bound by common beliefs and observances not only serves to create a sense of community among the members through the shared expression of their beliefs, it also communicates to outsiders the church's identity as a group devoted to a common ideal.") (emphasis added). The location also enables the Church's outreach efforts to effectively reach the community. Ex. 1 ¶ 9, Exs. A-E.

But seizing the Property would not only hinder the Church's outreach ministry and missions efforts, it would also place a substantial burden on Canaan Baptist's members by restricting them from expressing their faith publicly and visibly to the community. The Church adheres to Jesus's commandment that Christians are to "let [their] light shine before others," Matthew 5:16 (NIV), which is precisely why they already publicly minister on the Property. These services not only give passersby on West Camp Wisdom Road an opportunity to learn about Canaan Baptist, they provide the congregation with an avenue to publicly express their faith.

Although the City recommended other properties to the Church, none of those properties can replace the Church's Property. None of the other properties possess the prominence of the Property conspicuously on West Camp Wisdom Road. Ex. 1 ¶¶ 6, 12. More importantly, the Church believes that this Property is divinely chosen and, thus, no other Property is an adequate substitute. Hence, seizing the Property destroys the Church's ability to "express adherence to [its] faith through a particular religiously motivated act." *Barr*, 295 S.W.3d at 302. This is the definition of a substantial burden.

The lack of a current physical structure would make it no less burdensome for the Church *in these particular circumstances* than it would be to take the Property of many churches that

already have a building. The Church’s current and future planned religious activities will be halted at the Property just as surely and completely as they would if they had already had the funds to build. Here, the faithful of Canaan Baptist have generously sacrificed and given for years, overcoming numerous hurdles to purchase this Property and prepare it for construction, and this taking would put them back at square one. Ex. 1 ¶ 13. It would also be a devastating blow to the congregation, who has patiently prayed and waited and served and sacrificially given for almost twenty years, having no idea that the government would seek to shatter their dreams without any thought (at least in the public record) for what it would cost them. The Constitution (and TRFRA) protect *people* exercising their religion—not buildings.

***3. The City’s plan to seize the Property does not serve a compelling governmental interest.***

Because the City’s plan to seize the Property would place a substantial burden on Canaan Baptist’s free exercise of religion, the City must prove its interest in condemning this *particular piece of property* is compelling. *Barr*, 295 S.W.3d at 306 (“RFRA requires the Government to demonstrate that the compelling interest is satisfied through application of the challenged law ‘to the person’—the particular claimant whose sincere exercise of religion is being substantially burdened.”) (quoting *Gonzalez v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 430–31, 439 (2006)). As the Texas Supreme Court has explained, “[b]ecause religious exercise is a fundamental right, that justification can only be found in ‘interests of the highest order’ and only to avoid ‘the gravest abuses, endangering paramount interest[s].’” *See Wisconsin v. Yoder*, 406 U.S. 205, 215 (1972) (quoting *Sherbert v. Verner*, 374 U.S. 398, 406 (1945)).

Importantly, “courts must look beyond broadly formulated interests justifying the general applicability of government mandates and scrutinize the asserted harm of granting specific exemption to particular religious claimants.” *Gonzalez*, 546 U.S. at 430–31, 439. To this end,



interests such as “preserv[ing] the public safety, morals, and general welfare” are “the kind of ‘broadly formulated interest[s]’” that do not satisfy the scrutiny mandated by [T]RFRA. *Id.* (emphasis added). The City cannot meet its burden.

The City’s Petition states that the Property “will be used for a public purpose for which the Condemnor possesses the power of eminent domain, for the construction, maintenance, and operation of a fire station, public safety facility and/or other related improvements, public utilities necessary and associated with public purposes.” Pet. at ¶ 4.01. It makes no plea or allegation, much less a showing, that this particular property is necessary for its stated purpose (or that its stated purpose is a compelling interest), and the Resolution passed by the City (which ostensibly provides the authority for the City’s attempted seizure) does no better.

That Resolution states, in conclusory fashion, that “it is hereby determined that there is a public necessity, and that a public use and purpose for the welfare and convenience of the citizens requires the acquisition of title and land to improvements in the City . . . .” Pet., Ex. A at 1. The Resolution goes on to state that the City “finds it to be in the public interest and to the benefit of the health, safety, and welfare of the citizens to acquire the necessary interests in real property by the use of the eminent domain under the Texas Constitution and Texas Property Code.” *Id.* Finally, the Resolution provides that the City “hereby finds and determines that a public necessity exists for the welfare of the City and its citizens; and, it is in the public interest for the City of Duncanville, Texas, to acquire [the Property] . . . .” *Id.*

The City has recited nothing more than a “broadly formulated interest” to “benefit” the “health, safety, and welfare of the citizens.” *Id.* This is almost identical to the government interest that the Texas Supreme Court rejected in *Barr*. 295 S.W.3d at 306 (“The Sinton City Council’s recitation . . . that ‘the requirements of this section are reasonably necessary to preserve the public

safety, morals, and general welfare’—is the kind of ‘broadly formulated interest[]’ that does not satisfy the scrutiny mandated by RFRA.”). The articulation Duncanville proffers similarly fails here.<sup>4</sup>

**4. *The City’s plan to seize the Property is not the least restrictive means.***

Even if the City’s interest were accepted as compelling, Duncanville also has the burden to show that eminent domain proceedings against Canaan Baptist Church are the “least restrictive means” of achieving the City’s interest. Tex. Civ. Prac. & Rem. Code § 110.003. Under the least-restrictive-means standard, which is “exceptionally demanding,” Duncanville must demonstrate that it lacks any other means of achieving its compelling interest “without imposing a substantial burden on the exercise of religion by the objecting parties.” *Hobby Lobby Stores, Inc. v. Burwell*, 573 U.S. 682, 728 (2014). Put simply, if the City has “other means of achieving its desired goal,” it cannot seize the Property. *Id.* The City must show that there are *zero* less-restrictive alternatives. *See United States v. Playboy Entm’t Grp., Inc.*, 529 U.S. 803, 804 (2000) (applied to a TRFRA claim in *Merced v. Kasson*, 577 F.3d 578, 594-95 (5th Cir. 2009)).

Here, the City could achieve its desired goal to build a “fire station... and/or other related improvements” through a number of other avenues without placing a substantial burden on Canaan Baptist’s free exercise of religion. For example, public records indicate that the City owns multiple unimproved tracts of land located on large thoroughfares—properties that would undeniably serve as prime locations for a “fire station... and/or other related improvements.”<sup>5</sup> One example is the

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<sup>4</sup> Notably, although the City’s purchase of an empty lot adjacent to the Property may make it *convenient* to purchase the Property, convenience is not a “compelling interest.” The purchase of one lot without securing adjacent lots is a problem of the City’s own creation. In any case, it can sell the adjacent lot for fair value and use the funds towards the purchase of another location, as it is trying to force the Church to do here.

<sup>5</sup> This Court could also take judicial notice of the properties owned by Duncanville because the records of the City’s ownership are in the public record. *See City of El Paso v. Fox*, 458 S.W.3d 66, 72 (Tex. App.—El Paso 2014, no pet.); *Langdale v. Villamil*, 813 S.W.2d 187, 190 (Tex. App. Houston [14th Dist.] 1991, no writ).

vacant property located at 805 West Wheatland Road. *See* Exhibit 3, Duncanville City Council Meeting Minutes dated August 4, 2020.<sup>6</sup> This property is 100% owned by the City, zoned commercial, located on a six-lane boulevard, and adjacent to another vacant lot owned by the city (located at 302 South Venice Drive). Ex. 4, 805 West Wheatland Rd. DCAD Records. The City could build a fire station or any other facility it desires on the Wheatland property without burdening the Church's free exercise of religion and without instituting an eminent domain proceeding at all. The same is true for the vacant property located at 403 West Daniieldale Road. This property, like the Wheatland property, is 100% owned by the City, zoned commercial, located on a major thoroughfare, and, with over 42 acres of space, has more than enough room for any public facilities the City desires. Ex. 5, 403 West Daniieldale Rd. DCAD Records. And these are just two examples. The City Council's minutes from August 4, 2020, indicate that Duncanville owns nine different properties throughout the city. Ex. 3. The City could use any of those properties without placing a substantial burden on Canaan Baptist's free exercise of religion.

The fact that these properties may not be located on West Camp Wisdom Road is no defense for the City. In its letters to Canaan Baptist, Duncanville offered to pay \$206,850.00 for the Property, citing an appraisal it attached to the letters. Pet., Exs. D & E. That appraisal identifies five "sales comparables"—properties deemed by the appraiser to be "comparable" to the Property the City now seeks to seize. *See* Ex. G to Baker Declaration. This fact—that the City's own appraiser has identified five comparable properties, Pet., Exs. D & E., —demonstrates in itself that less restrictive means are available for the City to accomplish its purpose.<sup>7</sup> Additionally, in the City's January 10 meeting with the Church, one of the officials said that the Church's Property

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<sup>6</sup> Likewise, the Court can take judicial notice of these minutes because they are an official public record. *See id.*

<sup>7</sup> Canaan Baptist does not concede that those lots are, in fact, comparable for the Church's purposes. But the City's position is that comparable properties do exist.

was the City's "preferred" option, not that it was the only option. Thus, there are lesser restrictive means for the City to effectuate its interests rather than seizing the Property.

Finally, although the City would only spend approximately two hundred thousand dollars to acquire the Church's land, the City has a budget of one million dollars for the acquisition of property related to its fire station project. With such a budget, the City can no doubt acquire another property sufficient for its needs.

For these reasons, TRFRA requires that the Petition be dismissed pursuant to § 21.019(c) of the Texas Property Code and Texas Rule of Civil Procedure 91a.

**B. The Petition should be dismissed under the Religious Land Use and Institutionalized Persons Act (RLUIPA).**

The Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc et seq., protects a church's right to assemble for worship by prohibiting government actions that substantially burden religious exercise without satisfying strict scrutiny. 42 U.S.C. § 2000cc. Under RLUIPA, "a government action or regulation creates a 'substantial burden' on a religious exercise if it truly pressures the adherent to significantly modify his religious behavior and significantly violate his religious beliefs." *Barr v. City of Sinton*, 295 S.W.3d 287, 301 (Tex. 2009). As detailed above, the City's attempt to condemn the Church's Property constitutes a substantial burden on Canaan Baptist's free exercise of religion and, thus, the City must satisfy strict scrutiny. *Id.* at 296. As explained above, the City cannot satisfy strict scrutiny because it cannot prove that its condemnation of the Church's Property is done for a compelling interest advanced through the least restrictive means. Particularly, the City cannot assert that there are no other alternatives where it can build a new fire station because the City categorized five properties as comparables, the City owns several other properties throughout South Dallas it could use, and the City has at least one million dollars to spend to acquire any new property it wants. Such

resources and options preclude the City from surviving strict scrutiny. Thus, the City's Petition also violates RLUIPA and should be dismissed. *See* Tex. Prop. Code § 21.019(c); Tex. R. Civ. P. 91a.

**C. The City's Petition does not meet the pleading standard.**

Finally, the City of Duncanville is not entitled to the relief sought because the Petition fails to meet the pleading standard for condemnation petitions. Texas Property Code § 21.012 governs condemnation petitions and requires the petition to "state with *specificity* the public use for which the entity intends to acquire the property." Tex. Prop. Code § 21.012(b)(2) (emphasis added). Here, Duncanville's Petition fails as a matter of law, because it fails to meet this requirement.

Duncanville's Petition provides a single sentence, which reads in full as follows:

The property referred to in Exhibits A and B will be used for a public purpose for which the Condemnor possesses the power of eminent domain, for the construction, maintenance, and operation of a fire station, public safety facility and/or other related improvements, public utilities necessary and associated with public purposes.

Petition at 4.01.

The Petition's vague, formulaic words "public purpose" encompass a multiplicity of potential uses. Based on Duncanville's pleading, it is unclear whether it intends to build: (1) a "fire station"; (2) a "public safety facility"; (3) "other related improvements"; (4) "public utilities necessary and associated with public purposes"; or (5) any number of combinations of the above. The phrase "other related improvements" is unquestionably vague and under no definition of the word "specificity" is this pleading adequate. Tex. Prop. Code. § 21.012(b)(2); Petition at § 4.01. Even the phrase "public safety facility" could constitute any number of structures with any number of purposes. Similarly, the phrase "public utilities" is likewise vague, because it is unclear what "public purposes" these unidentified "public utilities" are "necessary and associated with." The



Petition does not specify how many public purposes it alleges there are, let alone what those purposes are. In sum, Duncanville's pleading amounts to little if anything more than begging the question—asserting that the public purpose is a public purpose.

The Texas Legislature was abundantly clear—a condemnation petition *must* state with “*specificity* the public use for which the entity intends to acquire the property.” Tex. Prop. Code. § 21.012(b)(2) (emphasis added). Without such specificity, a landowner lacks the opportunity to challenge the legal sufficiency of the City's purpose. And vague, conclusory pleading invites abuse, because it enables a government to take property on a whim and decide what to do with it later. This is not consistent with the statutory framework Texas provides to regulate one of the most powerful weapons a government wields against its citizens. Accordingly, the Petition has no basis in law and should be dismissed under Rule 91a for failing to meet the pleading standard.

**D. Canaan Baptist is entitled to attorneys' fees pursuant to Tex. Prop. Code § 21.019 and TRFRA.**

Canaan Baptist is entitled to attorneys' fees pursuant to Texas Property Code § 21.019, which expressly provides for an award of fees to a property owner that successfully seeks dismissal of a condemnation proceeding. Specifically, § 21.019(c) states:

A court that hears and grants a motion to dismiss a condemnation proceeding made by a property owner seeking a judicial denial of the right to condemn or that otherwise renders a judgment denying the right to condemn may make an allowance to the property owner for reasonable and necessary fees for attorneys, appraisers, and photographers and for the other expenses incurred by the property owner to the date of the hearing or judgment.

Here, Canaan Baptist is a “property owner” and is seeking a judicial denial of Duncanville's right to condemn by way of this motion to dismiss. Additionally, TRFRA allows any entity that asserts a successful defense under the statute to recover attorney fees, court costs, and other reasonable expenses. Tex. Civ. Prac. & Rem. Code § 110.005(a)-(b).

Accordingly, Canaan Baptist respectfully requests the Court exercise its discretion and award Canaan Baptist its reasonable and necessary fees incurred to the date of this Court's judgment dismissing the Petition.

**E. The Court should stay this case pending a determination of this Motion to Dismiss.**

Importantly, the Texas Property Code, as well as the Landowner's Bill of Rights, are silent as to the timing of such a motion. Nothing in the statute precludes this Court from considering this motion prior to the appointment of commissioners. However, an "award" by the special commissioners arguably provides the City with an immediate right to take possession of the Church's property, even in the event the Church appeals the award. Texas Property Code § 21.021(a). If the Court denies the stay and the commissioners are appointed, the Church would be forced to immediately file a motion for temporary restraining order. As such, the Church respectfully request this Court stays the awards proceeding pending resolution of this motion. To allow the case to proceed prior to the resolution of this motion to dismiss would result in a waste of judicial and party resources.<sup>8</sup> *See, e.g., Dow Chem. Co. v. Francis*, 46 S.W.3d 237, 240 (Tex. 2001) ("[A] trial court has the inherent power to control the disposition of cases 'with economy of time and effort for itself, for counsel, and for litigants.'" (citing *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936)); *see also Porras v. Jefferson*, 409 S.W.3d 804, 807 (Tex. App.—Houston [14th Dist.] 2013, no pet.) ("A trial court possesses 'inherent powers it may call upon to aid in the exercise of its jurisdiction, in the administration of justice, and in preservation of its independence and integrity.'" (quoting *Pub. Util. Comm'n of Tex. v. Cover*, 754 S.W.2d 121 (Tex. 1988))).

Accordingly, Canaan Baptist respectfully requests the Court exercise its broad discretion to stay this proceeding pending resolution of this Motion to Dismiss.

#### IV. CONCLUSION

For the reasons described, Canaan Baptist Church respectfully requests that the Court grant its Motion to Dismiss with prejudice and stay this case pending resolution of this Motion.

Dated: October 6, 2020

/s/ Chad B. Walker

Chad B. Walker

[REDACTED]

John T. Sullivan

[REDACTED]

J. Travis Underwood

[REDACTED]

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**ATTORNEYS FOR RESPONDENT**

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, on October 6, 2020, a true and correct copy of the foregoing document was served on all parties requesting service via the Court's ECF system.

/s/ Chad B. Walker  
Chad B. Walker

# Exhibit 1

**CAUSE NO. CC-20-03611-A**

**CITY OF DUNCANVILLE, TEXAS,**

**Petitioner,**

**v.**

**CANAAN BAPTIST CHURCH, a  
nonprofit corporation or association,**

**Respondent.**

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**COUNTY COURT AT LAW NO. 1**

**DALLAS COUNTY, TEXAS**

**DECLARATION OF DR. JARVIS BAKER IN SUPPORT OF CANAAN BAPTIST  
CHURCH'S MOTION TO DISMISS PURSUANT TO TEX. PROP. CODE § 21.019 AND  
IN THE ALTERNATIVE PURSUANT TO TEX. R. CIV. P. 91a AND MOTION TO STAY**

I, Dr. Jarvis Baker, declare as follows:

1. My name is Dr. Jarvis Baker. I am over 18 years old, have never been convicted of a felony, and am fully competent to make this declaration.
2. I have personal knowledge of the facts stated in this declaration, and all such facts stated are true, correct and complete.
3. Canaan Baptist Church (the "Church") was founded in 1969.
4. I serve as Pastor of the Church, currently located at 2203 Alaska Avenue, Dallas TX 75216 in the form of physical buildings, as well as the property at 232 West Camp Wisdom Road, Duncanville, Texas 75116. The Church has been at the Alaska Avenue location and serving the Duncanville and greater South Dallas community for over 50 years.
5. I grew up in the Church, and I became Pastor of the Church in 2002.
6. The current Church building consists of two small houses that have been converted into a worship sanctuary and activity center. For years, the Church has needed more space to fulfill its religious mission. Because the Church's current location is landlocked, the

Church cannot expand the size of its buildings.

7. The Church currently has approximately 125 members. Since we have such a small congregation, it took the Church about five years to raise the money necessary to purchase a property suitable for the church's expansion.

8. In 2002, the Church purchased the property at 232 and 302 West Camp Wisdom Road Duncanville, TX 75116 (later re-platted into a single tract retaining the address of 232, and hereinafter referred to as the "Church Property").

9. The Church sincerely holds the religious belief that its mission from God is to serve the community in the Duncanville area. The Church also believes that God has called it to be an outreach church by spreading the good news of the Gospel of Jesus Christ and tending to the needs of "the least of these" (as prescribed in biblical scripture) by providing clothing giveaways, help for the homeless and low-income families, voter registration drives, youth outreach, and other essential services to the community. The Church currently engages in these specific activities and other similar activities on and at the Church Property.

10. Attached hereto as Exhibits A-E are true and correct copies of pictures taken of the Canaan Baptist congregation engaging in religious activities on the Church Property.

11. Attached hereto as Exhibit F is a true and correct copy of the Canaan Baptist Church Constitution and Bylaws.

12. The Church also believes that God ordained the Church Property so that the Church can expand its facilities. The West Camp Wisdom Road location provides prominent access to the Duncanville community that God has called the Church to serve. In particular, the Church believes this location will attract more members of the community so the Church may provide them spiritual development and humanitarian assistance.

13. In addition, the Church believes the Church Property is "God-ordained" because



God removed many obstacles to secure the space for us. First, the Church believes God honored the Church members' prayers and blessed their fundraising efforts, thus enabling our small church to purchase the property. Next, when the Church first obtained the Church Property, the Church was told by the City of Duncanville (the "City") that not only is the Church Property not zoned for "church use," but also that the City had no future plans to rezone the area for "church use."

14. This obstacle was removed in 2006, and the City did approve rezoning the area (which includes the Church Property) to include "church use." And perhaps most importantly, in 2010, the Church was able to re-plat the two properties that comprise the Church Property (i.e., 232 West Camp Wisdom Road and 302 West Camp Wisdom Road.) into a single-platted property, bearing the current address of 302 W. Camp Wisdom Rd. This step enables the Church to build a bigger building and parking lot to better serve, bless, and reach out to the people of Duncanville.

15. Also, in 2016, the Church presented its building plans to the City, but Duncanville Fire Department rejected our plans and claimed the entrances in our plans were too narrow for fire truck access. This rejection set us back financially and drastically affected the timing of our project. We were forced to spend tens of thousands of dollars recreating the building plans.

16. Over the years, the Church paid and retained the services of various development and engineering firms to present the Church's development plans to the City to facilitate the Church's construction project. Based on this and the foregoing paragraphs, it is my understanding the City is fully aware of the Church's intentions for and use of the property.

17. The Church members have consecrated the Church Property by preparing it for the Lord's use with prayer and conducting a "Jericho Walk," which includes worshipping and



praising the Lord for His provision and asking God for direction on how the Church Property should be used for God's glory.

18. In November 2018, the City approved a bond program for it to build new facilities. At this time, the Church was not aware that the City was considering its Property as a location for the new facilities.

19. In or around January or February of 2019, Peyco Southwest Realty ("Peyco") wrote me a letter expressing their interest in purchasing the Church Property. The letter did not identify the City as the interested purchaser. I cannot locate this letter, but I know that I did not respond to it.

20. In or around March or April of 2019, BJ Hall of Peyco went to my mother's residence, Mrs. W.E. Baker, attempting to contact me. Her residence is across the street from the current church location. I did not respond to this contact attempt.

21. In June 2019, Ms. Hall visited my mother's home again. This time I was present, and Ms. Hall asked about purchasing the Church Property. I told her the Church was not interested in selling the Church Property. During our meeting, Ms. Hall never stated to me that the City was the interested purchaser.

22. In or around October or November 2019, I received another letter from Peyco about purchasing the Church Property. I do not recall if I responded to this inquiry, but if I did respond in any way, I would not have indicated any interest in selling the Church Property.

23. On December 10, 2019, I received a letter from Peyco stating that they understood that the Church was not interested in selling the Church Property, but the City wanted to purchase it because the City acquired the land next door to the Church Property, and the City needed and wanted the Church Property to build a fire station. By and through text messaging with Ms. Hall, I made it clear that the Church did not and would not sell the Church

Property. At some point during these text conversations, Ms. Hall let me know that the City wanted to meet with me and the other Church leaders, and she even asked that I provide her some possible dates for everyone to meet. I do not recall my response to this question.

24. On December 20, 2019, one of the Church's elders, Gregory "Greg" Barber ("Elder Barber"), received a voicemail message from Ms. Hall. I listened to the voicemail, and I recognized her voice. I heard her say specifically, among other things, that the City wanted to purchase the Church Property and that we needed to call her back.

25. On December 23, 2019, Elder Barber received another voicemail message from Ms. Hall. I listened to this voicemail as well, and I recognized her voice. During this voicemail message, I heard her say, among other things, (1) the City wanted our property, and (2) the City could take the property by eminent domain if it had to, but that it would prefer to work something out with the Church. When this threat of eminent domain was made, neither I, Elder Barber, nor any Church member had received the Texas Landowner's Bill of Rights. In my presence, Elder Barber called Ms. Hall to tell her the Church leaders could not meet until after the first of the year because of the holidays.

26. On January 10, 2020, I and other Church leaders met with some of the City's officials and staff to discuss the City's desire and intent to take the Church Property. The Church leaders and I were confused and distraught after the meeting. We did not have legal counsel present, and we did not know whether we could do anything to fight the City's attempt to take the Church Property from us or refuse to sell the Church Property.

27. In March and April, 2020, the City sent written proposals to me dated March 12, 2020 and April 24, 2020, and offered the Church a purchase price for the Church Property. (I understand these proposals are attached as an exhibit to the City's Amended Original Petition in Condemnation and Eminent Domain). Attached hereto as Exhibit G is the Appraisal Report

referenced in the City's written proposals dated March 12, 2020 and April 24, 2020. At this point, the COVID-19 gathering restrictions and quarantines had begun and the Church leadership could not meet to discuss the City's proposal.

28. Many of the Church leadership do not have access to the technology required for an online meeting, including those necessary for the Church to make any decision regarding a response to the City's proposal.

29. In May, Elder Barber and I contacted Albert D. Hammack, an attorney in Dallas who also serves as the Municipal Court Judge of the Town of Highland Park. Mr. Hammack responded to the City's April 24th proposal. Attached hereto as Exhibit H is a true and correct copy of Mr. Hammack's letter in response to the City's April 24th, 2020 letter, not inclusive of the exhibits thereto. I hereby incorporate this letter in full to my declaration.

30. Throughout the 2020 summer, I understand Mr. Hammack intermittently communicated informally on behalf of the Church with the City's attorney.

31. As of the date that I make this Declaration, the Church has no interest in selling the Church Property and has never had such an interest. After the Church retained counsel for this lawsuit, I became aware that the City's representations that the Church would have no choice but to sell the property may not be correct. Accordingly, the Church does not presently intend to deliberate upon the City's proposal because as explained herein, it does not wish to sell the Church Property.

32. Nonetheless, on August 26, 2020, the City served me with the Amended Original Petition in Condemnation and Eminent Domain.

33. Throughout this process, the Church never wanted to sell the Church Property and still does not want to sell it. The Church has always held fast to its religious conviction that the Church Property was given to us by God and there is no amount of money that can



compensate us for it.

34. My name is Dr. Jarvis Baker, my date of birth is July 25, 1971, and my address is [REDACTED]. I declare under penalty of perjury that the foregoing is true and correct. Executed in Dallas County, State of Texas, on the 6th day of October, 2020.

By: Dr. J. Baker  
Dr. Jarvis Baker

Exhibit A  
to  
Baker Declaration  
Exhibit 1







Exhibit B

to

Baker Declaration Exhibit 1








Exhibit C  
to  
Baker Declaration  
Exhibit 1



And whatever you do, in word or deed, do everything in the name of the Lord Jesus, giving thanks to God the Father through him.  
Colossians 3:17

GOD  GOD





   





Exhibit D  
to  
Baker Declaration  
Exhibit 1







Exhibit E  
to  
Baker Declaration  
Exhibit 1







Exhibit F  
to  
Baker Declaration  
Exhibit 1

# *Canaan Baptist Church Church Constitution and Bylaws*

## *Article I: The Church*

### *Preamble:*

*We, the born again members of the Canaan Baptist Church of Dallas, TX do hereby establish the following articles as the constitution to which we do voluntarily submit ourselves. We shall be established as nonprofit, charitable Church Corporation under the laws of Texas.*

### *Section I. Name:*

*Canaan Baptist Church*

### *Section II. Purpose:*

*The purpose of our Church is to adhere to the principles of a New Testament Church, which are found in Acts chapter 2. We shall be a church that will find those who are lost without our Lord Jesus, we shall be a church that will disciple members by feeding them God's word, we shall be a church that ministers one to another by fastening ourselves to the Lord's people, and we shall be a church that worships and praises God by focusing on who he is and his wondrous works.*

### *Section III. Doctrinal Beliefs*

*We believe the Bible is the Word of God supernaturally inspired. It is inerrant in the original manuscripts and preserved by God in its verbal plenary inspiration; and is a divinely authoritative standard for every age and area of life.*

*We believe in the Godhead exists eternally in three persons Father, Son, and Holy Spirit and that these three are one.*

*We believe God is the absolute and sole creator of the universe and that creation was by divine command.*

*We believe God by his sovereign choice and out of and out of love for men, sent Christ into the world to save sinners.*



*We believe the Lord Jesus Christ in the flesh was both God and man. He was born of a virgin and lived a sinless life; he was crucified, died as a penalty for our sins and was raised from the dead bodily on the third day. Later, he ascended to the Father's right hand where He is the head of the church and intercedes for believers. We believe Jesus Christ is coming again personally, bodily, and visibly to this earth to set up his millennium kingdom.*

*We believe the Lord Jesus Christ made a perfect atonement for sin, through his sacrificial death and he redeemed us from the curse of the law by becoming a curse for us. Men are saved on the simple and single ground of his shed blood.*

*We believe that salvation through Jesus Christ, with its forgiveness of sins, its impartation of a new nature and its hope of eternal life- is entirely apart from good works, baptism, church membership or man's merit, it is an act of pure grace.*

*We believe at the rapture those who trust in Christ will be raised in the likeness of the body of his glory and dwell in his divine presence.*

*We believe that is the goal of every Christian to become a disciple of Christ growing toward spiritual maturity through the knowledge of and obedience to the Word of God and submission to the Holy Spirit, which regenerates, indwells baptizes, and seals all believers at the moment of salvation.*

*We believe that every true Christian is to be dynamic part of the local church since this is God's primary context for spiritual development.*

## *Article II: Membership*

### *Section I. Reception*

*Membership may gained in this assembly in two ways and lost in three ways*

*Gaining Membership- We shall add to our membership those who*

- *Profess faith in Christ and come for scriptural baptism*
- *Transfers- Members shall be allowed to join this fellowship from other churches on the basis of leaving their present church in good standing. If it is declared a*

*member has left their church in bad standing, the member must come with repentance and honesty to join this fellowship.*

*Losing Membership- We shall delete from our membership those who:*

- *Die and go to be with the Lord.*
- *Are dismissed for doctrinal and moral apostasy*
- *Are dismissed for non-attendance*
  - o *All members are required by scripture to be faithful to attend its services unless proving hindered by health issues or employment issues.*

## *Article III- Church Staff and Officers*

*Section I. Pastor- The pastor is the ordained overseer and under-shepherd of this assembly. His qualifications are recognized in I Timothy 3:1-7 and Titus 1:1-9. He shall act as moderator in the business meetings. The pastor shall serve for an indefinite period of time. The pastor shall serve the church in his pastoral position as long as he, the pastor, feels the Holy Spirit shall have him to do so. A vote shall not come to dismiss the pastor from his position or duties of the Pastor of the Canaan Baptist Church of Dallas, TX, unless (1) Proven preaching or teaching of doctrine different from the attached doctrinal statements in these By-Laws and/or (2) Proven immorality on the part of the Pastor. The Pastor's dismissal shall not occur on the basis of accusations and personality conflicts. The pastor shall oversee the welfare of the church and shall be its primary leader, administrator, preacher and executive officer. He shall supervise ministerial staff, church staff and church employees. In order for the Pastor to be dismissed from his duties 95% of the active members who are of voting age must vote to dismiss the pastor. (Active members are those who have shown a consistent pattern in giving and church attendance, active/voting members status shall be determined by the Pastor and finance committee, when deemed necessary.)*

*Section II. Deacons- Deacons are to serve with the pastor and staff in proclaiming the Gospel; ministering to the needs of the members of the church and community. The deacons purpose is to advance the total mission of the church.*

*1. Qualifications... The scripture, specifically in I Timothy 3:8-13 lists the qualifications which shall be used in selecting deacons. An important consideration is faithful attendance and support of the ministries of the church.*

*2. Term, Eligibility, and Election... A deacon will serve in a lifetime commitment to the church in that position. Depending upon a deacon's service and character he can be moved to non-active status or a deacon emeritus. Nominations for deacons will be made by the Pastor and active deacons. Deacons who transfer from other churches will not lose their title as deacons, but will not be eligible for deaconship at the Canaan Baptist Church. Deacons from previous churches will be eligible for nominations after a year of membership.*

### ***Section III. Trustees-***

#### ***Section IV. Church Officers/Staff***

- 1. Business Coordinator*
- 2. Treasurer*
- 3. Financial Secretary/Executive Assistant to the Pastor*
- 4. Minister of Music/ Musician Staff*
- 5. Church Custodian/Groundskeeper*
- 6. Finance Team*

*Each office and staff members shall receive a job description and job duties.*

*(The Pastor shall decide what positions will be paid positions and voluntary positions, the pastor may delegate this responsibility, with his approval)*

***Section V. Church Auxiliary Officers and Ministry Leaders-*** *The Church shall have a number of auxiliaries and ministries led by individuals who have demonstrated faithfulness to their church and a passion for the ministry that they shall be called upon to lead. The leaders of auxiliaries or ministries shall be chosen and/or approved by the pastor.*

#### ***Section VI. Distribution of Funds to Auxiliaries and Ministries***

*It is the goal of the church to give each ministry/auxiliary an operating budget. If an auxiliary or ministry does not receive an operating budget, when money is needed from the church, the leader is to fill out requisition form submit it for approval or disapproval.*

#### ***Section VII. Distribution of Funds to Members***

- 1. Pledge its assets for use in performing the organization's religious functions*
- 2. Direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state or to a charitable, educational, religious, or other similar organization that is qualified as a charitable organization under 501(c), Internal Revenue Code of 1954, a amended.*

*Constitution and By-Laws*

*For the*

*Canaan Baptist Church*

## *Article V. Fiscal Year*

*The Canaan Baptist Church's fiscal year shall be from January 1<sup>st</sup> to December 31<sup>st</sup>.*

*Constitution and By-Laws of the Canaan Baptist  
Church of Dallas, TX, (Future of Duncanville, TX)*



Exhibit G  
to  
Baker Declaration  
Exhibit 1

**Real Estate Appraisal**

**232 W. Camp Wisdom Road  
Duncanville, Texas**

**Part of the John Spruce Survey, A-1297  
Duncanville, Dallas County, Texas**

**Owners: Canaan Baptist Church**

For:

Jessica James  
Director of Economic Development  
City of Duncanville, Texas  
203 E. Wheatland Road  
Duncanville, Texas 75138

By:

Tom Kyser, Appraiser  
1412 Texas Street  
Fort Worth, Texas 76102  
(817)332-4428



**TOM KYSER, APPRAISER**

1412 TEXAS STREET  
FORT WORTH, TEXAS 76102  
(817) 332-4428

March 7, 2019

Jessica James  
City of Duncanville-Director of Economic Development  
203 E. Wheatland Road  
Duncanville, Texas

Subject: Market value for a property located at 232 W. Camp Wisdom Road, Duncanville, Texas

Dear Ms. James,

As requested, I have completed the following appraisal on the above referenced property. The taking is valued as a whole property in this report subject to possible acquisition by the City of Duncanville for a public use. Whole property is unimproved land. Market value of the property estimated in this valuation is:

\*\*\*\*\* \$206,850.00\*\*\*\*\*

The property was valued as of the date of last inspection, March 6, 2019. The appraisal format employed is considered a "Restricted Use" appraisal. As such the value and conclusions in this report are limited to the use of the client, only and full support for the value and basis for conclusions may not be fully understood without supporting data kept in the work file of the appraiser. Reader is referred to "Special Conditions of Value" and "Scope" sections of this report to fully understand the format used. No title report or environmental study was furnished to appraiser. Normal utility easements, only, were assumed unless indicated in the report. Value estimates and conclusions are subject to the Special Conditions, Assumptions and Limiting Conditions, Certifications, and Disclaimer, in this report. In my opinion, this report has been completed in accord with the Uniform Standards of Professional Appraisal Practice (USPAP).

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Kyser', written over a light blue horizontal line.

Tom Kyser, SRA MAI

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## **SPECIAL CONDITIONS OF VALUE**

1. The appraisal of the “whole property” was done to comply with state law regarding eminent domain acquisitions and is the basis for compensation in this report. Methodology is further explained in the *Scope* section of this report.
2. Persons with an interest in this property are advised to contact the U.S. Army Corps of Engineers concerning any potential wetlands and possible use restrictions. This information is not generally readily available to appraisers. This property is assumed to be unaffected by the existence of any endangered species that would create limitations on property utilization and or have an adverse effect on value. Appraiser was furnished no such information and is unaware of any such existence.
3. Valuation of the property is of the surface estate and no mineral interests are considered. City of Duncanville does not intend to purchase or affect any mineral interest potential of the subject whole property.
4. Data furnished by land owner, client or third parties regarding such issues as conditions, features or characteristics of the subject property, sales or market area of the subject property are assumed to be accurate and were relied upon in the completion of this report.
5. This report is subject to special hypothetical conditions and assumptions which include the provisions of the laws of the State of Texas regarding eminent domain acquisition. These laws provide for hypothetical conditions such as not considering any project influence in the value of the whole property or acquisition parcel and valuing any remainder value, as if the public project has been completed. Certain factors of value are not considered in a remainder valuation, if they are considered “non-compensable” by State law. This type of appraisal is done in compliance with USPAP, under jurisdictional exception.
6. Value estimates and conclusions herein assume no tax rollback liability to current owner and no future special assessments, future platting fees or impact fees were considered in the estimate of compensation.
7. At the request of the client, no owner contacts were made, and no interior inspections were completed. Appraiser did not enter the property and all data about the property was obtained from the Dallas County Appraisal District and other public records and are assumed to be accurate.

The above represent hypothetical conditions or extraordinary assumptions and values could be different if these were not considered.

## **ASSUMPTIONS AND LIMITING CONDITIONS**

The legal description furnished is assumed to be correct. I, and collectively we as may be applicable hereafter, assume no responsibility for matters legal in character, nor do I render any opinion as to the title, which is assumed to be good.

The property is appraised on the basis of fee simple title conveyance to the purchaser and full cash payment being received by the seller. It is recognized; however, that purchaser will likely take advantage of the maximum available financing, and effects of such financing on the probable selling price have been considered.

I do not assume any responsibility for the condition of the property or the correction of any defects now existing or that may develop in the future.

Sketches in this report are to assist the reader in visualizing the property. I have made no survey of the property and assume no liability in connection with such matters.

I believe the information contained in this report which was furnished by others to be reliable, but assume no responsibility for its accuracy.

The appraisal of this property has been made assuming responsible ownership and management, and if applicable, aggressive marketing effort.

Possession of this report or a copy thereof, does not carry with it the right of publication, nor may it be reproduced in whole or in part, in any manner, by any person, without written consent of the appraiser.

One or more of the signatories of this appraisal report is a member or candidate of the Appraisal Institute. The bylaws and regulations of this organization require that each member or candidate control the use and distribution of each appraisal report signed by the member or candidate. Therefore, except as provided hereinafter, the party for whom this appraisal report was prepared may distribute copies of this appraisal report, in its entirety, to such third parties as may be selected by the party for whom this appraisal report was prepared; however, portions of this report shall not be given to third parties without the prior written consent of the signatories of this appraisal report. Further, neither all nor any part of this report shall be disseminated to the general public by the use of advertising media, public relations media, news media, sales media or other media for public communication without the prior written consent of the signatories of this report. This particularly includes valuation conclusions, identity of appraiser, or the firm with which he is connected.

I am prepared but not required to give testimony or attendance in court by reason of this appraisal with reference to the property in question, unless prior additional arrangements are made therefore.

If applicable, the distribution of total valuation in this report between land and improvements applies only under the existing program of utilization. The separate valuation for land and improvements must not be used in conjunction with any other appraisal and is invalid if so used.

The Americans with Disabilities Act (ADA) became effective January 26, 1992. I have not made a specific compliance survey and analysis of this property to determine whether or not it is in

conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the act. If so, this fact could have a negative effect upon the value of this property. Since I have no direct evidence relating to this issue, I did not consider possible noncompliance with the requirements of ADA in estimating the value of the property.

Unless noted otherwise in this report, subject property is assumed to be clear of soil contamination, from sources within or without the property. Improvements are also assumed clear of environmental contamination and hazardous materials, including asbestos. This property is also assumed clear of any wetlands restrictions as might be imposed by the U.S. Army Corps of Engineers. Wetlands are not always confined to low areas, and wetland information is generally not immediately available to appraisers. The property is also assumed to be free of any adverse restrictions created by endangered species. No such information was made known to appraiser.

Appraisal is of real property only, and does not include any increments for business value, going concern value, leasehold or leased fee values, good will, value in use, or any personal property values.

**My analyses, opinions and conclusions were developed, and this report has been prepared in conformity with the appropriate State laws, regulations, and policies and procedures applicable to the appraisal of property for such purposes, and that to the best of my knowledge no portion of the value assigned to such property consists of items which are non-compensable under the established law of said State, and any decrease or increase in the fair market value of subject real property prior to the date of valuation caused by the public improvement for which such property is to be acquired or by the likelihood that the property would be acquired for such improvement, other than that due to the physical deterioration within the reasonable control of the owner has been disregarded in estimating the compensation for the property.**

See previous Special Conditions.

## **DISCLAIMER**

All users of this report are hereby advised that appraiser(s) is not a qualified inspector of such items as pest/termite damage or infestation, soil and subsoil conditions, soil contamination, drainage, foundations, structures, plumbing systems, electrical systems, septic tanks and lateral systems, appliances, electrical or electronic equipment, mechanical equipment, roofs, swimming pools and related equipment, wells, or the presence of potentially hazardous materials such as radon, asbestos, urea formaldehyde or lead based paint. Unless otherwise stated, all component parts are assumed to be serviceable and appraiser(s) assumes no liability for their adequacy or proper function. Potentially hazardous substances or conditions, unless otherwise noted, are assumed not to be present within or without the property limits. Persons with an interest in the property are advised to investigate such items to their own satisfaction, and the assistance of qualified experts in such matters is recommended. Due to normal building tolerances, dimensions of the improvements may have been "squared" in order to calculate building or living area. In most areas, new, and in some cases older, improvements are required to have smoke/fire detection devices, and appraiser(s) assumes and recommends compliance with such requirements. If a private water system, water well or private sewage or septic system are utilized with the property, their compliance with all applicable health codes is assumed, including plugging of abandoned wells. This property is assumed to comply with legislation requiring security devices (door locks, window latches, etc.).

Unless noted otherwise in this report, subject property is assumed to be clear of environmental contamination, from sources within or without the property. Users of this report are advised that appraiser has been furnished no environmental report of any type. Appraiser is not a qualified environmental expert. Persons with an interest in this property are advised to investigate environmental concerns, using qualified personnel.

The Americans with Disabilities Act (ADA) became effective January 26, 1992. I have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the act. If so, this fact could have a negative effect upon the value of this property. Since I have no direct evidence relating to this issue, I did not consider possible noncompliance with the requirements of ADA in estimating the value of the property.

This property is assumed to be unaffected by the existence of any endangered species or wetlands that would create limitations on property utilization and or have an effect on value. Appraiser was furnished no such information and is unaware of any such existence.

## **SCOPE OF APPRAISAL**

The appraiser has appraised properties in Duncanville in the past but not in the last five years. To become fully competent, the appraiser discussed the area and properties with local brokers and appraisers from Dallas County more experienced in the city. Additional research was also completed regarding demographics and real estate trends in the area to support the valuation estimate.

The report format used in this assignment was a “Restricted Use” appraisal format. The report is intended for the use of the client alone and should not be distributed. At the client’s request no “on-site” property inspection was completed and no contact with the owner was made. The property was inspected from the public street fronting the property and all data used was obtained from public records including deeds and data from the Dallas County Appraisal District. All data is assumed to be accurate. The reports are limited by this assumption and values could be different if full inspections are made or data used is incorrect. The “Restricted Use” format is a more succinct format than the typical appraisal report format and full understanding the conclusions regarding the property or the final value estimated may require data retained in the work file of the appraiser.

The subject whole property site is indicated to be an 82,733-square feet site or 1.899 acres according to the last ownership deed of record. The street address is 232 Camp Wisdom Road, Duncanville, Texas. The property is a vacant tract of land that has a special use permit for possible church use, but the underlying zoning is Local Retail, a commercial zoning allowing a wide range of non-residential uses. While a church use is an alternative, the highest and best use would be for commercial use. The city has indicated that a commercial use would be considered a legal use consistent with other properties in the immediate neighborhood.

The property was first physically inspected (off site) to determine nature and type of property. Other sources of property information may include property owner, plans, specifications, public records, city offices, county offices, FEMA flood hazard maps, Texas Department of Transportation (TxDOT), appraisal district and tax offices. Market data sources may include multiple listing services, other appraisers, brokers, buyers, lenders, appraisers' own files, and various data services. Area description data was mostly from city offices, county offices, chambers of commerce, and North Texas Council of Governments.

Appraiser applied the sales comparison approach to the value of the whole property site. Comparable sales were used in a direct comparison to the subject site to estimate the value of the property as of the date of taking. This approach is the most common technique used in land appraising. The use of other approaches was not judged realistic for the type property involved. There were no improvements on the whole property.

## **CERTIFICATION**

I (and “we”, as applicable) certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved. I have no bias with respect to the property that is the subject of this report, or to the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal. This assignment is not based on a requested minimum valuation, a specific valuation, or the approval of a loan.

My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute, and with the Uniform Standards of Professional Appraisal Practice.

The use of this report is subject to the requirements of the Appraisal Institute, relating to review by its duly authorized representatives.

I have not done any appraisal or any other real estate service regarding this property within three years prior to the acceptance of the assignment. I have made a personal inspection of the property that is the subject of this report.

No one has provided significant real property appraisal assistance to the person signing this report, unless otherwise noted in this report.

As of the date of this report, appraiser has completed the continuing education requirements of the Appraisal Institute.

My analyses, opinions, and conclusions were developed, and this report prepared, in conformity with the rules of the Texas Real Estate Commission, and the Texas Appraiser Licensing and Certification Board; and I am certified by the Texas Appraiser Licensing and Certification Board as General Real Estate Appraiser, Certificate Number TX-1320755-G.



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Tom Kyser, SRA MAI



## **APPRAISAL REPORT**

This appraisal report is intended to comply with reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for an “Restricted Use Report” As such, it presents information for the assumptions, hypothetical conditions, limiting conditions, information analyzed, appraisal procedures followed, and the reasoning and analyses that were used in the appraisal process to develop opinions, conclusions, and estimates of value. Some support for conclusions is retained in the work file of the appraiser. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of this report.

## **PROPERTY RIGHTS APPRAISED**

Property surface estate (land) was valued in fee simple. Fee simple title is the highest form of land ownership subject only to police powers and escheat.

## **DEFINITION OF VALUE**

Market value is defined by the State of Texas as follows:

“Market Value is the price which the property would bring when it is offered for sale by one who desires, but is not obliged to sell, and is bought by one who is under no necessity of buying it, taking into consideration all of the uses to which it is reasonably adaptable and for which it either is or in all reasonable probability will become available within the reasonable future.”

## **PURPOSE/USE/USER OF APPRAISAL**

Purpose of this appraisal is to estimate market value, as defined herein, as of the date specified, of a whole property site. Use of the appraisal is to assist client, The City of Duncanville, in possible acquisition of the property. Client, City of Duncanville, ordered this appraisal and is the intended user of this report.

### **TITLE AND SURVEY DATA**

Appraiser was furnished with no whole property title report or survey. The property has been appraised assuming good and transferable title, and the absence of any adverse easements whether above or below surface, except as noted. Property is not deed restricted. Area of the property is assumed to be accurate.

### **LOCATION**

Subject property is located on the south side of Camp Wisdom Road, west of Main Street. The street address is 231 Camp Wisdom Road, Duncanville, Texas.

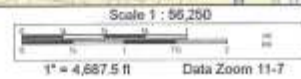
### **LEGAL DESCRIPTION AND PROPERTY IDENTIFICATION**

The whole property is legally described as a part of the John Spruce Survey, A-1297, Duncanville, Dallas County, Texas.

# LOCATION MAP



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 www.delorme.com



### **OWNERSHIP/SALES HISTORY**

Subject property is tract of land owned by Canaan Baptist Church. The property was acquired in 2006 according to the Dallas County Deed Records (Deed # 200600340940 DCDR). No price was available. It is not known if the property is offered for sale, optioned or under contract.

### **OWNER CONTACT/PROPERTY INSPECTION**

Appraiser was requested by the client, The City of Duncanville, to not contact the owners of the subject property. Property was appraised from public roadway and using public data, as indicated previously in this report. The property was inspected on March 6, 2019.

### **EFFECTIVE DATES**

All photographs of subject property were taken on February 27, 2019. The property was inspected for the last time on March 6, 2019, which is considered the effective date of value. The date of this report is March 7, 2019.

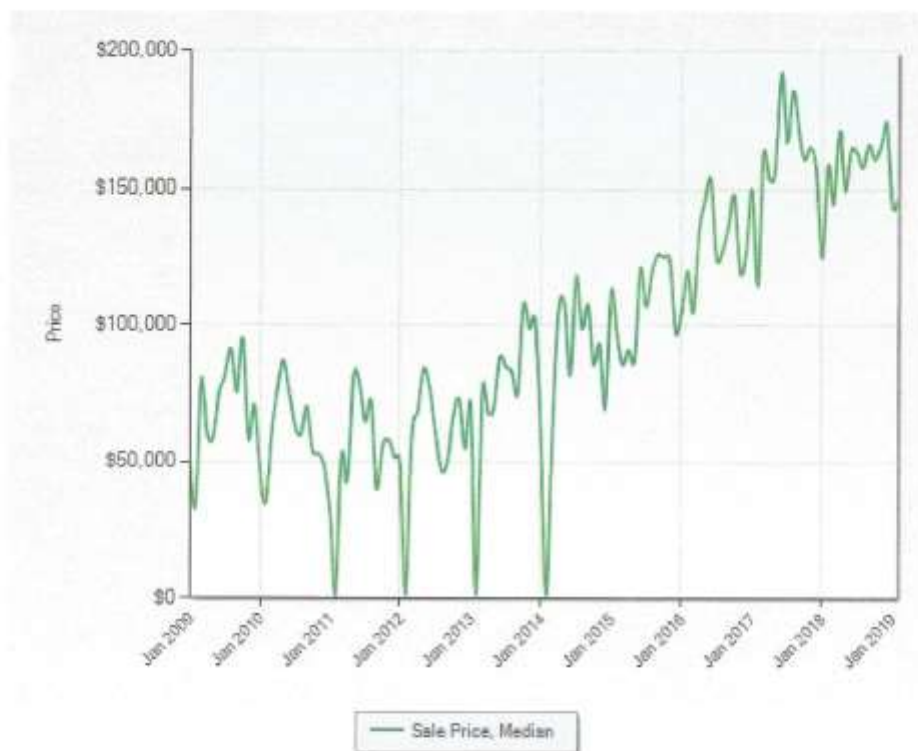
### **LEASES**

No site leases were furnished to appraiser and none are known to exist on the site.

## **AREA AND NEIGHBORHOOD DESCRIPTION**

Subject property is located in an older area of Duncanville, Texas, in south Dallas, County. The city is one of a group of cities in south Dallas County that were areas of rapid growth from the early 1960's through 2,000. Population of the city in 1960 was below 5,000 persons and commercial development was mostly in the central business district. In 1980, the population was over 27,000 persons. Development along IH 20 was the primary growth area of commercial development and was driven by the expansion of the area of the rapid residential growth. Duncanville has been fully developed mostly in the last 10 years and the population has stabilized at approximately 39,600 persons. Median income is \$53,222 in Duncanville, unemployment is about average for the state at 4.1%. Median home values are reported at \$132,000 but median sales prices, according to NTREIS, have ranged, in the last three years, to a current level of \$175,000 from a high in mid-2018 of over \$220,000. Brokers report a limited supply of homes on the market at the current time. The city has a popular school district that has one high school, one alternative school, 6 intermediate schools and 9 elementary schools. Medical is dependent on the Methodist Charlton Medical Center, a large hospital facility located near but not in the city limits. Local clinics and medical offices are adequate in number. City furnishes all sewer and water services in the city in addition to fire and police protection and trash collection. Electric and natural gas is furnished by private companies.

DUNCANVILLE HOME SALES



Duncanville is considered a “bedroom” community with most residents commuting to work centers in other cities, principally, Dallas and Fort Worth-Arlington. The major employer in the city is the Duncanville Independent School District that has 1897 employees. City of Duncanville has a staff reported at 340 persons. Other employers were Masco Builder Cabinet Group (500 employees), Deford’s Wholesale Hardware (225), and Pioneer Frozen Foods (200). Other employers include small manufacturers, grocery stores, restaurants and automobile dealers.

Commercial development has spread from the interstate highway and US 67 to some major traffic arteries in the city. These include Camp Wisdom Road, Hill City Drive, Cedar Ridge Drive, Clark Road, Daniieldale Road, Wheatland Road, Cockrell Hill Road, Main Street and West Ridge Drive. The city has two new motels under construction, one along IH-20 and the other on US 67. The two represent the only major commercial construction projects other than industrial development in the southeast side of the city. There is active redevelopment of commercial uses along all major streets that is a positive trend. Many “in-fill” tracts are located in the city. Many of these were older properties that were razed over the years and many are located on the higher traffic streets not along the major highways. Vacancy appears above average in retail centers although the newer centers appear to have the best occupancy.

The subject immediate neighborhood is along W. Camp Wisdom Road, west of Main Street. The area east of Main Street closer to IH-20 is more intense commercial uses. A Kroger’s Grocery Store and surrounding center is located at the southwest corner of Camp Wisdom and Main Street. The commercial development is scattered further west and ranges from convenience stores and older retail. The residential uses are more plentiful to the west until a higher traffic cross-street is encountered and the suburban type commercial uses reappear. Little re-development has occurred, but some would be expected. Values appear stable in the immediate area.

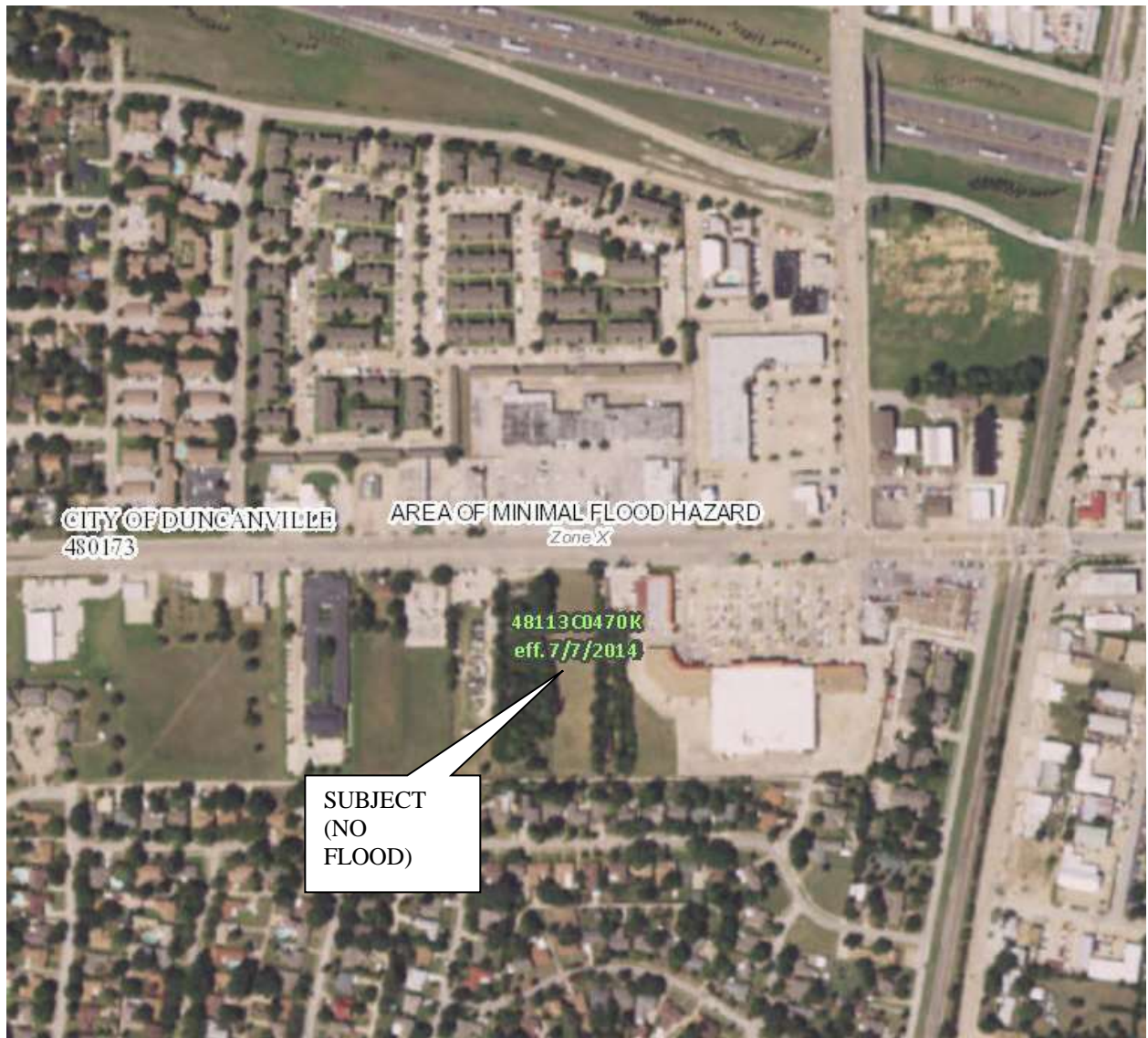
## **PROPERTY DESCRIPTION**

The subject property is located at 232 W. Camp Wisdom Road in the north part of Duncanville near IH-20. The site is located close to Camp Wisdom Village which is a Kroger Grocery Store surrounded by retail uses. The closest cross streets are Duncanville Boulevard and Main Street to the east. Traffic at this point ranges from 15,000 to 20,000 vehicles per day. Traffic is similar at other major intersections, much less at minor ones. The site has 82,733 square feet of land area or 1.899 acres. The site has 139 feet of road frontage along the south side of Camp Wisdom Road and 595.59 feet of depth. The site is level and open and there is no flood hazard. Site has all utilities at the site. Shape is linear and larger than many commercial sites. Easements appear typical perimeter utility easements. Zoning has a special use permit for possible church use, but the underlying zoning is Local Retail, a commercial zoning allowing a wide range of non-residential uses. While a church use is an alternative, the highest and best use would be for commercial use. The city has indicated that a commercial use would be considered a legal use consistent with other properties in the immediate neighborhood.

See following flood hazard map and photos for description. Site plan from the appraisal district is included in the Addenda of this report.



FLOOD MAP





## PHOTOGRAPHS



1. Front of site looking south



2. Camp Wisdom looking east from subject property

## AERIAL PHOTO



## **HIGHEST AND BEST USE**

Highest and best use is that program of utilization that results in the highest present value. Any such use should be legal, physically possible, economically feasible, likely to occur and of maximum productivity. The concept applies both to unimproved land and improved property. Land is always valued as if unimproved and ready to be put to its highest and best use. Improvement value is measured by its contribution to the whole.

Physically, the whole property has a shape that is narrow but not unusable for commercial use in this market. The site has good road frontage and it is assumed that at least one driveway would be permitted on W. Camp Wisdom Road. There are no flood issues on the site. The property has all utilities at the site. Uses in the immediate area range from light industrial to residential but most along Camp Wisdom Road are commercial. Site has no visible or recorded negative easements on the property.

Legally the site has a special permit that will allow the building of a church but the “underlying zoning” is a comparatively permissive commercial zoning, LR-2 (local retail). The uses are included in a list retained in the appraiser’s file. Uses include office, retail and general commercial uses. City indicates that the site would be appropriate for these commercial and similar uses and no non-conforming status would be attributed to the site as a result of the special-use permit. No deed restrictions could be found in the deed filings.

The neighborhood is in an area of retail and office development and has been for several years. The growth west of Duncanville Road and Main Street has been more active along the north side of Camp Wisdom Road than the south. New development is scattered and limited, however. Demand is supported by traffic and linkage and adequate to fill in the “in fill” sites on the south side of the street, given adequate marketing. Demand and supply appear to be in balance based on price levels, at present with only a few new projects visible. A similar pattern is expected for the near future.

The highest and best use of the subject site therefore would be for a commercial use consistent with other fronting tracts along W. Camp Wisdom Road and similar locations. Another possible use would be that the site could be bought for an investment which has been the pattern in this general market for several years. Although the church has a permit for a church facility, it is not projected as its highest and best use but could be considered as an alternative use.

## VALUATION

Normal approaches to value are the cost, market data or sales comparison, and income approaches. Land is typically valued from market data, where other sales of land tracts are compared to a subject, differences are recognized, and the sales reconciled into a value estimate. This approach is also applicable to improved properties. The cost approach employs replacement costs of improvements, from which are deducted accrued depreciation. Land value and net improvement values are added for a value estimate from the cost approach. The income approach is an investor technique, where net income from real estate is derived, then capitalized or processed under discounted cash flow methods, to arrive at a value indication. In this report, the cost and income approaches were not used, and land was valued from sales comparisons and market data.

## EXPOSURE TIME

Marketing time is the prospective length of time during which a sale may occur, after the date of value. Exposure time is the retrospective time during which a property would have been on the market to sell at the estimated value, at the date of value. Marketing time is a future projection, while exposure time occurs prior to date of value. The exposure time for the subject property is based on the marketing times of sales, and information from brokers, market participants (buyers, sellers), and statistical data. This data is expected to reflect the impact of supply and demand, general and local economic factors, and considerations for the future that would have affected price decisions at the date of value. In appraiser's opinion, this data would support an exposure time projection for the subject of approximately one year or less. Subject was valued as if it had been exposed on the market for such a time

## LAND VALUATION

Land is generally valued by market data comparisons. At any point in time, the availability of current, similar sales is limited in a specific market area. The following sales were used to estimate value of subject property. Some may vary considerably in time, location, and physical features. Details about these sales are included on the following pages.

## **LAND SALE 1**



Grantor:	Janie C. Mullins & John C. Carder
Grantee:	Jose and Olga Villa
Date of Sale:	11/16/18
Location:	704 N. Main Street Duncanville
Recording:	201800300356 Dallas County Deed Records
Price:	\$4.88/SF
Size:	23,549 square feet
Legal Description:	Lots 11,12, Block A Carter Crest Addition

This property was a level and open tract with 150 feet along the east side of Main Street and a similar amount on the north side of E. Fain Street. Zoning is indicated to be “Downtown District” or a commercial zoning. Buyer plans to build an office on the site. The property had all utilities at the site and no flood terrain.



## **LAND SALE 2**



Grantor:	James R. Daniel, Ramonda Collins, etal
Grantee:	Keith E. Burrowes
Date of Sale:	10/2/17
Location:	417 E. Danieldale Road, Duncanville
Recording:	201700292297 Dallas County
Price:	\$1.06/sf
Size:	2.49 acres
Legal Description:	Anderson Slayback Survey, A1299, Dallas County

This property was a rolling and partly wooded tract located on the north side of Danieldale Road just west of Candlelight Drive. The site is zoned Neighborhood Retail but was reportedly bought for investment. The site has all utilities at the property. The property has 230.8 feet on the road frontage and 470 feet of depth. The site has no flood terrain. Sale was financed by an owner note but judged to reflect cash equivalency. The sale was judged by the broker to have sold below market value.

### **LAND SALE 3**



Grantor:	Rahesh Amin
Grantee:	Ruben Martinez Worth, Texas
Date of Sale:	11/10/16
Location:	1435 Candlelight Avenue, Duncanville
Recording:	201600323103 Dallas County Deed Records
Price:	\$2.94/SF
Size:	52,794 square feet
Legal Description:	Part of Lot 1 Block L, Third Installment, Candlelight Estates, Addition to Duncanville

This property is a tract with 358.91 feet of road frontage and depth that varies from 118 feet to 160 feet. The site apparently bought for investment and possible future retail use. The site has no flood terrain and all utilities at the site. Property is zoned Neighborhood Retail. Site is open and level.

## **LAND SALE 4**



Grantor:	Jupiter Acquisitions, LLC
Grantee:	DL Commercial, LP
Date of Sale:	1/5/18
Location:	Located at the rear of 803 S. Cedar Ridge Drive, Duncanville, Texas
Recording:	201800010902 Dallas County Deed Records
Price:	\$1.23/SF
Size:	68,907 square feet (with easement)
Legal Description:	J. Henderson Survey, A-558, Dallas County

This sale is an open and level tract located at the rear of an improved property on Cedar Ridge Road. The property is connected to the roadway by a 15-foot wide access easement along the site of the primary site. Site was bought by the owner of the adjoining improved site. The site has all utilities at the property. Zoning was General-Office. Site is somewhat symmetrical with 345 feet square feet of depth and 201 feet of width. There is no flood terrain on the site. Sale was cash to the seller.



## **LAND SALE 5**



Grantor:	Heatly Properties, Inc.
Grantee:	Max Alley Investments, LLC
Date of Sale:	9/20/17
Location:	Southeast corner of Corral Drive and S. Cockrell Hill Road, Dallas, Texas (6404 S. Cockrell Hill Road, Dallas, Texas
Recording:	201700267884 Dallas County Deed Records
Price:	\$4.99/sf
Size:	37,714 SF
Legal Description:	A tract out of the George Alvey Survey, A-10, Dallas County

This sale is located in Dallas but just east of the Duncanville City limits. The zoning is a Planned Development Zoning and buyer plans to build a new “Family Dollar” general store on the site. The site has all utilities and is partly wooded and level land. Frontage on Cockrell Hill Road is 527.26 while there is 260.3 feet on Corral Drive. Shape of the site is symmetrical and the sale was cash to the seller.



Comparison of land sales or improved sales in any market area always depends on the amount of data (sales and listings) available for comparison. Comparisons of sales to extract adjustments is the most common method used but pure analysis of differences on that basis requires very similar data and adequate sales volume and most often that similarity and volume do not exist. Other supplemental and reliable techniques include anecdotal information from brokers, buyers and sellers, costs involved in certain remediation issues such as flood land or relocation of tanks or pipelines and catalogued adjustments from the files of the appraiser or other appraisers. All of these methods were used in the analysis of the subject whole property value. The sales used in this analysis were all commercial tracts that were generally similar in terms of most features except for size and shape.

The adjustments are supported from data in the work file of the appraiser, but a summary of the adjustments made is indicated in the following summary.

No time or market improvement adjustments were made based on sales comparison. All sales occurred in the last 2 ½ years and two occurred in 2018.

The first sale was the sale of a commercial corner tract. The site was much smaller than the subject site and shaped more symmetrically so an adjustment was made. The sale was similar in terms of location, terrain, zoning and other factors.

The second sale was a commercial site with larger size than the subject site. The sale was similar otherwise but appeared to sell below market levels.

The third sale was slightly smaller than the subject site and located in a similar location and with other similar features.

The fourth sale was a similar size tract with similar features except the sale had access via an access easement at the side of an adjoining property.

The fifth sale had a Dallas address but was located just to the east of Duncanville. The site was similar but smaller.

The sales were analyzed on a price-per-foot unit basis. The size/shape adjustment therefore is upward for a larger sale and downward for a sale that is smaller than the subject site. The reason for this is that smaller sales tend to sell at higher unit prices if all other factors are similar due to economy of scale. The sales in this report would support this concept.

The following grid indicates the adjustments made to the sales used.

*(Note: Adjustments made sequentially)*

<i><b>Subject</b></i>	<i><b>Sale 1</b></i>	<i><b>Sale 2</b></i>	<i><b>Sale 3</b></i>	<i><b>Sale 4</b></i>	<i><b>Sale 5</b></i>
<i>Price</i>	4.88/sf	\$1.06/sf	\$2.94/sf	\$1.23/sf	\$4.99/sf
<i>Market/Time (current)</i>	11/18	10/17	11/16	1/18	9/17
<i>Terrain-level</i>	<i>Similar</i>	<i>Similar</i>	<i>Similar</i>	<i>Similar</i>	<i>Similar</i>
<i>Location</i>	<i>Similar</i>	<i>Similar</i>	<i>Similar</i>	<i>Similar</i>	<i>Similar</i>
<i>Size/Shape</i>	-50%	+50%	-10%	+20% (easement)	-50%
<i>Indicated Values</i>	\$2.44/sf	\$1.59/sf	\$2.65/sf	\$1.48/sf	\$2.50/sf

Sale #2 was indicated by the broker to have sold lower than market levels. The fourth sale was indicated by the broker to have sold lower due to the access easement access. The other three sales were considered market and “arms-length” sales. Subject valued at \$2.50/sf or in round numbers terms ..... \$206,850.

## ADDENDA

# 232 W. Camp Wisdom

DCAD ID: 22005750010010000

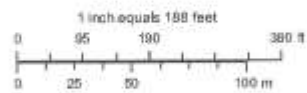
Date of copy: 2/25/2019



*This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.*



  
 Dallas Central Appraisal District  
 2949 N Stemmons Freeway  
 Dallas, TX 75247-6195  
 (214) 631-1342  
[www.dallascad.org](http://www.dallascad.org)



DCAD, NCTCOG, USGS, Esri, Inc

## QUALIFICATIONS OF APPRAISER

Tom Kyser is a self-employed, independent fee appraiser officing at 1412 Texas Street, Fort Worth, Texas 76102.

### State Certification

State certified as a General Real Estate Appraiser,  
Certificate TX-1320755-G

### Formal Education:

Southwest Texas State University - Bachelor of Science, 1970

### Appraisal Education:

The following Appraisal Institute courses have been completed.

Case Studies in Real Estate Valuation

Report Writing and Valuation Analysis

Standards of Professional Practice

Litigation Valuation

Course 101 - Introduction to Appraising Real Property

Course 201 - Principles of Income Property Appraising

### Professional Affiliations:

Appraisal Institute; Senior Residential Appraiser (SRA), 1974,

Member, Appraisal Institute (MAI) 1983

### Other Affiliations:

Greater Fort Worth Board of Realtors

Texas Association of Realtors

National Association of Realtors

### Experience and Work Area

Have been self-employed as an independent fee appraiser since 1977. Work assignments have included dwellings, residential and non-residential subdivisions, commercial, office, retail, and industrial improved properties, urban and rural land. Assignments have been completed for both public and private sector clients. Have over thirty years experience in appraising for eminent domain, in all property types. Have been qualified as expert witness and testified numerous times in special commissions, state courts, and bankruptcy court. Work area generally includes Tarrant County and surrounding counties in Texas.

### Appraisals Done For: (partial list)

Fort Worth Independent School District

State of Texas

First National Bank of Weatherford

Aledo Independent School District

Wells Fargo Bank

City of Arlington

City of Fort Worth

Federal Deposit Insurance Corp.

Hurst-Euless-Bedford Independent School District

City of Kennedale

Ultramar Diamond Shamrock Corp.

Sprint Petroleum

City of Azle

City of Burleson

Parker County Appraisal District

Town of Argyle

Chase Texas Banks

U.S Army Corps of Engineers

Tarrant County Water Board

City of Corinth

Exhibit H  
to  
Baker Declaration Exhibit 1



**Albert D. Hammack**  
**Attorney & Counselor**

**4925 Greenville Ave.  
Suite 1150  
Dallas, Texas 75206-4085**

**Bus (214) 234-0304  
Fax (214) 691-3288**

**Email:** [REDACTED]

May 7, 2020

Robert E. Hager, Esq.  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
500 N. Akard Street  
1800 Ross Tower  
Dallas, TX 75201

**Via E-mail to** [REDACTED]

**RE: City of Duncanville's Acquisition of Block 1, Lot 1 John Spruce  
Survey, A-1297, Duncanville, Dallas County, Texas (sp., 232 W. Camp  
Wisdom Road).**

Counselor:

Pertaining to the above-referenced matter, this law office represents Dr. Jarvis D. Baker and the sweet folks of Canaan Baptist Church (hereinafter collectively referred to as "Canaan Baptist"). Please allow this correspondence to, among other things, acknowledge receipt of your April 24, 2020 letter offer on behalf of the City of Duncanville to Canaan Baptist (hereinafter referred to as "Duncanville's First Offer").

**Canaan Baptist respectfully requests that your client, the City of Duncanville, know and understand that any construction on, improvement upon, sale, lease, or rent of Canaan Baptist's property at 232 W. Camp Wisdom Road (hereinafter, the "Church Property") requires that (A) Canaan Baptist's Building Committee deliberate upon the matter and then make a "recommendation" to all the members of Canaan Baptist to consider, and then (B) a vote by all the members of Canaan Baptist on the matter. If and when the members of Canaan Baptist do vote on such a matter, a majority of the votes controls.**

Canaan Baptist also pleads for the City of Duncanville's mercy and patience at this time as the current, Corvid-19 restrictions prohibit Canaan Baptist's Building Committee from even meeting, as there are more than ten (10) members in that committee, several of the members are over the age of sixty (60), and/or at this time, they do not all have the technological means of conducting a virtual meeting. The same may be said if the entire membership of Canaan Baptist had to vote on Duncanville's First Offer.

Robert E. Hager, Esq.  
May 7, 2020  
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In light of the foregoing, this correspondence cannot be the definitive answer or response to Duncanville's First Offer, as neither the Canaan Baptist's Building Committee has taken up the matter, nor has the church membership voted upon it. This fact notwithstanding, in this correspondence I have set out obvious arguments and authorities which constitute solid grounds for either (A) Canaan Baptist not to accept Duncanville's First Offer of \$206,850.00, or (B) the City of Duncanville to withdraw Duncanville's First Offer and to make another, higher offer.

The Texas Constitution requires that there be just or full compensation to a condemnee in an eminent domain proceeding. *Citations omitted.* In particular, a condemnee must be paid for what he has lost. *Citations omitted.* That is, a condemnee is entitled to be put in as good a position pecuniarily as if his property had not been taken; he must be made whole, but is not entitled to more. *Citations omitted.*

The City of Duncanville's own records will reflect that Canaan Baptist was in the course of constructing a church facility on the Church Property *long before* Duncanville's First Offer. And while neither the Dallas Central Appraisal District's nor Mr. Tom Kyser, SRA MAI's appraisals reflect a value for "improvements" upon the property, Canaan Baptist spent several thousands of dollars for the preliminary and/or pre-construction work necessary for the construction of its church facility.

Thus, if and when the City of Duncanville condemns the Church Property, Canaan Baptist would sustain damages corresponding to those costs it incurred in the course of the construction of its new church facility. Enclosed as **EXHIBIT A** please find copies of those nine (9) invoices, work orders, agreements, checks and/or "carbon copy" of checks that memorialize Canaan Baptist's damages. These "Cost Items" include:

Cost Item #1 (2016): Payment to Daltex Builders Group (Church Construction Contract) - - **\$15,000.00;**

Cost Item #2 (2017): Payment to Eric L. Davis Engineering (Foundation and Structural Design Engineering for Church Facility) - - **\$2,250.00;**

Cost Item #3 (2017): Payment to Henley-Johnston & Associates (Geotechnical Investigation of Church Property) - - **\$2,265.00;**

Cost Item #4 (2017): Payments to Eric L. Davis Engineering (Foundation and Structural Design Engineering for Church Facility) - - **\$7,000.00** and **\$1,645.00;**

Cost Item #5 (2018): Payment to SEC Planning, LLC (Preparation of Church Property Regulatory Documents) - - **\$3,499.65;**

Cost Item #6 (2018): Payment to Engineering Concepts & Design, LP (Survey, Site, Re-Plat and Civil Engineering Design Work) - - **\$20,000.00**;

Cost Item #7 (2018): Payment to Root Engineering Services (Mechanical, Electrical and Plumbing ("MEP") Consultation and Design Work for Church Facility) - - **\$12,600.00**;

Cost Item #8 (2018): Additional Payment to Root Engineering Services (MEP Consultation and Design Work) - - **\$1,400.00**; and

Cost Item #9 (2018): Additional Payment to Root Engineering Services (MEP Consultation and Design Work) - - **\$1,105.00**.

**TOTAL PAYMENTS TOWARD  
CONSTRUCTION OF CHURCH FACILITY: \$66,764.65**

You see that Canaan Baptist's damages of at least \$66,764.65 correspond *solely* to the Church Property. Canaan Baptist has no reason to believe that any of the preliminary and/or pre-construction work stated above would somehow "transfer over" to or be enjoyed at another property. Accordingly, if the City of Duncanville were to make Canaan Baptist a condemnee, the City of Duncanville must also pay Canaan Baptist for this loss (i.e., \$66,764.65). Again, the Texas Constitution provides that "a condemnee is entitled to be put in as good a position pecuniarily as if his property had not been taken." *Citations Omitted*. Duncanville's First Offer fails to include any amounts for such damages; the First Offer thus fails to make Canaan Baptist whole.

In addition, or alternatively, Canaan Baptist takes issue with Mr. Kyser's appraisal of the Church Property. Everyone agrees that the Church Property faces the six-lanes of traffic on W. Camp Wisdom Road. (sp., 3 lanes travelling east, 3 lanes traveling west). W. Camp Wisdom Road is, arguably, the most traveled and the most well-known municipal street in all of Duncanville. Any church, like any commercial enterprise (or like any fire station), cherishes the easy ingress and egress, the "curb appeal" and/or the "free advertising" that it receives when hundreds of cars pass by it daily. Without question, that is exactly what the Church Property provides Canaan Baptist upon Canaan Baptist's completion of its church facility. Hence, Canaan Baptist maintains that the Church Property's "location, location and location" should be the basis for any "appraisal comparables."

Curiously, of Mr. Kyser's five "sales comparables," not one (1) has a W. Camp Wisdom Road address, nor do the pictures reflect if the properties abut a six-lane thoroughfare. If Mr. Kyser had looked at other W. Camp Wisdom Road properties near the Church Property as just "appraisal comparables," he would have recognized that DCAD appraised a majority of such properties with land valued at \$4.00/sf or higher. Mr. Kyser

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and Duncanville's First Offer values the land at just under \$2.50/sf.

Take for example 125 W. Camp Wisdom Road, which is a 74,801.00 square foot tract. DCAD appraised the land at \$4.00/sf for 2019 and 2020. It would seem reasonable does it not that if Canaan Baptist were to sell the Church Property - - which is an 82,764.00 square foot tract - - at the commercial market value, then the sales price would be at or near \$4.00/sf?

In addition, attached as **EXHIBIT B** and for the City of Duncanville's consideration is that "market data" for similarly situated properties that sold in Duncanville and/or in the surrounding area in 2017 - 2019. Canaan Baptist obtained this market data from an appraisal company (CAA) who is familiar with the City of Duncanville and its surrounding area.

It is for all the reasons above that (A) Canaan Baptist would have a firm and legitimate basis not to accept Duncanville's First Offer, and/or (B) the City of Duncanville replace its First Offer with another, higher one.

In closing, years ago Canaan Baptist made it its mission to bless both its members and the City of Duncanville by re-locating to the Church Property. The City of Duncanville's request that Canaan Baptist now have the Church Property bless the citizens of Duncanville in a different kind of way does NOT change Canaan Baptist's mission. Canaan Baptist thus thanks you and your client in advance for your good faith in allowing Canaan Baptist to follow its established protocol for matters relating to the Church Property. Canaan Baptist wants the City of Duncanville to know that both its Building Committee and its membership will take up Duncanville's First Offer and/or any other offer(s) of the City of Duncanville's expeditiously, but only after the State of Texas removes the Covid-19 "meeting" restrictions. Again, Canaan Baptist's intent is to bless, and to do it lawfully. And if that means at the end of the day that Canaan Baptist must sell the Church Property to the City of Duncanville, certainly you and your client can understand that Canaan Baptist would like to be made whole for so doing. That is the right thing to do.

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If you have any questions regarding the foregoing, or if I may be of any further assistance in this matter, please feel free to contact me. Otherwise, I respectfully request that you let me know as soon as convenient if your client will or will not allow Canaan Baptist's Building Committee and the membership to deliberate upon and then vote, respectively, on Duncanville's First Offer and/or any other offer(s) *before* the City of Duncanville takes any action in furtherance of eminent domain proceedings.

Sincerely

A handwritten signature in black ink, appearing to read "Albert D. Hammack". The signature is written in a cursive style with a large, stylized initial 'A'.

Albert D. Hammack

Enclosures

cc. Dr. Jarvis D. Baker

II Thessalonians 3:13

# Exhibit 2

# 2018 DUNCANVILLE BOND PROGRAM

Community Improvements & Quality of Life Projects for Residents, Businesses and Community Partners



- BOND
- Propositions
- Projects Map
- Background
- Bid Process



## PROJECT: FIRE STATION #1

The project in Proposition C includes the construction of a new Fire Station and Emergency Operations Center (EOC) to replace the existing Fire Station on Camp Wisdom Road, as well as replace the existing Emergency Operations Center.

### Project Details



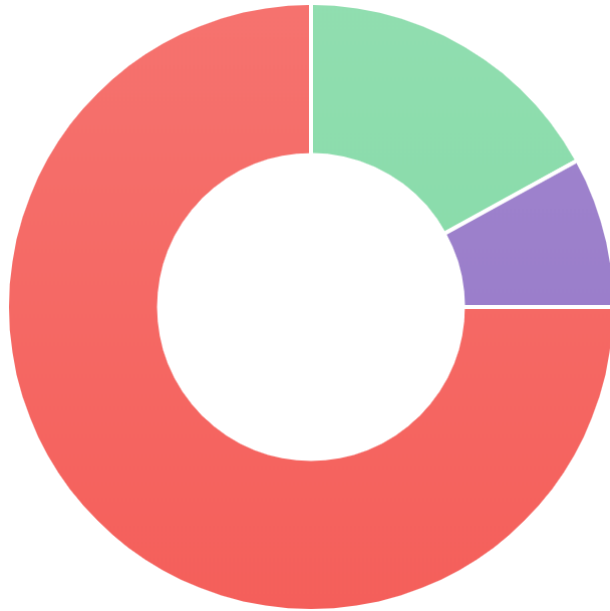
Overall Project Status (project underway soon)

DESIGN 0% Complete

English

CONSTRUCTION 0% Complete

## Project Cost Breakdown (by %)



Land Purchase

Engineering & Design

Construction

# \$6,000,000

TOTAL COST



Start Date

## Winter 2019



Current Project Status

## Land Acquisition Underway







Estimated Completion  
**Winter 2023**

# Project Milestones

  
**Fall 2018**

  
Winter 2019

**Fall 2018**

Voters Approved Bond Electio



## Project Details

Bond Program Year	2018
Proposition	C
Project Name	Fire Station #1
Project Description	Construct a new Fire Station #1 to replace existing facility
Project Status	Land Acquisition Underway
Project MAPS	<a href="#">Projects Map</a>
Last Modified Date	1/17/2020

## Project Schedule (subject to change)

Estimated Pre-engineering Start	N/A
Estimated Pre-engineering Completion	N/A

<b>Estimated Design Start</b>	<div>  English </div> Summer 2020
<b>Estimated Design Completion</b>	Summer 2020
<b>Estimated Construction Start</b>	Winter 2021
<b>Estimated Construction Completion</b>	Winter 2023

## ESTIMATED PROJECT COST BREAKDOWN

<b>Purchase of Land (if applicable)</b>	17%	\$1,000,000
<b>Engineering &amp; Design</b>	8%	\$500,000
<b>Construction</b>	75%	\$4,500,000
<b>PROJECT TOTAL</b>	100%	\$6,000,000



## Project News Updates

### Bond Update: New Fire Station No. 1

🕒 January 15, 2020

In December 2019, Core Construction Services of Texas, Inc., was selected as the Construction Manager at Risk firm to manage the preconstruction phase services and construction phase services to aid with the selection of a design team, management of the design process, preparation of the construction contract, selection of the construction contractor, and management of [...]

[Duncanville Saves Approximately \\$800K in Bond Sale Related to \\$21.6M November Election](#) February 25, 2019

[2018 UNOFFICIAL ELECTION RESULTS](#) November 7, 2018

[See more...](#)

# Exhibit 3

## Duncanville City Council Meeting Minutes Regular Meeting Tuesday, August 4, 2020

### **CALL TO ORDER**

A regular meeting of the Duncanville City Council was called to order on Tuesday, August 4, 2020, at 6:00 p.m. via video conference with a quorum to wit:

### **COUNCIL VIA VIDEO CONFERENCING:**

Mayor Barry L. Gordon  
Councilmember At-Large Patrick Harvey  
Councilmember Joe Veracruz  
Mayor Pro Tem Don McBurnett  
Councilmember Monte Anderson  
Councilmember Mark D. Cooks  
Councilmember Johnette Jameson

### **STAFF VIA VIDEO CONFERENCING:**

IT Director Tracy Beekman  
Finance Director Richard Summerlin  
Economic Development Director Jessica James  
Public Works Director Greg Ramey  
City Secretary Kristin Downs  
Interim City Manager Paul Frederiksen  
City Attorney Robert Hager

### **SUPPLEMENTAL NOTICE OF MEETING BY VIDEO CONFERENCE**

In accordance with an Order of the Office of the Governor issued on March 16, 2020, as extended by Office of the Governor on June 12, 2020, the City Council for the City of Duncanville, Texas will conduct a City Council Regular Meeting by video conference at 6:00 pm on Tuesday, August 4, 2020, in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") in an effort to slow the spread of the Coronavirus (COVID-19) pandemic.

*This is an open meeting conducted by video conference. There will be no public access to a physical location.*

To submit public comments, email [citysecretary@duncanville.com](mailto:citysecretary@duncanville.com) and title the email "Public Comment – August 4th. All public comments submitted by 4pm on Tuesday, August 4, 2020 will be provided to the City Council members and entered into the record for the August 4, 2020 City Council Special Meeting.

Register in advance for this webinar:

[https://us02web.zoom.us/webinar/register/WN\\_eBdgMaH9SMiXlobTGAmK7Q](https://us02web.zoom.us/webinar/register/WN_eBdgMaH9SMiXlobTGAmK7Q)

After registering, you will receive a confirmation email containing information about joining the webinar. The registration email will provide you with a telephone number to call in if needed.

A recording of the video meeting will be made available to the public in accordance with the Open Meetings Act upon written request.

## **I. WORK SESSION / BRIEFING**

### **I.1. DISCUSS AGENDA ITEMS**

Mayor Gordon read the item into record, and Interim City Manager Frederiksen reviewed each item. Item 4A - appointment of Nigel Robinson as a member of the Duncanville Civil Service Commission filling the vacancy of former Commissioner Curtis Smith through October 31, 2021. Interviews were conducted with three candidates; a unanimous recommendation was made for appointment of Nigel Robinson. Item 4B - a Resolution approving the terms and conditions of the Inter-local Agreement by and between the City of Duncanville, Texas, ("Duncanville"), and the City of Cedar Hill, Texas, ("Cedar Hill"), for services related to the Green Ribbon Landscape Project on US 67. Item 4D - an amendment to Resolution 2020-004 approved on January 21, 2020 for an increase in the amount of \$30,001.00 at the approved rate for a new annual amount up to \$102,501.00 with Visiting Nurse Association. Due to the pandemic of COVID-19 there has been an increase in the number of seniors receiving meals, this will supplement funds for the program.

Councilmember Jameson requested Item 4B be moved to individual consent.

I.2. BRIEFINGS / PRESENTATIONS

I.2.A. *Discuss City owned properties obtained through previous foreclosures.*

Economic Development Director James presented the item. The following properties were obtained by the City of Duncanville through previous tax-foreclosures that did not sell at the Dallas County Sheriff's Sale. The City is currently paying to maintain these lots, but the City is not receiving any property taxes on them.

- 4 Belmont Pl.
- 923 Jungle Dr.
- 805 W. Wheatland Rd.
- 302 S. Venice Dr.
- 118 Jewell Ln.
- 110 W. Magnolia Ln.
- 403 W. Daniieldale Rd.
- 609 W. Daniieldale Rd.
- 727 S. Cockrell Hill Rd.

Council Options:

Option One – City Council can authorize City Manager or his designee to discuss purchase opportunities with adjacent property owners and other interested parties.

Option Two – City Council can retain ownership of these properties and market them through the Duncanville Urban Land Bank Authority (DULBA) that was established in Resolution No. 2015-012017. If City Council elects to utilize the DULBA, then a future action item will be needed to determine the administration and structure of the DULBA in order to effectively utilize the Authority.

- Moving administration of the DULBA from the Neighborhood Vitality Commission to the DCEDC.
- Modifying the structure of the DULBA to include commercial development properties.

Staff Recommendations:

- 4 Belmont Pl. – Discuss potential purchase with adjacent property owners.
- 923 Jungle Dr. – Market property as a single-family residential lot.
- 805 W. Wheatland Rd. – Keep for potential future park.
- 302 S. Venice Dr. – Keep for potential future park.
- 118 Jewell Ln. – Discuss potential purchase with adjacent property owners.
- 110 W. Magnolia Ln. – Discuss potential purchase with adjacent property owners.
- 403 W. Daniieldale Rd. – Discuss potential purchase with adjacent property owners.
- 609 W. Daniieldale Rd. – Move forward with marketing of property.
- 727 S. Cockrell Hill Rd. – Move forward with marketing of property.

Councilmember Jameson would like a real estate agent to look over the properties and provide ways to market the properties.

City Attorney Hager stated the only two ways the City can generally dispose of a property is by auction or closed bid. Unless it is a commercial property, the residential properties might be hard to dispose of and that is why the Urban Land Bank Authority was formulated to provide more options. The commercial properties could be dealt with through Economic Development to use that property as an incentive. The residential property would have to go to bid unless there was another way to handle it through the Urban Land Bank Authority.



Council concluded the following:

- To engage with a Real Estate agent to help market the individual residential lots.
- To discuss the properties more in depth at a later Council meeting.
- To rescind the Duncanville Urban Land Bank Authority (DULBA) at a later Council meeting.

Councilmember Cooks stated he would like for the Planning and Zoning Commission to look at the Commercial properties.

Mayor Gordon recessed the Briefing Session at 7:06 p.m. for City Council to convene into Executive Session.

## II. **EXECUTIVE SESSION**

The Executive Session was called into session at 7:08 p.m. and City Attorney Hager read the item into record.

**II.1 *City Council shall convene into closed executive session pursuant to Section 550.71 of the Texas Gov't Code to seek legal advice from the City Attorney about pending litigation and claims in the following matters:***

1. *City of Duncanville v. Rosa Juanita, et al Cause No. DC-20-10002 District Court of Dallas County Texas.*
2. *EON Reality Agreements and Lease.*

The Council closed the Executive Session at 7:17 p.m.

## III. **REGULAR SESSION - CONVENE INTO THE COUNCIL CHAMBERS (7:00 P.M.)**

The City Council convened into Regular Session in the Council Chambers at 7:23 p.m. with Mayor Gordon presiding.

The Invocation was delivered by Mayor Pro Tem McBurnett.

The Pledge of Allegiance and Texas Pledge were led by Mayor Gordon.

### III.1. **REPORTS**

#### III.1.A. ***Mayor's Report.***

Mayor Gordon provided an update on the COVID-19 pandemic and encouraged everyone to wear masks and social distance.

Mayor Gordon offered his condolences and spoke on the passing of Duncanville Fire Engineer Dan Kendall.

#### III.1.B. ***Councilmembers' Reports***

Mayor Pro Tem McBurnett encouraged everyone to complete their 2020 census.

Councilmember Anderson spoke about the Small Local Business Group.

#### III.1.C. ***City Manager's Report.***

None.

### III.2. **PROCLAMATIONS AND PRESENTATIONS**

None.

### III.3. **CITIZENS' INPUT**

***"Pursuant to Section 551.007 of the Texas Gov't Code, any member of the public has the opportunity to address the City Council concerning any matter of public business or any posted agenda item; however, the Act prohibits the City Council from deliberating any issues not on the public agenda and such non-agenda issues may be referred to City staff for research and any future action; all persons addressing are subject to council adopted rules and limitations permitted by law"***

***Public Comments submitted by email to the City Secretary via [citysecretary@duncanville.com](mailto:citysecretary@duncanville.com). All public comments submitted by 4pm on***

***Tuesday, August 4, 2020 will be provided to all City Council members and will be entered into the record for the August 4, 2020 City Council Meeting.***

***The City Secretary will still set a two-minute time limit on the comments as they are read.***

Mayor Gordon read the item into record. The following comments were provided via email for the Citizens Input Period:

Crystal Dabney – wrote on the development of the City.

Patricia Ebert – supported the selling of city-owned property.

Nancy Bell – is not in favor of Item 4B.

Pat Haake – is not in favor of Item 4B.

Misty Bain – wrote on the Duncanville Land Bank, 609 W. Danieldale, and Item 4B.

### **III.4. CONSENT AGENDA**

Mayor Gordon requested that City Secretary Kristin Downs read the Consent Agenda Items.

**III.4.A. *Consider a Resolution confirming the Interim City Manager's appointment of Nigel Robinson as a member of the Duncanville Civil Service Commission filling the vacancy of former Commissioner Curtis Smith through October 31, 2021.***

**III.4.B. *Consider a Resolution approving the terms and conditions of the Inter-local Agreement by and between the City of Duncanville, Texas, ("Duncanville"), and the City of Cedar Hill, Texas, ("Cedar Hill"), for services related to the Green Ribbon Landscape Project on US 67.***

Item was moved to Individual Consent.

**III.4.C. *Consider a Resolution approving the proposal for city paid employee and retiree medical and prescription plan with Blue Cross Blue Shield of Texas for an one year agreement.***

**III.4.D. *Consider a Resolution authorizing an amendment to Resolution 2020-004 approved on January 21, 2020 for an increase in the amount of \$30,001.00 at the approved rate for a new annual amount up to \$102,501.00 with Visiting Nurse Association using Interlocal Cooperative Contract with the City of Grand Prairie Contract #17124, for the senior meal program service.***

**III.4.E. *Receive the newly required Certification of Additional Sales and Use Tax to Pay Debt Service required under SB2.***

Mayor Pro Tem Don McBurnett made a motion to approve the item as stated, Councilmember Mark D. Cooks seconded the motion. The vote was cast 7 for, 0 against. Items passed.

### **III.5. ITEMS FOR INDIVIDUAL CONSIDERATION**

**III.4.B. *Consider a Resolution approving the terms and conditions of the Inter-local Agreement by and between the City of Duncanville, Texas, ("Duncanville"), and the City of Cedar Hill, Texas, ("Cedar Hill"), for services related to the Green Ribbon Landscape Project on US 67.***

Councilmember Jameson explained her reasons for moving the item to Individual Consideration and is not in agreement with the Cedar Hill entry monument in Duncanville city limits.

Public Works Director Ramey presented the item.

Inter-local Agreement Summary:

- Cedar Hill will take lead on procurement action for the landscape construction contract



- Duncanville and Cedar Hill will conduct construction quality assurance in respective areas
- Cedar Hill will manage the construction contract and invoicing
- Duncanville will maintain the landscaping on the east side of the Wintergreen Rd Gateway. Cedar Hill will maintain the landscaping on the west side of the Wintergreen Rd Gateway (within Duncanville City Limits – TxDOT Right-of-Way). Includes permission for Cedar Hill to enter City.
- Duncanville and Cedar Hill will use separate water and electric meters

Various Councilmembers voiced their comments and concerns on the previous briefings for the monument and the location of the sign.

Interim City Manager Frederiksen stated the agreement is for the Joint Grant Funding and for the City of Cedar Hill to take the lead on maintaining the landscaping.

Councilmember Jameson made a motion to table the item until the August 18, 2020 City Council Meeting. No second to the motion was made.

Councilmember At-Large Patrick Harvey made a motion to approve the item as stated, Mayor Pro Tem Don McBurnett seconded the motion. The vote was cast 6 for, 1 against (Councilmember Johnette Jameson). Item passed.

**III.5.A. *Consider a Resolution authorizing Linebarger Goggan Blair & Sampson, LLP, to obtain an order of sale which will allow for the foreclosure of; and, to authorize the sale of the properties by Dallas County at public sale in accordance with Section 34.05 of the Texas Property Tax Code, for the following properties: 1208 Crest Lane, 212 Hamilton Street, 11 Royal Avenue, and 307 W. Camp Wisdom Road.***

Finance Director Summerlin presented the item.

Mayor Pro Tem Don McBurnett made a motion to approve the item as stated, Councilmember Joe Veracruz seconded the motion. The vote was cast 7 for, 0 against. Item passed.

**III.5.B. *Consider a Resolution amending Resolution 2020-009 calling the General Election of May 2, 2020, and amending Resolution 2020-009R postponing said election to November 3, 2020 for the purpose of electing one Councilmember Mayor, District 2 and District 4 for a two (2) year term; Resolution is hereby amended by extending early voting by personal appearance to begin on Tuesday, October 13, 2020 and shall continue through the fourth day before election day; providing for extending hours during early voting; and by extending early voting by mail until the election date; designating polling places; authorizing execution of any amendments to joint election contract for the November 3, 2020 Election.***

City Secretary Downs presented the item. On July 27, 2020 Governor Greg Abbott issued a proclamation suspending Section 85.001(a) of the Texas Election Code to expand the early voting period for the November 3, 2020 elections. The early voting period for any election authorized to occur on November 3, 2020 will begin on Tuesday, October 13, 2020 and last through Friday, October 30, 2020. This expansion will allow for increased in-person voting opportunities for the November 3, 2020 elections while maintaining appropriate social distancing standards in response to the COVID-19 disaster. Additionally, the proclamation suspends a portion of Section 86.006(a-1) to allow a voter to hand deliver their marked mail ballot to the early voting clerk's office before election day.

Mayor Gordon stated Mayor and District 4 have been elected and sworn in due to unopposed candidates.

Mayor Pro Tem Don McBurnett made a motion to approve the item as stated, Councilmember At-Large Patrick Harvey seconded the motion. The vote was cast 7 for, 0 against. Item passed.

**III.5.C. *Consider a Resolution appointing \_\_\_\_\_ as a member of the Governing Body to participate and cast ballots on behalf of the City of Duncanville at the North Central Texas Council of Governments'***



**(NCTCOG) via conference to elect a new Executive Board on August 14, 2020.**

Interim City Manager Frederiksen presented the item. The North Central Texas Council of Governments' (NCTCOG) Bylaws calls for an annual membership meeting ("General Assembly") to elect a new Executive Board. The General Assembly takes place in person every year in the month of June but due to COVID-19, the meeting will be held via videoconference on August 14, 2020 at 11:00 a.m. this year. As a NCTCOG member, the City of Duncanville is permitted one voting participant at the General Assembly via video conference. A live stream of the meeting is available for all others interested in viewing the Assembly meeting.

The City of Duncanville appoints Mayor Gordon, as a member of the governing body to participate and cast ballots on behalf of the City of Duncanville at the North Central Texas Council of Governments' General Assembly via videoconference on August 14, 2020.

Councilmember At-Large Patrick Harvey made a motion to approve the item as stated, Councilmember Joe Veracruz seconded the motion. The vote was cast 7 for, 0 against. Item passed.

**III.5.D. Discuss and consider a Resolution approving an amendment to the City of Duncanville Economic Incentive Policy to preclude economic incentive offers to business enterprises without a specified end-user or owner.**

Interim City Manager Frederiksen presented the item. The City of Duncanville will, on a case-by-case basis, consider providing grants and tax abatements as an incentive for economic development in Duncanville. The City Council and the Duncanville Community and Economic Development Corporation (DCEDC) have an approved policy they use when considering economic development incentive requests.

Councilmember Johnette Jameson has requested the following amendment to the City of Duncanville Economic Incentive Policy:

"Amend the City of Duncanville Policy Statement and Guidelines for Economic Development Grants and Tax Abatements to exclude any and all Tax Abatement offers to speculative business propositions. Any request for a tax abatement must include the name of the business and the specific type of business that would be conducted in order to be considered."

Councilmember Jameson stated Council should know the following when a tax abatement is requested; who it is you are offering it to and what will the business bring to the City. Speculative buyers are coming in to buy a piece of property and use the tax abatement as an incentive for their property and are not telling Council what business they will bring in.

Council voiced their opinions and agreed; the DCEDC Board needs to be involved to provide feedback to Council.

City Attorney Hager stated:  
A motion to defer Agenda Item 5D until Council can have a Joint Meeting with the EDC (Economic Development Corporation) to discuss.

Councilmember At-Large Patrick Harvey made a motion to approve the motion provided by City Attorney Hager, Councilmember Mark D. Cooks seconded the motion. The vote was cast 7 for, 0 against. Item passed.

**III.5.E. Take any necessary action as a result of the Executive Session.**  
No action.

**III.6. STAFF AND BOARD REPORTS**

**III.6.A. Receive the FY20 Third Quarter Investment Report as of June 30, 2020.**  
No questions.

**III.6.B. Receive the Monthly Financial Report as of June 30, 2020.**  
No questions.

**III.6.C. *Receive the Parks & Recreation Quarterly Report.***

No questions.

**III.6.D. *Receive the Fieldhouse Quarterly Report.***

Parks Superintendent Hamilton presented the report.

Councilmember Jameson questioned with the COVID-19 pandemic how the Fieldhouse was monitoring the cleanness of the facility.

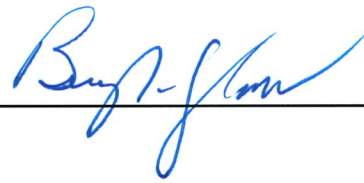
Superintendent Hamilton spoke on all the precautions Fieldhouse staff was taking and assured Council on their priority to keep it going.

**IV. ADJOURNMENT**

The meeting was adjourned at 9:38 p.m.

APPROVED:

MAYOR



ATTEST:

CITY SECRETARY



# Exhibit 4



## Commercial Account #220105000H01B0000

[Location](#)
[Owner](#)
[Legal Desc](#)
[Value](#)
[Improvements](#)
[Land](#)
[Exemptions](#)
[Estimated Taxes](#)
[Building Footprint](#)
[History](#)

### Location (Current 2021)

**Address:** 805 W WHEATLAND RD

**Market Area:** 0

**Mapsc:** 71B-D (DALLAS)

### DCAD Property Map

### View Photo

### Electronic Documents (ENS)



### Print Homestead Exemption Form

### Owner (Current 2021)

DUNCANVILLE CITY OF

PO BOX 380280

DUNCANVILLE, TEXAS 751380280

### Multi-Owner (Current 2021)

Owner Name	Ownership %
DUNCANVILLE CITY OF	100%

### Legal Desc (Current 2021)

- 1: CEDAR RIDGE REP
  - 2: BLK H LOT 1B ACS 2.865
  - 3:
  - 4: INT201100340301 DD12292011 CO-DC
  - 5: 0105000H01B00 5CV0105000H
- Deed Transfer Date:** 12/30/2011

### Value

2020 Certified Values	
<b>Improvement:</b>	N/A
<b>Land:</b>	+ N/A
<b>Market Value:</b>	= N/A
<b>Revaluation Year:</b>	N/A
<b>Previous Revaluation Year:</b>	N/A

### Improvements (Current 2021)

No Improvements.

## Land (2020 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	COMMERCIAL - VACANT PLOTTED LOTS/TRACTS	LOCAL RETAIL-2	0	0	124,799.0000 SQUARE FEET	STANDARD			N/A	N

\* All Exemption information reflects 2020 Certified Values. \*

## Exemptions (2020 Certified Values)

This property is tax exempt.

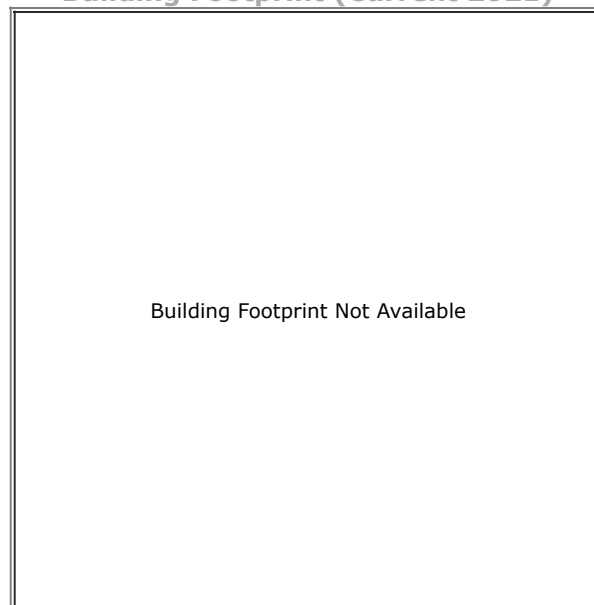
## Estimated Taxes (2020 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
<b>Taxing Jurisdiction</b>	DUNCANVILLE	DUNCANVILLE ISD	DALLAS COUNTY	DALLAS CO COMMUNITY COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
<b>Tax Rate per \$100</b>	\$0.743447	\$1.4183	\$0.2531	\$0.124	\$0.2695	N/A
<b>Taxable Value</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Estimated Taxes</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A
<b>Tax Ceiling</b>					N/A	N/A
<b>Total Estimated Taxes:</b>						<b>\$0.00</b>

**DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES.** You will receive an **official tax bill** from the appropriate agency when they are prepared. Please note that if there is an Over65 or Disabled Person **Tax Ceiling** displayed above, **it is NOT reflected** in the Total Estimated Taxes calculation provided. Taxes are collected by the agency sending you the **official** tax bill. To see a listing of agencies that collect taxes for your property. [Click Here](#)

The estimated taxes are provided as a courtesy and should not be relied upon in making financial or other decisions. The Dallas Central Appraisal District (DCAD) does not control the tax rate nor the amount of the taxes, as that is the responsibility of each Taxing Jurisdiction. Questions about your taxes should be directed to the appropriate taxing jurisdiction. We cannot assist you in these matters. These tax estimates are calculated by using the most current certified taxable value multiplied by the most current tax rate. **It does not take into account other special or unique tax scenarios, like a tax ceiling, etc..** If you wish to calculate taxes yourself, you may use the [Tax Calculator](#) to assist you.

## Building Footprint (Current 2021)



## History

**History**

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# Exhibit 5



## Commercial Account #65001713510620000

[Location](#)
[Owner](#)
[Legal Desc](#)
[Value](#)
[Improvements](#)
[Land](#)
[Exemptions](#)
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[Building Footprint](#)
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### Location (Current 2021)

**Address:** 403 W DANIELDALE RD

**Market Area:** 0

**Mapsc:** 72-K (DALLAS)

**DCAD Property Map**

**View Photo**

### Electronic Documents (ENS)



**Print Homestead Exemption Form**

### Owner (Current 2021)

DUNCANVILLE CITY OF

P O BOX 280

DUNCANVILLE, TEXAS 751160000

### Multi-Owner (Current 2021)

Owner Name	Ownership %
DUNCANVILLE CITY OF	100%

### Legal Desc (Current 2021)

- 1: JAMES ANDERSON ABST 17 PG 135
  - 2: TR 62 ACS 0.0848
  - 3:
  - 4: INT201600196373 DD05032016 CO-DC
  - 5: 0017135106200 5CV00171351
- Deed Transfer Date:** 7/19/2016

### Value

2020 Certified Values	
<b>Improvement:</b>	N/A
<b>Land:</b>	+ N/A
<b>Market Value:</b>	= N/A
<b>Revaluation Year:</b>	N/A
<b>Previous Revaluation Year:</b>	N/A

### Improvements (Current 2021)

No Improvements.



## Land (2020 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	COMMERCIAL - VACANT PLOTTED LOTS/TRACTS	PLANNED DEVELOPMENT	0	0	3,694.0000 SQUARE FEET	STANDARD			N/A	N

\* All Exemption information reflects 2020 Certified Values. \*

## Exemptions (2020 Certified Values)

This property is tax exempt.

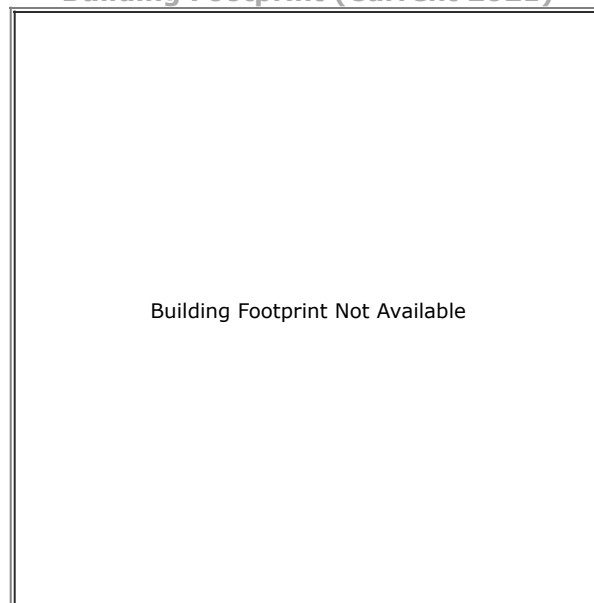
## Estimated Taxes (2020 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
<b>Taxing Jurisdiction</b>	DUNCANVILLE	DUNCANVILLE ISD	DALLAS COUNTY	DALLAS CO COMMUNITY COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
<b>Tax Rate per \$100</b>	\$0.743447	\$1.4183	\$0.2531	\$0.124	\$0.2695	N/A
<b>Taxable Value</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Estimated Taxes</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A
<b>Tax Ceiling</b>					N/A	N/A
<b>Total Estimated Taxes:</b>						<b>\$0.00</b>

**DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES.** You will receive an **official tax bill** from the appropriate agency when they are prepared. Please note that if there is an Over65 or Disabled Person **Tax Ceiling** displayed above, **it is NOT reflected** in the Total Estimated Taxes calculation provided. Taxes are collected by the agency sending you the **official** tax bill. To see a listing of agencies that collect taxes for your property. [Click Here](#)

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## Building Footprint (Current 2021)



## History

**History**

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### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Danielle Sloan on behalf of Chad Walker  
Bar No. 24056484  
DSloan@winston.com  
Envelope ID: 46945769  
Status as of 10/7/2020 9:01 AM CST

Associated Case Party: CANAAN BAPTIST CHURCH

Name	BarNumber	Email	TimestampSubmitted	Status
John TSullivan			10/6/2020 10:53:02 PM	SENT
Chad B.Walker			10/6/2020 10:53:02 PM	SENT

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
ROBERT EUGENEHAGER			10/6/2020 10:53:02 PM	SENT

Associated Case Party: CITY OF DUNCANVILLE, TEXAS

Name	BarNumber	Email	TimestampSubmitted	Status
Robert E.Hager			10/6/2020 10:53:02 PM	SENT